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*UNJUSTIFIABLE*

*AND*

*IMPEACHABLE*

**FOBP Report on DHS, DOJ, and the Courts**

**Presented by:**

**Andy Ramirez, Chairman**  
**Friends of the Border Patrol**

**Veterans Day, November 11, 2008**

## Foreword

I met Andy Ramirez as a result of the Brian Israel case, a case covered in this report, and one of many I've been asked to review and support as a retired high-ranking federal whistleblower and member of the National Board of Directors of the Federal Hispanic Law Enforcement Officers Association. I was immediately struck by Andy's knowledge of the federal law enforcement culture and by his strong and sincere concern for federal officers suffering retaliation and unfair treatment at the hands of corrupt government bureaucrats. In all my years of civil rights and whistleblower advocacy in the Drug Enforcement Administration and in retirement, I have met few people as dedicated and caring for the rights of federal law enforcement officers as Andy Ramirez.

In addition to Andy, I also had the honor of meeting the rest of the team, John Cavicchi, Mark Conrad, Glynn Custred, Scott James, and Ron Prince, the other "Friends of the Border Patrol," all patriotic Americans doing the right thing; seeking justice and fair treatment for those who guard our borders every day in an honest and sincere effort to keep all of us safe.

In light of my own experience as a whistleblower, it didn't take long for Andy and me to hit it off while discussing the many serious corruption issues he addresses in this all-important and revealing indictment of the agencies in which "we the people" place our trust, as we continue the ongoing struggle against crime and those who threaten our national security.

If you are a government employee, an elected official, a reporter, a political pundit, an attorney, a judge; in short, if you're a concerned American this report is a "must read," for it reveals the ugly truth of federal law enforcement corruption the likes of which very few of us have heard before. It is a truth that must be told.

The report was written with the zeal of an honest person who has become aware of great injustices committed by our government and wants to do something about it. Much like myself and a myriad of others who have experienced corruption in government, Andy has lost his faith in government, while retaining a deep love for our country and for those that defend it at all costs, both civilian and military. As I was writing this, one of my favorite Mark Twain quotes again came to mind: "You see my kind of loyalty was loyalty to one's country, not to its institutions, or its office holders."

My hope is that this report motivates the media, the new administration, and Members of Congress to take action forthwith, for it is my belief that if the report does not grab their undivided attention, and is not acted upon, federal law enforcement and the nation will continue on a downward path towards an ethical disaster of gigantic proportions.

Sandalio Gonzalez  
Federal Whistleblower  
Special Agent in Charge, Ret.  
U.S. Drug Enforcement Administration

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# VOLUME I

# **Unjustifiable and Impeachable – FOBP Report On The Courts, Department of Justice, & Department of Homeland Security**

## **Introduction**

Friends of the Border Patrol is a public benefit 501(c)(3) nonprofit law enforcement advocacy organization formed by civic leaders in July 2004 to support law enforcement officers. FOBP advocates for all law enforcement officers regardless of agency or union affiliation. Our primary objective was to educate the public about the duties, responsibilities, and effectiveness of federal law enforcement officers engaged in domestic border security operations, which includes America's borders, coastlines, and ports of entry. However, FOBP quickly had to expand its mission to address problems confronted by law enforcement officers within the Executive Branch, and eventually to problems in other branches of government. The cause is the implementation of bad White House policies, as well as agencies riddled by incompetence and internal corruption.

This report, released on Veterans Day 2008, is the result of over four years of field investigations, compiled statements, news reports, and contacts across America with law enforcement officers, media representatives, legal counsel, and community leaders as well as the average American residing along our borders and inside our interior. It is a follow-up to the War on Law Enforcement Executive Summary Report and our 2008 National Conference Report both released in June 2008. It would not have been possible to compile such information without the trust and cooperation of active duty and retired law enforcement officers, many of whom are Veterans, and the extraordinary legal counsel who continue to represent America's front-line law enforcement officers facing trumped up charges, against a stacked deck, often without receiving payment.

We have compiled new material and documentation provided at great risk by the courageous officers (whistleblowers) defending America. Their outrageous stories define the arrogance and mindset within our government today that they must be told for, as you will see, their own employee unions can only go so far, while Congress and the media have both failed to confront these critical issues facing our "first-line responders".

Instead Washington and the media are focused on water-cooler topics such as steroids in sports, the manipulation of Wall Street, oil speculators, and failing Fortune 500 firms that have been mismanaged in the billions of dollars, which American taxpayer dollars will continue to bail out.

We will not see the president or his successors do the same for the thousands of citizens on the verge of losing their homes, cars, and furnishings, that do not qualify for emergency food stamps due to income earned prior to losing their jobs after their company downsizes. These include our officers who face trumped up charges and lose everything, including: homes, life savings, names, reputations, and current and future earnings for doing their jobs. If we can't help America's Veterans, soldiers, officers, and citizens on Main Street, we have no business bailing out Wall Street either.

The fact is that the politicians claim to support law enforcement officers at election time in TV ads and house mailers, featuring officers, firefighters, nurses, and other responders. The voters are inundated with this form of exploitation. Yet, considering the lack of credible investigations and hearings where witnesses are sworn in and held accountable for misrepresenting facts and outright lying, it makes the claims of support to be as empty as the public suspects, and proves it is exploitation.

While some of the material presented here has previously been published, or discussed in briefings, such items must be brought back within this report due to its part within the whole context as we define how our government has failed in its constitutionally mandated duty to defend the United States of America and its citizens.

Section 1 of this report is titled, *DHS: A Culture of Corruption and Compromise*. It exposes issues that have been ignored by the mainstream media, with the exception of a blurb here or there, and ignored by the Congress. DHS has failed to secure the borders, and ports of entry in favor of moving trade and commerce by the fastest means possible regardless of the consequences, while Congress has failed to hold them accountable.

We discuss how the Bush Administration sabotaged DHS from the inside and placed national security at risk, with their accomplices carrying out the neocon globalists' imperialist agenda of making America an "Empire of the World." We also discuss how the Executive Branch is responsible for defending America's frontlines and for defending and protecting the Constitution against all enemies, foreign AND domestic. And how the administration's accomplices managing the various law enforcement agencies have received enormous cash awards for "helping to advance President Bush's agenda" as stated in a recent release by the Office of Personnel and Management.

We show through documentation compromises at key ports of entry in some of America's busiest ports, including: El Paso, Texas, Miami, Florida, and elsewhere. One of the compromises involves a known sex ring operating inside CBP, where one of the highest-ranking officials has recently been identified in a lawsuit in Miami, which we have included in this report. There are also issues of cronyism, blatant discrimination, and violence including sexual assault and battery as well as harassment of employees by managers. Incidents have taken place where explosives cross through the ports of entry only to be mislabeled, seized and released though potentially tied to terrorists when a supervisor says so after a casual once-over inspection. Two incidents have taken place in El Paso where management allowed explosives to be brought into the U.S. over the objections of the officers who first confronted the "carriers," and then at great risk called the local police department, which resulted in closing the port to investigate the call.

Section 2 of this report is titled, *The Justice Department: Corrupt, Overzealous, and Out of Control*. This section addresses a number of key prosecutions and cases, as well as how Congress has been ineffective at holding DOJ accountable. The cases cited show a pattern of abuse and hypocrisy, and reveal a playbook showing how prosecutions are handled when criminal illegal aliens are apprehended by officers doing their jobs, and not just those named Ramos and Compean.

U.S. Attorney Johnny Sutton's two-faced pontifications are exposed to their full extent for the lies and propaganda they are.

We provide a document sent by a DEA official to ICE as well as Johnny Sutton's office regarding an ICE case that clearly shows a number of horrific murders had taken place, after an initial murder, with their personal knowledge. Additionally, as the letter reached the top echelons of our government, Sutton's superiors at Justice, as well as top officials at DHS, and the DEA, could have shut the whole thing down and stopped the murders. Instead they allowed the case (and the murders) to continue over the objections of DEA officials. Why didn't Sutton, ICE, or those who became aware of this case fail to stop these murders? This is a subject we take to task, and ask the questions, that everyone in the Congress has failed to ask.

Read about both cases and review the evidence, and then ask whether Johnny Sutton and everyone involved should be brought up on charges, and held accountable as he says his high profile cases (victims) in his jurisdiction have been. We're certain you'll see him as the lackey and hypocrite he is.

U.S. Attorney Michael Battle was reduced to the status of a mere messenger for the administration when he fired seven fellow regional U.S Attorneys, though such appointments are considered serving under executive privilege, for political reasons. Yet, he, too, played lackey for an administration hell-bent on searching for a scalp after 9-11, as you will read. Later when under the orders from the top, Battle launched a prosecution that publicly showed how far this administration was willing to go to bend over for a foreign government. In this case, the foreign government was the People's Republic of China, and their accomplices in America are former Secretary of Homeland Security Tom Ridge and former Secretary of State Colin Powell, as well as Battle and the Justice Department. If not for the defense counsels and local public support this officer might be in prison today, like others have been and three remain.

Section 3 of this report also demonstrates the failure of the courts to interpret the law with impartiality to plaintiff and defendant equally. Instead, the courts are providing rulings that give comfort to lawbreakers, do not hold counsel accountable for suborning perjury, and suppression of evidence, for failing to police their own, and who go so far as to ignore the laws of precedence including rulings from the U.S. Supreme Court. However, the Congress has failed to hold DHS leaders, federal prosecutors, and judges accountable to the checks and balances granted to each of the three branches under the Constitution. Attorney John Cavicchi presents the case on the courts in this report.

The current majority in Congress has focused on the Department of Justice but only to address a limited scope of issues such as firings of U.S. Attorneys, which is an executive privilege, or to address the treatment of prisoners in Iraq as well as at Guantanamo Bay (Cuba), or perceived applications or abuses of the Patriot Act. Yet, the current majority has failed to hold the administration accountable when it comes to national security along America's borders, and at and between the ports of entry, including our coastlines and airports. The majority has also failed to address prosecutions

where misconduct has taken place by the administration in prosecuting law enforcement officers at the request of foreign governments. These governments continue to receive favors in trade and commerce that continue to remain unequal and do not benefit America. Prior to becoming a minority in Congress, the previous House majority was beginning to examine such issues and compromises that were coming to light regardless of the obstruction by Executive Branch leaders though the previous majority was of the same party as the president, something the current majority has failed to do, although belonging to the opposite political party.

There is no question that seven plus years after the greatest compromise in U.S. National Security, the 9-11 Attack on America by terrorists, America is just as vulnerable to terrorists today as we were that tragic day. Many Americans would say we are more vulnerable when you consider that we didn't know on September 10, 2001 what we knew by 10:41 Eastern Time the following morning. Since then, we have failed to secure America's borders, watched our primary seaports nearly sold to foreign bidders, such as Dubai Ports World, and watched security across America compromised in favor of trade and commerce with the assistance of the Executive and Legislative Branches.

During the 9-11 attack, nineteen terrorists hijacked three civilian commercial airliners, and used them as missiles, which were crashed into the World Trade Center in New York City, and against the Pentagon home of the Department of Defense in Washington, DC. A fourth hijacked airliner crashed into a Shanksville, Pennsylvania field when passengers attempted to retake the plane from terrorists. Nearly 3,000 people lost their lives, including firefighters, police officers, and civilians from all walks of life, and from many countries around the globe. What followed is a mockery to their deaths.

The U.S. Government by Act of Congress, signed into law by George W. Bush, 43<sup>rd</sup> President of the United States, created the Department of Homeland Security, the largest reorganization of agencies by the federal government since the founding of the Republic. While seen as a positive by some, and though vehemently opposed by others including President George W. Bush, the creation of DHS led to some of the most incompetent appointments to the most critical of positions. This has been evidenced by the appointments of Julie Myers as Assistant Secretary of the Immigrations and Customs Enforcement Agency, as well as Mike Brown of FEMA, and David V. Aguilar, Chief of the Border Patrol, Jayson Ahern, Deputy Commissioner of Customs and Border Protection, as well as a long list of cronies promoted throughout the Offices of Border Patrol and Field Operations to name a few. Many have bought into the Bush agenda.

As we interviewed law enforcement officers, retired and active duty, met with legal counsels, and then read volumes of reports and documents, one thing was clear the incidents that took place are extremely vile displays of unconscionable conduct. The contents within this report have taken place with full knowledge of superiors. Incidents were reported. The perpetrators were not prosecuted or fired, they were promoted, and victims were harassed. We thank the officers for their courage, and urge the readers to keep one thought in mind, this is not the standard fluff report, and may leave you nauseous. In the words of many officers, "you just can't make shit like this up."

# Section I

## DHS – A Culture of Corruption and Compromise

From its creation DHS was set up in a way that under the wrong hands could easily be sabotaged by the Executive Branch or by the agencies and their managers. Just the structure alone, allowed by Congress, was a clear blueprint for disaster, as it brought too many agencies and structures together.

Congress, in good faith, allowed DHS to be organized as it was, and then gave the department and its agencies time to come together, go through growing pains, and find their new direction. Unfortunately, by 2004, just one year after the re-organization and the mergers, a disaster was unfolding the likes of which no previous administration can be compared to. This is solely due to the fact that the Congress gave DHS too much room and to this day, has yet to hold agency leaders accountable, which previous Speakers and Chairmen have had no problem doing under threat of subpoena or by cutting appropriations their greatest weapons of accountability.

While many can argue that Legacy INS, and Legacy Customs had long been plagued by internal struggles, and even the bureaucracy to a point, it was nowhere near the rampant culture of corruption that exists today in 2008 at the end of the Bush Administration. Many top retired leaders and employees alike have concluded that Legacy INS and Legacy Customs were far better off under DOJ and Treasury compared to the gross abuse and incompetence of leaders since the merger under DHS.

As stated in the opening of this section, just a few paragraphs ago, DHS as organized, could be easily sabotaged by the White House, and/or internally, which brings to mind a recess appointment that has long screamed to be addressed and investigated.

Clark Kent Irvin, former DHS Inspector General, found waste at DHS, such as mismanagement, fraud, security flaws, and programs that failed especially lavish award programs that continue today, as well as millions of dollars that could not be accounted for. There are many who believe the White House replaced Irvin by not reappointing him, ensuring that he would not appear before the Senate for confirmation hearings. Given his record as IG for the duration of the recess appointment, there is no doubt in many minds he'd have been easily confirmed.

The fact Irvin was ushered right out the door at the end of the recess appointment time period raises the first questions of this report. Was someone afraid of what he could expose? Who was afraid, and why? What is their role? As it was a recess appointment, the White House stonewalled the media with the claim that he simply was not reappointed, as it was the end of the appointment.

However, this whole situation raises questions. Was Irvin given the bum's rush for being too effective in his job, as he exposed what was being ignored or hidden prior to his appointment? Many practices resumed or have continued since his departure. It may be redundant but the question is begging to be asked, in the same way that the firings at the Justice Department were asked by Congress. Why would the White House not keep

him at DHS considering that he was doing his job and cleaning house? The answer is obvious. He was poking his nose where it was not wanted.

Ending his tenure without formally nominating him for IG effectively sabotaged the department to become the example of inefficiency, waste, controversy, and ineffectiveness from the top down that DHS has become renowned for. Is it because he may have exposed facts before the Senate that he was discovering as a nominee that the executive branch by not reappointing him was determined to keep hidden at all costs, including the very integrity of the department and our government? It was clear the Bush Administration had a winner with Mr. Irvin given the tasks and responsibilities of the position. Confirmation hearings would have been a slam-dunk.

Speaking of lavish spending waste and administrative sabotage, on October 7, 2008 the Office of Personnel Management announced the 2008 Presidential Rank Award winners. Included among the winners are four DHS Senior Executive Service level leaders among them Customs and Border Protection Commissioner W. Ralph Basham and David V. Aguilar, Chief of the Border Patrol.

Contained in the announcement by OPM Acting Director Michael Hager was the following statement: “Their professional dedication and commitment to excellence is helping to advance President Bush's agenda for enhancing federal government performance and creating a more effective civil service.”

However, many retired and active duty agents and officers of Legacy Immigration and Naturalization Service (INS), which includes the Border Patrol as well as those Legacy Customs Officers, formerly under the Justice and Treasury Departments respectably, have openly questioned and criticized leaders at CBP. Why? It's quite simple as leaders are doing exactly what the president is honoring them for, which is “helping to advance President Bush's agenda”. This agenda has resulted in bad management by SES level managers, compromising security for trade, commerce, and the pro-open border, protect the illegal alien agenda of corporate America and President George W. Bush at any cost, which will be addressed shortly within this report.

According to the OPM statement, “The recipients will receive cash awards worth 35 percent of their base pay, which means a bonus of at least \$40,063, since minimum base pay for senior executives is \$114,468. Bonuses could be as high as \$60,270 for top senior executives in agencies that have certified performance appraisal systems for SES members and the top salary for executives is \$172,200. In agencies without certified systems, the salary cap is \$158,500, and the highest bonuses will be \$55,475.”

*\*See Exhibit 1 – OPM Presidential Awards Announcement*

There are many among the retired and active duty federal law enforcement officers and agents who feel that these bonuses are akin to recent retirement annuitant programs offered by DHS in that it's hush money designed to keep officials quiet by paying them off and also reward them for supporting the agenda.

To many these rewards are undeserved and a waste of taxpayer dollars at a time when the American people through Congress are bailing out Wall Street, banking and lending institutions including Fannie Mae/Freddie Mac, among an endless plethora of companies who have financially raped America. Consider the number of loans such as the illegal alien in Santa Ana, CA earning a mere \$9 an hour and yet received a loan of several hundred thousand dollars, the type of loan many American citizens do not get. Consider that the government had to step in through the FDIC, reorganize and sell Washington Mutual within hours. WAMU, as well as many others, pandered to an unreliable market by accepting a document, the Matricula Consular ID card. FBI Director Robert Mueller testified before Congress years ago that the Matricula Consular is an unreliable and insecure document that should not be accepted for ID purposes, especially considering there was no way to verify a cardholders identification or background.

Both major parties' presidential nominees supported the bailout of Wall Street, though the burden has fallen to the taxpayers. Ironically, it could be called "welfare for the rich" considering the very people who ran those companies into the ground are associated with the presidential campaigns of the two major parties, and were the recipients of golden parachutes prior to leaving the companies they helped destroy.

This waste of appropriations by DHS and the administration does not include that joke known in CBP as "All Hands Celebrations" which took place ran from April 18 through June 2008. This two-month plus joke of a tour was seen by many within the agency as just that considering the "culture of corruption", mistrust, trumped up charges against whistleblowers, and other issues you will learn about within this report. These gatherings, which sources report as being mandatory attendance for employees, were conducted in hotel ballrooms across the nation. At a time when money is tight, and the deficit continues to grow, CBP uses ballrooms instead of their own facilities. Okay, hundreds of sworn officers and agents gathered for the backslapping between brass-monkeys and their cronies, when we should have left the employees where they belong, doing their job to secure the nation.

*\*See Exhibit 2 – "Mission Appreciation Campaign Memo"*

As previously mentioned CBP Commissioner Basham was just announced as a recipient of a 2008 Presidential Rank Award as an SES level manager of DHS. It is high time such awards (including the ridiculous amount of money), given during lavish parties are questioned by the public given the state of the economy today. Even more so when one considers the joke that CBP is especially with the material cited within this report as well as other sources since the creation of DHS.

The fact that Commissioner Basham and Chief Aguilar are recipients screams for the public to not only question such selections, but to also take action by demanding that Congress put an end to such nonsense. How can these particular individuals be awarded such an absurdly lavish amount for supporting policies that undermine national security, and places the American people and society at such risk?

How can Basham even receive such an award considering the fact that he has been publicly confronted with a number of issues involving CBP Officers such as the fact that a current Customs Port Director planted marijuana on passengers returning to America through a Miami District Port of Entry, who not only was not disciplined or prosecuted, but has since received three promotions to his current position of port director?

Also, that a female CBP employee confronted Commissioner Basham at an agency function with the fact that there is a well-known sex ring operating within Customs in Miami District, and has been screaming for investigation for over a decade. The sex ring became the subject of a Miami Herald series of articles a decade ago. Officers report that this same sex ring is well known within the agency as sources have reported to me during investigations and interviews over the past three years. In fact, it was this same female officer who was repeatedly sexually assaulted while on duty by a fellow officer, which the agency did nothing about. This officer has since filed a suit for a number of issues including sexual assault. She also names current CBP Deputy Commissioner Jayson Ahern in her suit just filed in Miami Federal District Court as follows:

“Complainant made allegations of a sex ring within the Miami International Airport CBP involving current CBP Deputy Commissioner Jayson Ahern.”

*\* See Exhibit 3 – U.S District Court Filing, Calleja vs. Chertoff*

Complaints, grievances, and otherwise have been ignored out of El Paso indicating the same issues, and since it's not just one port, as LAX/Long Beach is also identified in an email that is in the possession of counsels and is titled: it went like this. Sex Lies, and Videotapes. The email is dated November 26, 2004, 11:18pm Eastern Standard Time.

The document does not just raise questions but specifies alleged participants and the on duty activities and misconduct being engaged in to such detail that it had to have been written by someone in the know. If the allegations are true, then that raises questions about the ability of those leaders to lead as such clearly well known allegations can compromise individuals, placing them at the mercy of foreign intelligence services who have no qualms about using such conduct in order to compromise the nation's security.

The question must be asked, why have DHS and DOJ through the FBI failed in their responsibility to investigate these serious issues? Why are people getting promoted for breaking the law, yet at the same time they are not being disciplined or prosecuted?

The sex ring will be addressed with greater scrutiny elsewhere within this report in what is known as “literal screw up move up”, which means that in order to move up the chain of command, sexual favors are the favorite method utilized to accomplish it.

If both leaders, as I loosely apply the term here, and the cronies within CBP who ascended to their lofty positions by selling out to the administration's globalist policies, would have had what I call "testicular fortitude" they'd have retired as many other law enforcement officers at the SES level have done since Aguilar became Chief of the Border Patrol.

I am not questioning the courage of many officers and agents enforcing the laws of the land in the field. Instead I am calling attention to the individuals who have contributed to the culture of corruption among the federal services in management and their monkeyboy cronies, as they're known, who think it's more important to "go along to get along" rather than stand tall, remember their oath to defend our nation and Constitution, and more succinctly do their job regardless of the immoral practices and illegitimate orders passed down from headquarters or the White House, and the foreign consulates who really run the former Legacy INS agencies.

Remember that there has been a purge at DHS in CBP where Border Patrol Agents from all ranks including Chief Patrol Agent, Deputy Chief, Assistant Chief, and other top ranks, as well as Customs where senior officers, as well as supervisors, and mid-management officials were purged and forced to retire years ahead of the mandatory retirement of age fifty-seven. Many of these officers and agents were so disgusted and unhappy with orders coming out of Washington, DC that rather than stay on for the sole purpose of collecting their paychecks, they retired early. This is experience that cannot be replaced as many had a minimum of 25 years of service. The agents and officers who have replaced these senior agents and officers include many who spent extensive time as bureaucrats at Headquarters instead of serving in the field. They have years to serve prior to retirement, and have bought into the agenda and are well aware of the cash awards.

Getting back to what many call the pro-illegal alien and open borders agenda, though in reality are the neocon globalists with their imperialist agenda of "Making American an Empire of the World" through policies that specifically favor Mexico and Communist China, it is important to go back to a critical point in my testimony provided under oath to the House Committee on the Judiciary in El Paso, TX on August 17, 2006.

Fredo Arias-King, former advisor to Mexican President Vicente Fox wrote, "one thing that is readily noticeable is that the loudest pro-immigration advocates in Mexico were (are) the loudest anti-American voices." Figures in the Fox government, such as Jorge Castaneda (Fox's Secretary of Foreign Affairs from 2000-2002, and Adolfo Aguilar Zinser, his National Security Advisor and later ambassador to the UN Security Council) "are seen as 'geopolitical geniuses' by our helpless PAN (Fox's party) officials, who suffer from some kind of learned helplessness".

"Castaneda and Zinser", says Arias-King, "long advocated using the immigrants as objects (not subjects) to press Washington and cajole it to do certain things, or simply for revenge (these two are obsessed with revenge seeking against presumed enemies). Castaneda even wrote at one point that the Mexican government should repress citizens living in Mexico (legally)".

The Bush Administration, the candidates nominated for president in the 2008 general election cycle, and many in the U.S. Congress have ignored the statement provided to FOBP by Arias-King that was presented in my sworn testimony before the House Committee on the Judiciary's field hearing that took place over two years ago.

Of course these same "leaders" have ignored the American people who oppose amnesty and makes a complete mockery of the legal immigration system. They also ignore the intelligence operations of Mexican agents which should come as no surprise when one looks at some of the key leaders of Mexico surrounding their (past and present) president, or their pro-socialist, anti-American history. Keep in mind that several of those key players in the Fox Administration were intelligence operatives at Mexico's Embassies in such places as Moscow, East Germany, Cuba, Nicaragua, and other nations who have been bastions of anti-American activity though Mexico is the nation so many are hell-bent to establish a North American Union with regardless of this history, and of the corruption, and violence. Some key players are known to have ties to the drug cartels.

Later in this report, you'll understand how expert intelligence operatives in such power positions can influence policy by utilizing compromised American leaders they become aware of, a practice that goes back centuries, and was long used by, for example, the former Soviet Union's KGB among other international external security services.

One only needs to read the plethora of false reports, inaccurate statements, bogus official Congressional testimony, and other dribble released by DHS and its' agencies, including the CBP publication "*Frontline*", to realize that someone thinks they're pretty slick AND that the American people are stupid. The fact is this president is noted for arrogance, the same mentality that has spread through his administration like a cancer. That is because they are so far removed from the public they claim to represent, inside the confines of their ivory towers, as to have become similar to the very corrupt regimes that have failed before them, and whose people continue to flee their homelands today. Where does that leave an American to go? Nowhere, for this is the land of hope, opportunity, and the place President Reagan spoke of as a "shining city on the hill."

With that said, it's important to continue outlining where the agencies have attempted to placate the nation and deceive Congress, and the American people.

Numerous sources have stated the facts presented by DHS are wrong and filled with lies and padded stats designed to lull the nation into a false sense of security. The bureaucracies within DHS have played up to the Bush Administration, as well as the presidential campaigns pandering for votes through promises of amnesty. It is solely through their managers' roles as accomplices that America can be lulled to ignore reality and accept the false propaganda leading to passage of laws granting amnesty to what is estimated as potentially 30 million illegal aliens, though the actual number could be grossly underestimated.

The average citizen won't understand some of the verbiage and diction used by the agencies because it is a language all its own and only an insider could ever digest it. It

took me two to three years to digest as much as I learned and that was only due to the retired and active duty sources that have used their personal time for that purpose. But the fact remains, that if you compare any of their testimony to my own, someone is telling the truth, and someone is lying. Or as DHS Inspector General Richard Skinner stated, “misled” when questioned by Congressman John A. Culberson (TX) as to why his office and subordinates lied in a briefing provided to Congressmen Marchant, McCaul, Poe, and Culberson. Congress has not held OIG accountable for misleading Members before, during, or after that briefing and admission by Skinner.

It is clear that the executive branch arrogantly laughs at Congress and the American people when considering the activities since the creation of DHS, and at DOJ since Alberto Gonzales was sworn in as Attorney General. The Congress bears some of that responsibility for failing to rein DHS in when Inspector General Skinner’s office staff was able to publicly deceive Congress and were not immediately held accountable.

*\*See Exhibit 4 – DHS Office of Inspector General Directive/Policies*

Speaking of laughing at Congress, that reminds me of the directive distributed within the Border Patrol by George A. Lopez on May 19, 2006 at 10:44am regarding Subject: SIR (Significant Incident Report) for visiting Congressmen. Members of Congress began visiting the southwestern border shared with Mexico as a result of increasing media attention involving the Mexican Border and reports that the Border Patrol agents were being hindered from performing their jobs and enforcing the law.

The memo directed agents to do as follows: “Recently Iowa Congressman King visited the border area. An IIR (local report) was done on one of two contacts with our agents. A request was made by HQOBP to elevate these types of contacts to an SIR. Sensitivities are such that this type of information is critical in the DC area. Much is going on in the way of legislation proposals and such. Please ensure that unannounced visits such as these are promptly reported as an SIR. Thanks!”

*\*Source: San Bernardino Sun, Sept. 27, 2006 – [www.sbsun.com/ci\\_4401622](http://www.sbsun.com/ci_4401622)*

While proper to report such visits up the chain of command, which all agencies do, the pattern of the Border Patrol and David Aguilar has been to monitor activities for intelligence purposes, and share the information with counterparts in Mexico under the “good neighbor program.” Congress has had to resort to unannounced trips, and BP Headquarters orders agents to inform them immediately so Congress cannot see what is really going on and anything improper can be properly temporarily stopped or covered up as the patrol has been doing with their requiring to be informed through legislative liaison prior to a Congressional visit so a proper “dog and pony” show can be set up to prevent Congress from learning the real truth by seeing it with their own eyes, or hearing it from a field agent who has not been scripted. Where were the open Congressional hearings getting to the bottom of the SIR Order Memo? Nobody was held accountable as David Aguilar continues to run the patrol to this day evidenced by his recent cash reward. Is it just me, or does the term Obstruction of Justice apply here?

Of course, it turned out that the Congress was not the only group of Americans being monitored by DHS as civilian groups observing the border were also monitored with activities and whereabouts being reported to the Mexican Government by the USBP.

It is time Congress swears in the leaders of DHS, including the Offices of Inspector General, CBP's Offices of Border Patrol, and Field Operations, as well as the Immigrations and Customs Enforcement Agency in, then swear my colleagues, sources, and me in, and the American people will quickly see who is telling the truth. While Bush administration officials refuse to be sworn in, the author of this report was sworn in as a witness, during my testimony in El Paso by the House Judiciary Committee under Chairman Sensenbrenner. Congress swears in professional baseball players as witnesses regarding steroid use, why not DHS, DOJ, and the courts when it comes to national security and the Constitution?

Of course while on the topic of Congress, one name comes up repeatedly in discussions with media and law enforcement, Silvestre Reyes, former Chief Patrol Agent of the El Paso and McAllen (Texas) Border Patrol Sectors. You cannot find a name more despised in law enforcement. Many officers ask a single question that bears repeating, "is Silver compromised? If he is, it is our right to know." I agree as he every path for corruption outside of Miami appears to have one central hub, El Paso, Texas.

There has been a drug war along the southwestern border. However, until this past year Juarez, Mexico was relatively quiet by comparison. This means the dope was getting across the border. Far too many agents report that El Paso Sector, which includes all of New Mexico, and El Paso County in Texas, allowed too many controlled loads through over the past decade. The areas of highest activity appear to be Lordsburg, NM and the area southeast of El Paso including San Elizario, Tornillo, and Fabens. These areas are known smuggling corridors. However, the bridges in El Paso have been identified as smuggling entry points, too. Questions continue to arise while other questions have long gone unanswered. The fact that El Paso Sector was quiet as long as it was demands scrutiny for it is clear the silence means narcotic and human trafficking was successfully entering El Paso Sector from Juarez.

Now consider that Luis Garcia, former Customs Director of Field Operations for El Paso, telling his officers to move traffic at the US-Mexico Ports of Entry as they are "customer service not law enforcement", and refusing to allow officers to stop individuals from entering the US regardless of their lack of documentation. This same Luis Garcia wore a Mexican flag lapel pin on his CBP Customs SES level manager's uniform while on duty. Sources report that CBP Customs' K-9 handlers were not allowed on the bridge for some time. If we are inspecting a limited amount of vehicles then smugglers get their drugs across without discovery by the dogs, which is their primary role. Only senior managers could make that call. When Reyes demanded the traffic be sped up as he did in a September 2007 meeting with CBP in Washington, DC, he knew as a former Chief Patrol Agent that the effect would mean, more successful smuggling across the Rio Grande River into El Paso. Any request to compromise American security

considering El Paso is a smuggling hub demands intensive scrutiny as that is a question that must be answered.

Many Customs officers in El Paso report that Garcia was protected by his “compa” Silvestre Reyes, the local Member of Congress, who when contacted with valid complaints has stated to officers in writing that they needed “to follow their chain of command”, and that he did “not get involved in such matters”. However, Reyes’ wife is the sister of Garcia’s wife, which also makes it easy to understand why requests for assistance by Customs employees were ignored, as well as grievances filed locally and with headquarters in Washington, DC.

It must be noted that grievances included questions or incidents involving bomb threats and passage of individuals with explosives; assaults and assault and battery by managers on employees; failure to disclose such matters to the FBI though policy requires such to occur; failure to address domestic violence issues that later resulted in loss of life; tampering with evidence, including destruction of evidence for the purpose of engaging in covering up possible crimes or inappropriate conduct; and approving usage of the dedicated commuter lane (or dedicated cocaine lane as officers call it), by known narcotic traffickers such as individuals identified publicly during the questionable prosecution of former FBI Special Agent in Charge Hardrick Crawford. While US Attorney Sutton’s office convicted Crawford for associating with the individuals named during the trial, Customs in El Paso considered these same individuals to be “low security risk”.

But when one reviews the news coverage that was written about the Crawford case, just as in the Ramos/Compean case, there are similarities in the sense that the whole case smells of trumped up charges with a cover-up afterwards.

In fact the El Paso Times and the Albuquerque Journal reported in April 2006 that, “Crawford headed the El Paso FBI office from July 2001 to Nov. 7, 2003, when he abruptly announced his retirement after the Mexican Foreign Ministry had accused Crawford of meddling in Mexico's internal affairs, the Times reported.”

Suddenly Crawford resigns from the FBI, amid DOJ’s “ethics” investigation into allegations that Crawford was socializing with Jose Maria Guardia who was reputed to be involved in drug trafficking and money laundering. The Mexican Federal Attorney General’s office stated in December 2003 that they had no evidence of Guardia’s involvement in money laundering. Crawford was charged with making false statements (aka, lack of candor) or concealing material facts about his relationship with Guardia, and later convicted.

Sara Carter, formerly a reporter for the San Bernardino Sun wrote an article that Mr. Crawford commented for on February 28, 2006. The following are key excerpts:

He said solutions give way to international niceties and cover-ups. Crawford, who retired in 2003, assisted Mexican authorities with the investigation into the killings of nearly 400 women in Ciudad Juarez over the past decade.

Although he successfully oversaw narcotics investigations for more than 20 years, including some in Miami, he said his work in Mexico was hampered by politics and corruption.

"Nobody wants to admit the truth," Crawford said. "Although there are people in Mexico who want justice, there is a culture of corruption that is almost impossible to penetrate. Many of the women in Juarez were killed by people connected to the Juarez cartel. It's a reminder. It's the (cartels) way of letting people know who's in charge."

These points also require scrutiny, as again, it smells like a cover story. Mexico claims Crawford was meddling in Mexican internal affairs, suddenly Crawford is forced to resign, and then charged and convicted by Sutton's office for contacts that Custom's sources tell FOBP have been able to use the Designated Commuter Lane and have contacts with top El Paso officials who deem these same individuals to be, once again, a "low security risk".

What was Crawford meddling in? He had long been investigating drug smuggling into El Paso from Juarez, MX, as well as the well-known murders of women? Was someone trying to get Crawford out of the way because he was on a trail and close to finding a key player? Plus, right there waiting to prosecute with the usual cover story and conspiracy theory is Johnny Sutton, just as in Ramos/Compean. Why is it that Johnny Sutton plays the game to get his targets, which they clearly are, but then does absolutely nothing about the House of Death case? Are all these cases tied? Perhaps these prosecutions are covering up for a key player. More on this in Section 2, addressing the Department of In-Justice.

In a 3<sup>rd</sup> step grievance filed with Michael Chertoff, Secretary of Homeland Security, an officer outlined among many issues two specific incidents, which have been widely ignored by Washington, DC, and shall be quoted directly as follows:

**"It is the Policy of the Customs and Border Protection to ignore threats to Public Safety and the War on Terror (namely Bomb Threats), until the point Local Law Enforcement has to step in and take jurisdiction. Furthermore it is the Policy of the Customs and Border Protection to allow their Supervisors to verbalize such policy, without facing any disciplinary action. This is in violation of Article 2- Effect of Law and Regulation and Article 17- Safety and Health."**

"It has always been the responsibility of INS Inspectors, CBP Officers to fight terrorism. Terrorism is defined under the INA (Immigration and Naturalization Act) as inadmissibility. The War on Terror is a Government wide Rule that all Federal Agencies are engaged in, CBP has taken actions that are contrary to this."

“Sec. 212. [8 U.S.C. 1182] (III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity.”

“Below you will find violations contrary to Sec 212 and the Patriot Act, and OSHA Law and Standards (Workplace violence protected under the General Clause), Government wide policies regarding cover-ups.”

“An incident contrary to the United States Government’s War on Terror occurred on November 4, 2005 at the Dedicated Commuter Lane, El Paso, Texas. At 15:15 hours a package was found abandoned between two flagpoles. None of the Inspectors saw the package being dropped off. There was no one in the vicinity to claim the package. El Paso Management refused to evacuate the Port of Entry and continued full operations. At 17:00 hours the El Paso Police Department was finally notified of the package. They immediately dispatched EMS and the Fire Department closed the bridge and evacuated. The bomb squad then removed the package and disposed of it on location.”

“This same situation occurred on a prior occasion at the Paso Del Norte Port of Entry. In this instance Assistant Director of Field Operations Arthur D. Gonzalez ordered the Supervisor on duty not to close the Port (due to the fact that Arthur D. Gonzalez, who was not even at the Port found no evidence the device was even real), when a questionable package was brought into the Port through Pedestrian Primary. The media reported that the El Paso Police Department under their authority had to close the bridge and evacuate, and in this instance also disposed of the device on the premises. Comments were made by the El Paso Police Department in regards to having to step in, under their authority to close the Port of Entry due to DHS failure to do so. To date OPR has failed to investigate this violation by Arthur D. Gonzalez. But they did manage to open all employees’ hard drives to attempt to determine who reported Arthur D. Gonzalez actions or lack thereof so that he may threaten and intimidate the whistleblower.”

Of course such incidents are reported to the highest ranking officials at DHS and CBP and sources maintain that they are ignored, go uninvestigated, except for the purpose of retaliation against the whistleblowers for “creating controversy” as we cite in greater detail later in this report.

While on the topic of security compromises, there are two examples that require reporting at this juncture of the report. The first one involves a seizure that took place at a Houston, TX Port of Entry on May 13, 2004, prior to the El Paso incident, cited above. Without getting into extensive details that may compromise operational policy and any officers that were on duty, our report will try to condense this matter.

A freight shipment had been seized by officers and also placed “on hold”. A mid-management supervisory customs officer ordered an officer to report to the office and take care of the hold that this supervisory officer was sending over. The officer believed that the supervisor implied the officer was to release the shipment. The officer also felt that the supervisor did not have a valid reason to override the seizure and release it, which was based on the supervisor having looked it over and accordingly determining the

shipment was okay with the exception of some minor errors. In fact, not only did the officer feel that releasing the freight did not meet proper agency guidelines, but that the officer was told there were possible terrorist connections to that particular shipment.

In a second incident this report will cite from a copy of emails received, which have been redacted due to the operational policies that would be revealed. There were two recent incidents, one of which occurred on February 19, 2008 and involved imported shipments that entered the United States at the Champlain, NY Port of Entry. The shipments originated in England, passed through Montreal Canada, before entering the U.S., and involved Department of State Directorate of Defense Trade Controls supporting documents that are required for temporary import and subsequent export of unclassified defense articles. In this case, both imports involved these types of licenses and the unclassified defense articles consisted of a Paveway 2 missile and missile system (in this particular matter) and live ordinance in the form of bombs (in the other).

The following is a redacted excerpt from an exhibit, which is in the possession of counsel:

“We were also given information by the license holder, Ridgeway International that indicates the “original” license did not exist at the time this shipment entered the United States through the Port of Champlain. The same license was not presented to CBP in Houston a week later on a shipment of a Paveway Two missile and missile launching system, but they are claiming the shipment falls under this license. The Customs Broker, A.N. Deringer, is not registered with the Department of State, Department of Defense Trade Controls (DDTC) nor are they listed anywhere on the license. This is mandatory by law under the International Traffic in Arms Regulations (ITAR), 22 CFR 129.”

In other words the paperwork was completely fouled up by inexperienced, untrained personnel. Had these live munitions wound up in the wrong hands, we could have had a catastrophic matter on our hands. Let’s say a terrorist would have taken some form of radioactive material from something like a hospital X-ray machine, he could have detonated a dirty bomb. We were very fortunate that those officers who caught this matter in Houston were as well trained as they are.

The incidents we’ve addressed in this report clearly raise questions as to compromises in security at the ports of entry. Some officers are placed with knowledge of their own area, such as entry or exit, and the corresponding programs of one, but not others. As a result, we are inviting some potential disasters. DHS needs to provide proper training for employees who are likely to be called upon to handle various responsibilities, and not have supervisory managers place officers in situations where they are insufficiently trained.

Also, supervisors need to realize that if a freight shipment is on hold or seized, a once over glance type of inspection should never be enough to move shipments or traffic.

At the same time, we need to consider that given incidents raised elsewhere within this report, and given the lack of trust and culture of corruption so rampant within DHS that supervisors are in a position to take an officer that is lacking proper training, and place him/her in a situation where that officer is unqualified for that particular temporary role due to not having qualified, let alone be trained for that new responsibility. The purpose, given the pattern we see in today's DHS, is to set an officer up, where the shipments being processed through the ports of entry place an officer in a position of responsibility for an incident. With the pattern of abuse that is so rampant inside CBP, an inquiry would not involve the supervisory officer beyond a few questions, as it will focus on the employee ordered to handle an area he/she is untrained for. The bogus investigation would clear management and lead to charges against the employee. It is no wonder employee morale has been destroyed since the merger into CBP from the Departments of Justice and Treasury.

Yet we cannot ignore the fact that the attrition rate is what it is today because the department is forcing experienced employees out through all means, as will soon be cited here, and leaving security compromised. Our sources report that "Institutional memory is being systematically erased by the agency and those who don't go along to get along are forced out the door".

It is also important to report that numerous CBP employees in El Paso talk about an incident that was reported on December 17, 2003 by the El Paso Times. Customs Inspector Rodolfo Candelaria, Jr used what was identified as his service issued sidearm to murder his common-law wife, Maria Victoria Martinez. He also held family members of Martinez' at gunpoint, before turning his gun on himself and committing suicide. Sources report that Martinez had been granted a restraining order by an El Paso Court, and had begged Customs managers in El Paso to remove Candelaria's weapon as she was in fear for her life. Sources report that Candelaria was well liked by management and accordingly, they refused to remove his weapon, and refused to investigate the matter, which they should have under the Lautenberg Amendment.

This amendment named after U.S. Senator Frank Lautenberg, bans shipment, transport, ownership and use of guns or ammunition by individuals convicted of misdemeanor or felony domestic violence, or who are under a restraining (protection) order for domestic abuse. The act also makes it unlawful to knowingly sell or give a firearm or ammunition to such person. Clearly El Paso Customs violated the Lautenberg Amendment.

Yet, there are examples for over-reactive methods, when officers are tried under Lautenberg and found innocent such as an El Paso case where a jury cleared the CBPO of charges. CBP and Internal Affairs still would not clear the officer and kept him on the rubber gun for a substantial time afterwards. Internal Affairs called the officer for additional questioning. The officer stated essentially that a jury found him innocent and what other kind of evidence did they need. IA responded that they didn't believe him and "OJ was found innocent, too".

Despite news coverage and complaints that reached then Assistant Commissioner of Field Operations Jayson Ahern, El Paso DFO Luis Garcia, and ultimately Secretary Chertoff, the entire matter appears to have been ignored and swept under the rug. That's life at Customs. Reports of violence are endless, yet the fact that no terminations or suspensions are meted out is hardly a surprise considering the very individuals named are often high-ranking managers. Sources report that so-called investigations result in insufficient evidence.

I guess a restraining order was not enough to warrant an investigation though required by Lautenberg, nor were the resulting murders not enough to investigate properly either, just as other cases that may not have resulted in death, in which workplace violence allegations and grievances were not enough either. Considering that officers report that managers have admitted to the destruction of evidence after EEO complaints were filed, this should be no surprise.

Then again, though it has been claimed that all murders in El Paso Sector are investigated, there are facts to the contrary. A Border Patrol Agent from Lordsburg BP Station was involved in a shooting incident in October 2004 while operating out of sector, meaning outside not only the station's area of responsibility, but also the sector's area of responsibility. The agent, who should have been patrolling in the New Mexico boot heel region, was in actuality patrolling in the Tucson Sector's Willcox Station's area of responsibility. During this instance, according to sources, the agent, identified as Rogelio Villa, pulled a smuggler out of his vehicle, threw him to the ground, placed his boot on his back and shot him in the back.

In fact, I was contacted by a fellow agent of the shooter's who suggested that I remove such material from a report our organization had posted on our website and if we did, we would receive contributions. This individual did confirm the incident and named the same agent as the shooter, listed above. I informed a number of Congressional offices about this contact. A sheriff friend suggested I treat the contact as a threat and bribe. This entire matter as I am reporting it is known within El Paso Sector, but was not properly investigated, which is no surprise, considering a second incident that is well known within the Border Patrol.

For this, I will cite from evidence Exhibit 3A, that was used as a letter of character reference and written by supervisory agent, Steven D. Vines of River Ridge, LA. The case, pertaining to the letter itself is irrelevant for the purposes of this report other than to state it is yet another example of former Chief Luis Barker's firing an agent that had minor issues, which in this case was an accidental firearm discharge, the result of a proven malfunction of the particular type of sidearm. Rather than focus on this aspect, though it speaks for itself, it is important to cite the critical paragraph by Mr. Vines as follows:

"Mr. Velez did not shoot and kill someone, hide the body in a canyon and lie about his actions as happened in Arizona. These agents were kept in employment status

and allowed to continue their careers even though they would never again be allowed to testify in criminal proceedings in the federal courts.”

*\* See Exhibit 5– Velez case exhibit 3A, the Vines character letter*

It is reported by a number of sources that the incident happened during David Aguilar’s tenure as Tucson Sector Chief as well as Luis Barker’s tenure as El Paso Sector Chief with Shem Peachy the Patrol Agent in Charge of Lordsburg Station.

Sources indicate it is the same individual that was the shooter in both instances. Instead of being investigated and charged criminally with a bad shoot, the agent/shooter was officially given Giglio warnings as his punishment and this matter was clearly covered up. In U.S. law, Giglio material refers to material tending to impeach the character or testimony of the government’s witness in a criminal trial. The prosecution is required to turn over or disclose this evidence to the defendant. Not much of a punishment for murder is it?

It is quite apparent something peculiar is going on in Lordsburg considering that agents were allowed, or as stated by the agents themselves, ordered to operate east of Lordsburg Station, but not west of the station, unless agents were patrolling out of the Area of Responsibility altogether. Numerous media outlets reported that New Mexico Governor Bill Richardson repeatedly called out the NM National Guard due to the requests by borderland residents and ranchers in the boot heel. As the expression goes, this situation does not pass the smells test, and it stinks to high hell. There is no way the chiefs were not informed as the incident involved both sectors, which raises yet more questions. If both chiefs knew, DC knew. It’s safe to say that Silvestre Reyes must have known for such is the way of life in the El Paso Region. If one knows, they all know.

Congressman Reyes has no qualms about getting involved in matters with DHS when inspections at the El Paso Ports of Entry lead to delays and traffic at the bridges, regardless of the national security consequences. Instead, Reyes asks DHS to decrease delays, which is cited more thoroughly within this report, or when it comes to family members, friends, or Mexico as was reported by a number of press reports with requests for inquiry sent to DHS and the House Ethics Committee. This complaint showed how Reyes’ office and position was used to benefit friends and relatives, as well as influence a program for border cameras and sensors, which the payback for Reyes as a former Border Patrol Chief included the contractor hiring his daughter Rebecca Reyes as well as his son Silvestre Reyes, Jr.

Reyes ignores complaints by law enforcement where his cronies within the agencies are named, or where relatives are involved. However, he has no qualms or internal conflicts to inappropriately seek agency assistance such as the June 19 kidnapping of his wife’s relative, though he knew through his previous training as a Border Patrol Chief Patrol Agent that such requests are specifically forbidden. Somewhere along the way the term that must be included to describe such activities is

“conflict of interest” perhaps even “obstruction” a word that when thought or considered requires independent investigation.

*\* See Exhibit 6 – FOBP House Ethics Committee Complaint*

While on the subject of border infrastructure, this report cannot ignore the outright sabotage that has taken place on this very subject and issue, and the complete lack of candor by the department who continues to terminate officers for allegations of lack of candor that are absolutely trumped up.

DHS does not want to “Secure the Homeland” as the 2008 OPM announcement and our points on the subject should have made quite obvious as this whole compromise has been to follow the neocons imperialist agenda pushed by Bush and his cronies. This is why it has taken so long to build fences, called a wall by some, which is pure propaganda used by opponents to gain momentum and support for their position. In fact, that’s exactly why DHS has stalled construction some of which could have been started in September 2006, in San Diego as Congressman Duncan Hunter informed me about two years ago.

The bureaucrats know that the end of the Bush Administration is coming to a conclusion, so rather than do something the next administration might not want done, they’re just dragging it along as slow as possible so they stay out of the line of fire.

However, there are consequences for such nonsense. For instance, the continued failure to install all-weather roads will lead to further loss of life among Border Patrol Agents operating along America’s borders. While DHS Secretary Michael Chertoff claims to be tired of going to funerals for deaths that could have been avoided, the fact remains the current border infrastructure projects are being sabotaged. The eminent experts in this field report have reported the fact that the only thing being installed are the lower quality removable roads, not the permanent all-weather/all-purpose border roads that will allow greater traction with much lower risk to law enforcement.

Experts also report part of the problem is delay as Secretary Chertoff and the administration have not made border infrastructure a national security priority, which means suppliers, contractors, subcontractors, sub-subcontractors, etc, are bidding for the same materials every other contractor is building for. Plus, there are issues of transportation and logistics. Materials going to the border travel quite a distance to get there, and this takes time.

As mentioned previously and demonstrated, the materials used for the border fence have been imported in many instances from Mexico and the People’s Republic of China. We’re using the materials of foreign nations that are often hostile to the United States? That’s absurd considering we are talking about material being utilized for national security purposes. We cannot compromise national security at any cost.

Imagine what could be next... Aircraft carriers or submarines with nuclear reactors made in China, North Korea, or Iran? When our leaders make one compromise, they will make more.

Of course this does not include the projects already proven to be a fraud, and waste of money, or the sweetheart contracts given to Boeing and others, while eminent experts who know this business, have a record of accomplishment and have companies that clearly were qualified for bids were shut out of the "fixed" bidding process.

DHS has defrauded America regarding border infrastructure building, while misleading the Congress. Will Congress do anything about this? That remains to be seen.

The Border Patrol as will be demonstrated shortly within this report has been covering up Mexican Military Incursions for years, and Texas Sectors like El Paso have been the most notorious, including incidents such as Santa Teresa, New Mexico, Neely's Crossing, Texas, and countless others including an incident in South Texas that resulted in the injury of a Border Patrol agent who had to relearn to shoot with his unnatural hand due to his gunshot wound. This same agent has yet to receive his purple cross for being wounded in the line of duty though five other agents received Newton-Azrak Medals the highest award within the Border Patrol and named in honor of Theodore Newton and George Azrak who were ambushed and murdered execution style in Riverside County, California. The Patrol Agent in Charge of the station involved in this South Texas incident is the current Chief of the Border Patrol David Aguilar. Who was the chief of McAllen where this incident took place not long before? Silvestre Reyes. Trust me when I say there is a pecking order within the agency, as there is within the military and other agencies. Someone always answers to someone with seniority in rank and status. Not that there is anything wrong with one, but Reyes' name always comes up and he has used his current position to affect security by calling for waits at El Paso's POEs to be sped up.

The areas where the most questions continue to arise are areas that the top leaders of CBP's Office of Border Patrol and Office of Field Operations have risen from: El Paso, McAllen, Tucson, and Miami. The leaders that ran those sectors and districts have had numerous questions raised, far too many agents and officers have raised questions themselves, and yet Congress has ignored them. Who is in the position to provide that cover though this same individual has had questions raised through his own actions? The answer is Congressman Silvestre Reyes, the current Chairman of the House Intelligence Committee.

Reyes has many former subordinates now in top positions at CBP (and the former Legacy INS) who follow policies and issue orders that compromise U.S. National Security. For those who ask how can cover be provided by a single Congressman, the answer is simple. Many defer to Reyes and give him the benefit based on his experience as a Chief Patrol Agent. A chairman is in a powerful position, and the questions raised by law enforcement cannot continue to be ignored. Considering the information that such a chairman has access to, such questions need to be answered today, right now, and not by the compromised DHS or DOJ, but by an independent special prosecutor. We need to

know if U.S. leaders are involved, and why policies were followed though the security of the nation is compromised as a result.

*\*Name of sources withheld to protect the officers from retaliation and retribution*

Our agencies have been subjected to incompetent leaders like Chief of the Border Patrol David Aguilar, CBP Deputy Commissioner Jayson Ahern, and Office of Field Operations Assistant Commissioner Thomas Winkowski who implement policies that compromise our nation's security by preventing Customs Officers and Border Patrol agents from doing their job. They reward bad work with promotions and cash awards, and allow charges to be trumped up to persecute good officers who do their jobs.

No example of cronyism and placing unqualified leaders is better defined than the appointment of Julie Myers, Assistant Secretary for Immigration and Customs Enforcement, or ICE. She was responsible for putting together a list of nominees for recommendation to the President and rather than do just that, she decided that nobody was qualified and recommended herself for the position. Now it's important to address how and why this happened. She is the niece of retired General Richard Myers, former Chairman of the Joint Chiefs of Staff, which clearly shows cronyism on the part of the White House in appointing an individual who was as qualified for that position as I am to perform an emergency tracheotomy. I am certain that the individuals disqualified were on the basis that they would not have caved in to enforce a policy that compromises the agency's mission and national security, and certainly would never have gone along with falsification of statistics, nor allowed foreign consulates to run their field offices.

Unlike previous FOBP reports, this report will identify the top names of agency officials who have been named in court cases as well as through complaints by law enforcement officers who remain under siege. Some of these same individuals have been subjects of stories by local media for a number of incidents and issues, which were subsequently ignored by the most senior of agency officials and the Congress. It is well reported and known within DHS that there have been a number of managers and rank and file employees who have been promoted following incidents that, for other employees, would have resulted in suspension, termination, and even criminal prosecution. Employees call this behavior an A-typical example of "screw-up move-up," as these same individuals that were called to public scrutiny were later rewarded with promotions, increases in salary, and other benefits and rewards. There is a second type of screw-up move-up example, a literal example, which this report shall also identify, though much later in this report so as to allow the reader to absorb the content.

One of the most infamous known examples of this report will call "promotional screw-up move up" came when Jose Ramirez, current Port Director of Miami for Customs, not only tampered with evidence, but "placed" marijuana on U.S. citizen passengers returning to Ft. Lauderdale from abroad on a cruise ship solely for the purpose of questioning the victim on June 11, 1994. Ramirez received only an oral reprimand. Later, Ramirez applied for a downgrade to a GS-12. When that was denied, he filed an EEO complaint because he was rejected because he "could not fulfill duties" of a

supervisory Customs inspector “in a credible and effective manner.” The judge deciding his federal discrimination case in Miami chastised the agency and thought he should have been terminated. After the court’s decision, the agency, in effect, laughed at the judge and promoted him to a GS-15, Port Director. How does a senior supervisory manager engage in conduct such as planting narcotics and yet not be terminated from his position and prosecuted to the full extent of the law? More so, how do the recommended disciplines lead to multiple promotions since the incident? It is a simple case of screw up, move up. Someone condoned the conduct and covered it up. The larger question asked by local Customs officers is “what does Ramirez have, and on whom?”

Of course this brings us back to Commissioner Basham and the recent presidential reward. John Cavicchi, an attorney, representing his brother Eugene, a CBP Customs Officer in Miami whose case you’ll learn about in the portion of this report addressing the courts, called C-SPAN on September 12, 2006, shortly after Commissioner Basham took the helm of CBP. Cavicchi asked Basham the following question:

“How an individual who admitted to placing marijuana in a black couple’s luggage in a cruise ship in 1994 would receive three promotions up until the point where he is presently the port-director for the Port of Miami, and what does that say about the integrity of the individuals who are chosen to ensure the security of our ports?”

Commissioner Basham responded as follows:

“We take every allegation of integrity, violation of integrity, corruption very, very seriously... If you are aware of one... an issue that someone has, in fact, done what you’ve said they’ve done, I suggest you report it... to ICE or the Inspector General of Homeland Security.”

Now personally, that was one of the most asinine responses ever, for that is exactly what Mr. Cavicchi had done. Basham having been just informed should have requested to speak to the caller off the air, and conducted an inquiry personally, not ignore it and slough it off to someone else. Of course, the incident was not thoroughly investigated by Basham, nor was PD Ramirez finally disciplined, or prosecuted. The call and incident remains ignored. The only thing Basham ever did with Ramirez happened in May 2008 when he posed for a group photo op with the same Jose Ramirez.

This type of incident is why DHS and CBP have absolutely zero credibility within their own agencies or with the American people, without even mentioning FEMA and the rest of the alphabet soup nicknamed agencies.

*\*See FOBP Report Volume 2 – Cavicchi Exhibits: Jose Ramirez’ Documents*

These “promotional screw-up move-up” promotions continue to this day and the Jose Ramirez incident was not just a one-time deal considering that Jonathan Richards, Field Operations Supervisor of the El Paso Border Patrol Sector’s Fabens Station, has received three promotions since the infamous Ramos – Compean, Alderete-Davila

incident of February 17, 2005. Richards was on scene during the incident as were numerous other agents, and today is a Patrol Agent in Charge of an El Paso Sector Station. Five agents were fired, while Ramos and Compean are in prison today.

FOS Richards was subsequently identified by union official Rob Russell in a April 28, 2005 meeting with Luis Barker, El Paso Sector's Chief Patrol Agent, and Senior Patrol Agent Jose Compean. In the interview the subjects of Richards' knowledge about the shooting, the assault on Compean, as well as Richards not "cutting paper" afterwards were discussed. Within the Border Patrol "cutting paper" is a term meaning the writing of reports. Russell also reports that Richards did not report the assault on Compean or the discharge of firearms by Ramos and Compean to OIG according to agents he spoke with on scene as well as Compean. The statements by Richards and Supervisory Border Patrol Agent Robert Arnold contradict each other, too, a fact which was completely ignored by the Border Patrol, OIG, and the U.S. Attorney's office.

*\*See Exhibits 7 and 8 – Barker/Compean Interview; OIG Arnold/Richards Interviews*

This incident raises the question as to why the FBI was not called though Richards was informed about the shooting and assault on Compean. Per policy, the FBI is responsible for investigating all assaults on federal law enforcement officers, but this policy was not followed. This is a fact we learned in many incidents before and after this specific incident that happens all too frequently with CBP.

*\*See Exhibit 9 – Assault on Officers Policy*

There will be more pertaining to the Ramos – Compean case later in this report, but the fact remains there is a clear pattern of questionable decisions and conduct by senior supervisors and managers over the course of time to substantiate our identifying what is known as "promotional screw-up move-up".

Today's compromises of security includes foreign companies securing contracts from the manufacturing of Border Patrol agent uniforms to the steel used to build the fence under construction along the US-Mexico border. Mexico and the People's Republic of China supplied the steel used for the fence while uniforms of low quality were provided to agents after being manufactured in Mexico with defects such as tears and shoddy workmanship. Should materials involving national defense, including agents' uniforms be outsourced or contracted with foreign nations? Not before 9-11, and certainly not after 9-11. What's next, law enforcement badges with GPS trackers so that dopers, human traffickers, and terrorists can monitor agents' positions and movements?

*\*See Exhibit 10 – Pictures of fence Made in China, Made in Mexico*

Before addressing memos that clearly demonstrate policies being enforced that compromise security, a different type of memo must be addressed, the kind that reinforces the absurdity of CBP today, and how petty the agencies can be as well as the

open threats and intimidation that Federal Law Enforcement Officers are faced with on a daily basis.

On August 3, 2007 CBP Officers in Houston received a memo authored by a Supervisory CBP Officer Erick V. Whitaker that stated as follows:

“All, FYI the APD made it clear TODAY in the Sups/Chiefs meeting, if any officer is caught not giving out comment cards, they WILL be written up, no excuses, if and or butts. Let’s make sure that we are passing out these comment cards.” The memo was signed “Thanks, Whitaker”.

Exactly 13 minutes later at 4:33pm, Whitaker sent out the following memo to employees:

“All, When working in Baggage Control Secondary, it is IMPERATIVE that you give passengers Comment Cards, at the completion of your inspection. Managers have been instructed to take disciplinary action if an officer is observed, not passing out the comment card at the completion on their inspection. If you notice your buddy did not issue a comment card, bring it to their attention and lets get this done!” It was signed, “Thanks, Whitaker/SCBPO”

As if those memos do not underscore the attitude by CBP management at the Ports of Entry, which is “Customer Service, not law enforcement”, excerpts from the following memo, dated 03/30/08 with the subject of “Welcome Greeting” as authored by Charles G. Perez, Assistant Port Director, Passenger Operations – George Bush Intercontinental Airport (IAH) DHS, US Customs and Border Protection Houston Texas are offered for further evidence:

“CBP OFO expects CBP Officers to greet all arriving travelers to the United States as the Passport Control booth with the words “Hello,” “Good morning,” “Good afternoon,” “Good evening,” or other appropriate greeting. The Officer will complete the Examination/Inspection with “Welcome Home,” for all United States citizens and residents and “Welcome to the United States,” for foreign travelers and/or other appropriate greetings.”

The memo also states that the greetings were extracted from the Model Port RCI recommendation and how and where the “greetings and or salutations” should be used. The memo further identifies the possibility of a policy statement being pursued to ensure officers use an appropriate greeting.

Not that there is anything wrong with common courtesy, but are CBP Customs Officers law enforcement officers, or are they now reduced to mere Wal-Mart Greeters, or Salvation Army Santas? It can be understood that uniformity is appropriate within an agency, but that could be just as easily handled quickly during musters. Are threats of discipline for not handing out comment cards of greater urgency and importance than investigating complaints and suspending/terminating managers and senior officials after

officers officially report that we are not securing the Ports of Entry or properly inspecting individuals, containers, and vehicles? Absolutely.

There is no doubt in many officers minds that such nonsense is of greater importance than running proper background checks, or utilizing secondary inspection, or K-9 teams to inspect for the smuggling of narcotics, humans, and contraband, including weapons of mass destruction. As reported from Mexico City, President George W. Bush stated that the top priority of his administration was trade and commerce. I'll add what I said one week prior to his March 2007 state trip in my testimony before the House Homeland Security Committee, "Trade and Commerce is the top priority of the Bush administration at the expense of U.S. National Security."

Our agency's top leaders are carrying out policies, as you will see beyond any shadow of a doubt that compromise security. And as we mentioned earlier in this report, senior managers receive enormous cash prizes as reward for supporting such policies.

*\*See Exhibits 11 and 12 – Perez Memo, & Welcome Greeting*

The compromises in security includes policies and directives such as the "infamous" Chief George K. Carpenter email of January 16, 2007 distributed to Customs employees at the Paso Del Norte (PDN) Bridge in El Paso, TX. Sources in the region had repeatedly objected privately to the following policy as stated in the Carpenter email:

"The policy has been promulgated numerous times in musters and e-mail. **We do not deny permits.**"

The email continues, "Again, we do not refuse a permit or send the applicant back for more documentation/proof. They are not required to present proof of employment, residency, or solvency in Mexico."

*\*See Exhibit 13 – Carpenter Memo*

Sara Carter, a reporter for the Washington Times broke a story on September 7, 2007, regarding the Carpenter email communication as well as another memo issued by DFO Luis Garcia distributed to officers on August 16, 2007 that showed lack of inspections of vehicles entering through the El Paso Ports of Entry is seen by local officers as a national security compromise to placate business owners by expediting traffic.

*\*See Exhibit 14 – Washington Times Article: Border Checks Limited to Speed Traffic*

A few days after the Times story broke, Silvestre Reyes, Member of Congress from El Paso was reported to have met with CBP's top leaders and asked that border crossings be sped up in El Paso. One would imagine that Congressman Reyes, as a former Chief Patrol Agent of the U.S. Border Patrol's McAllen and El Paso Sectors would want to have CBP improve security regardless of commerce. When one takes into

consideration that Reyes is the chairman of the House Permanent Committee on Intelligence, one would think strengthening security would be the highest priority, but numerous sources report this to be textbook Reyes and to the benefit of Mexico.

Of course since we're on the topic of Silvestre Reyes, DHS, and Mexico, this report must also address Mexican Military Incursions into the United States, which is an act of war, though our government continues to ignore and cover up such incidents.

We have watched the Mexican military's incursions into the United States, often escorting narcotic traffickers. However, before continuing, let's examine the word incursion. In the late U.S. Senator Eugene McCarthy's book: *A Colony of the World: The United States Today*, which was published in 1992, the former presidential candidate writes, "An incursion differs from an invasion. There is no verb form of the word. One cannot 'incurse' as one can invade. An incursion is a kind of existential happening, without a before or after; it is a continuum."

Considering Mexico was well noted for bandit raids and crossings by their soldiers across the U.S. – Mexico border over the course of our history as the nation expanded westward and territories became states through land during land purchases and war, this practice has always happened. No beginning or end, just as the senator defines a continuum. However, it is high time for the practice to end as we're not talking a mere frontier of the old Wild West, and Mexico's officials have GPS available in the modern world as Sheriff Arvin West of Hudspeth County, Texas can personally attest to after apprehending a Mexican Customs Official in uniform marking trails with a GPS tracker and maps in early 2006. There is simply no excuse for this practice to continue today.

We have learned that Mexican soldiers have engaged in firefights with U.S. law enforcement officers, only to later see our own government parrot Mexico's excuses such as soldiers getting lost, or dopers using stolen uniforms and t-shirts, regardless of the actual facts reported, or caught on cameras by local law enforcement cameras mounted on dashboards. We have learned how Zetas, among the most violent of criminals in Mexico, will escort high quantity dope loads across the border, and ambush Border Patrol agents. Such an incident occurred near Nogales, AZ in which two agents were severely injured and pinned down. This occurred in late June 2005, and was reported by Washington Times reporter Jerry Seper in early July 2006.

Law enforcement officers with jurisdictions along the Rio Grande have informed FOBP that these same Zetas have embedded themselves on U.S. soil. However, they also report that U.S. Attorneys are failing to prosecute these Zetas for gang association, let alone RICO type charges. Local law enforcement have also recorded Mexican soldiers assisting with the transporting of narcotics, while taking up defensive cover positions that prevent law enforcement from apprehending dopers and in well reported incidents in Hudspeth County, TX. In fact, Border Patrol Chiefs Aguilar and Barker in the Neely's Crossing (Hudspeth County, TX) incident parroted statements by the Mexican Government, which said the armed gunmen were not soldiers but instead were dopers using stolen t-shirts or uniforms.

I myself witnessed an exchange by Chief Barker, then National Deputy Chief of the Border Patrol, with local Texas Sheriffs, including Sheriff Arvin West of Hudspeth County discussing the Neely's Crossing incident. On March 21, 2006 Chief Aguilar was interviewed by local El Paso news agencies and contradicted statements by the sheriffs and video evidence in stating that there were no Mexican Military units involved in the Neely's Crossing incident. However, Barker, contrary to the interview as broadcast on local El Paso stations said, (Aguilar) "had been quoted out of context." He added that Chief Aguilar never made such a statement, and tried to pass the blame onto Marcy Foreman, ICE Director of the Office of Investigations who had yet to issue any statement on the incident. The statement was a complete bold-faced lie to the sheriffs' faces, and contradicted by the truth as aired on TV. Additionally, it was a textbook example of the culture of corruption that exists to protect Bush's policies that cover up Mexico's continued acts of aggression against the United States by accepting absurd responses.

*\*See Exhibit 15 – TNA Article: Bordering on a War Zone*

During a hearing by Congressman Mike McCaul's Homeland Security Subcommittee, Congressman Reyes, joined Chief Patrol Agent Aguilar (a former subordinate in McAllen Sector under Reyes) in testifying against witnesses representing the Texas Sheriffs Border Sheriffs Coalition, which included El Paso Sheriff Leo Samaniego, and Hudspeth Sheriff Arvin West. Congressman Reyes is well noted by law enforcement as using his career as a former Border Patrol Chief for the purpose of credentials and experience. However, he is equally noted for also parroting the lies coming out of Mexico City, just as the current administration does, and this only adds to the cover up of aggression and crimes taking place along our borders.

Of course the failure to do something about this has not just been that of the Department of Justice, DHS is primarily culpable since that is the job of numerous federal law enforcement agencies. There have been over 235 incursions along the U.S. – Mexico border, one in particular that must be told. On March 14, 2000 at 2200 Hours (10pm) Mountain Time, three Humvees carrying Mexican Army troops crossed the border from Mexico into the U.S. in New Mexico three miles west of Santa Teresa, NM. Two of the Humvees opened fire, and later returned to Mexico, while soldiers from the third Humvee not only opened fire on a U.S. Border Patrol agent but pursued him, too. After a standoff between the agent and local law enforcement officers arriving on the scene, the soldiers surrendered and were detained overnight but released early the following morning per the orders of El Paso Sector Chief Luis Barker. It must be noted Barker is a 2005 presidential award winner, too. However, contrary to policy, Chief Barker did not contact the Federal Bureau of Investigation to investigate. In fact, the FBI released a statement saying, "In the event of assaults on federal officers, the FBI is at the very least brought in to assist the investigation, and we were not called at all in this case."

*\*See Exhibits 16 and 17 – News Article & Pictures of Hummer/Weapons*

This fact leads to an act that is the height of hypocrisy on the part of Barker, for he went along with a prosecution, which this report addresses more thoroughly at a later

point, the case of U.S. vs. Ramos and Compean. Barker joined U.S. Attorney Johnny Sutton in criticizing the two agents for not reporting a shooting incident that took place, though that responsibility fell to a supervisor since repeatedly promoted.

This is not a one-time situation. In point of fact, incursion incidents have been identified by law enforcement officers, federal and local, along the U.S. – Mexico border, as a way of life through the week of October 31, 2008. Sources report that Chief Aguilar tried to keep a Yuma, Arizona incursion “under wraps” until CNN’s Lou Dobbs Tonight exposed it. CNN reporter Casey Wian “reported last week that Mexican drug cartels operating in Texas are under orders to engage U.S. law enforcement personnel.” Two such incidents in mid-October 2008 were kept quiet by Aguilar including one near Abram, Texas that happened as CNN’s Casey Wian reported as follows: “A group of suspects confronted the agents. One opened fire with an automatic weapon, missing the agents, before the smugglers escaped to Mexico.”

*\*See Exhibit 18 – Daily Bulletin Military Incursions Article/CNN Report Transcripts*

Up to this point in our report, technology, training, and the disciplinary structure that exists today under DHS has yet to be addressed by DOJ and the courts.

In Legacy INS/Customs, managers handled disciplinary matters with a goal of correcting the issue so that the matter was learned from and not repeated in the future. However, that was legacy, not the post-merger agencies of today.

The current leaders of the alphabet soup agencies at DHS rely on a system, and table of penalties that is proving itself all over America to rubber stamp trumped up charges against our first-line officers and agents. It appears that charges are filed primarily to discredit whistleblowers that then have zero credibility to identify compromises in security, and prevent them from defending themselves when attacked in their workplace. We are actively investigating many such cases involving these tactics where charges appear to be without merit, or where you see managers of all levels committing far more serious offenses than rank and file with no disciplinary response. At the same time cronies, commonly referred to by fellow agents and officers as monkeyboys, are clearly receiving preferential treatment from managers and the agency.

*\*See Exhibit 19 – Table of Penalties*

Take the June 13 and 14, 2007 musters by David Aguilar at the Nogales and Tucson Border Patrol Stations in Tucson Sector. Both Chief Aguilar and then BP Academy Chief Whitmire engaged in a display and used language that rank and file agents are fired for on a regular basis across the U.S. under the charge of “conduct unbecoming”. Some of the commentary was aimed at civilians, who have exposed the fact that agency managers have compromised their agents and border security to keep the executive branch happy with policies that should never be enforced. They cover up for Mexico and as many agents have stated practically let a foreign government noted for

corruption and links to organized crime literally run the patrol's stations. In his rebuttal of FOBP's reports, testimony, and statements, instead of stating his' disagreement with the facts as presented, Aguilar chose instead to engage in a personal and despicable diatribe that is described by local union officials as follows:

“Further, during both the Nogales and Tucson shows, Aguilar pointedly asked if anyone knew what Ramirez looks like. Aguilar concurred with the word "slob" in Nogales, and concurred with another derogatory description in Tucson. Ramirez may not look like he came off the cover of GQ magazine, but he's also been battling MS for years. Poking fun at his physical appearance is uncalled for, whether you like him or not. We noticed that Aguilar slickly led agents in the room to say the derogatory terms, then agreed with them (as opposed to making the statement himself).”

*\*See Exhibit 20 – Aguilar/2544*

Ultimately, this is also the double-edged sword of DHS firing people for one thing, while managers and their cronies do as they please. Rank and file are fired, suspended, and placed on the rubber gun squad for less. Why should senior agency managers be treated differently solely due to the stars on their shoulders? Under the table of penalties the charge that can be applied to Aguilar is “conduct unbecoming”. Rank and file officers/agents are regularly on a regular basis under that very charge. The fact that others are fired for less than what Chief Aguilar did is utter hypocrisy by CBP.

Also, law enforcement officers and their counsels are reporting that cases are coming up, through the EEO process, where it is being proven and admitted to by senior managers and agency witnesses under oath that the agencies are engaging in the criminal acts of destruction of evidence. In one case, an officer had to withdraw his EEO complaint when the agency informed the complainant that the evidence needed for proof was destroyed. The agencies named are both under the Department of Homeland Security. However, under the rules of the EEO process, disclosure is not allowed due to confidentiality rules unless the officer wishes to “go public” by filing his discrimination claim in district court—a prohibitively expensive venture for most federal employees and the agencies know and rely upon that.

While federal law enforcement officers fighting trumped-up charges have been given a process where they can appeal discipline to alleged watch-dog agencies including the Equal Employment Opportunity Commission (EEOC), Merit Systems Protection Boards (MSPB), Office of Special Counsel (OSC), Labor Employee Relations (LER), Disciplinary Review Board (DRB), and other alphabet soup offices, the fact is this process is an utter failure. The deck is clearly stacked against law enforcement officers doing their jobs, a deck that turns a blind eye to managers who commit greater offenses than the very ones trumped up to discredit and fire employees.

*\*See Exhibit 21 – Congress Daily Article on Resignation of OSC's Scott Bloch*

Each board uses an “Administrative Law Judge” (ALJ) or “Mediator” who though technically independent appears and rules as if they were employed by DHS.

I personally witnessed the following exchange during the Brian Israel MSPB case when New York ALJ Joanne Ruggiero asked Thomas V. O’Keefe, president of NTEU Local 138 why officers did not report the discrimination to supervisors, or call Internal Affairs, the Inspector General, or anyone else to investigate the claim to which O’Keefe responded: the problem is not addressed and “employees are afraid of retaliation if they report discrimination incidents.”

As retired NTEU President, Barbara Evans of Miami testified before the EEOC: [T]here was a “pattern and practice of retaliation...” Filing an EEO case is a “career ender.” “[I]f you filed an EEO, then you became targeted with certain harassment techniques.”

When there was any kind of conflict among personnel, the Agency moved the person, “they would separate the person from the supervisor. It was very, very simple.” Later on, if management targeted someone ... in a “diabolical way it seemed kind of fun to leave them there, so they would become a pariah among their coworkers. They would be watched and harassed by their supervisors.”

*\*See Exhibit 22 – Barbara Evans testimony*

The Miami ALJ, Ana Maria Padilla-Lehman, a Cuban immigrant, presumably a refugee from Castro, ignored her testimony, just like Ruggiero ignored O’Keefe’s.

One can infer the deck being stacked when you consider evidence, such as factual presentations of substantiated willful and malicious ethnic, gender, age, and medical discrimination on the part of the agencies as a motivational factor. None of which is taken into consideration and is constantly ignored by ALJs, just as Ruggiero, and Padilla-Lehman did during the case before them, and as presented by counsels for employees facing termination.

Numerous CBP and ICE employees have reported that since the merger officers are constant victims of abuse and discrimination and to file reports would result in even greater abuse and retaliation all for simply “creating controversy”. The investigative agents appear as the apparent henchmen protecting the brass not operating as fact finders.

What offices review and investigate these trumped up charges? The primary names include the Office of Professional Responsibility (OPR), Office of Inspector General (OIG), Office of Internal Affairs (OIA – Legacy), and yet again, they are mere rubber stamps used by senior managers against whistleblowers for “creating controversy” as numerous CBP employees of Border Patrol and Customs report repeatedly from across the nation. But they are not just rubber stamps, employees report they are utilized to harass and intimidate employees and these investigations result in the trumped up charges

filed that lead to terminations and prosecutions regardless of the facts. This has led many federal law enforcement officers to tell counsels and my board members alike that they love their country and would die to defend it, but nobody in Washington cares about them or they would do something about it. In their own words, our LEOs believe themselves to be the bastard stepchildren of law enforcement.

When officers file complaints through EEO, grievances, and lawsuits, the agency's top managers use OIG, OIA, and OPR for political intimidation and retaliation against officers. These anti-corruption offices do not investigate criminal matters, let alone misconduct, on the part of ineffective and corrupt employees regardless of rank and status. They conduct corrupt investigations, target honest employees, and use tactics of intimidation and outright terror tactics. They place officers in harm's way by stripping them of badges, firearms, and agency credentials, a practice called "rubber gun squad", where LEOs are left in the most ignominious of positions, and they lose overtime, as well as opportunities for advancement or transfer and suffer ridicule by fellow employees.

Employees have discussed being on the "rubber gun squad" for not just weeks, or months, but over several years. This tactic is akin to the "Code Red" seen in the movie "A Few Good Men" but not to get employees to shape up. Instead it's to break good employees, which compromises our national security. Additionally, among federal law enforcement agencies, CBP has the worst reputation for these tactics, which are effectively destroying previously proud agencies noted for high morale and esprit' de corps.

Currently, the system, which was intended to mete out justice, while protecting employees is broken and does not work. Officers are losing their jobs, names, and reputations, homes, and losing opportunities to apply for lateral law enforcement positions since the system is broken and failing them. Agency counsels are paid by American tax-dollars appropriated by Congress. Our officers are rolling up debts of hundreds of thousands of dollars hiring attorneys to represent them in these administrative and civil matters against a stacked deck. Are we going to fix this broken system, or are we just going to continue to break officers lives, and put them and their families on the road to ruin?

Previously, I mentioned that the disciplinary structure is a disaster where management uses the process to discredit whistleblowers before they can identify compromises in national security. Managers accomplish this by charging employees with two common types of charges, "conduct unbecoming" and "lack of candor", which clearly discredits them. If an employee testifies before Congress, while being charged with either, and that is brought up, who is going to take what that officer says with any credibility regardless of the documentation he or she presents? He is already discredited, guilty before innocent regardless of what is being trumped up or why.

How? It's simple, when a Member of Congress, or Administrative Law Judge, or perhaps member of the press asks if an employee is still employed, his current status, or

why he was fired, and then follows up with what was/were the charges, he or she is not going to be given any benefit of the doubt when the response is “lack of candor and conduct unbecoming”. Yet, the managers can perjure themselves, and this can be definitively proven, which has happened, and no charges are filed against that manager.

I have seen cases where this has taken place, such as Christopher DeSantis, a now retired Senior Special Agent of ICE who proved that his senior manager, Special Agent in Charge Roberto Medina, conjured up a policy that never existed by claiming to have seen a memo addressing a national policy that never existed and in doing so, that SAC Medina is viewed by Special Agent DeSantis and his counsel as having committed perjury. This is the very situation described above, which the adjudicator completely ignored in his decision.

*\*See Exhibit 23 – DeSantis testimony/statement*

During the Brian Israel case, I witnessed James Engleman, Director of Field Operations of Customs in Buffalo District testify during a Merit Systems Protection Board hearing contrary to the facts that anyone with common street sense could see upon reviewing the same inconclusive video used as evidence. Inconclusive in that it did not show a definite incident as the agency wanted to claim it to be. If anything, the evidence appeared to sustain Officer Israel’s presentation. Yet, in what could have been a terrorist probe at the border, a Special Interest Alien, one Mohammed Yaiche, entering through Champlain, NY Port of Entry was deemed a mere “accident victim” by DFO Engleman during the same hearing. Yaiche made terrorist-like threats during the ambulance to the hospital after disabling anti-terrorist radiation detection portals at the same P.O.E. Facts, which was also ignored by ALJ Ruggiero.

*\*See Exhibit 24 – Nurse Trombley deposition*

Additionally, Ruggiero placed no weight in her ruling to defense exhibits showing a consistent discriminatory environment against Jews. Officer Israel is Jewish. Israel once experienced anti-Semitic hate crimes which involved the placement of Waffen SS lightning bolts and a Nazi flag stickers placed on his locker though his mom’s family was victimized during the Holocaust. Other hate crimes and anti-Semitic activities also were raised during this MSPB hearing, which received no weight by ALJ Ruggiero. Not only have no other officers been brought up to face discrimination charges, let alone be fired for such activities, the FBI was not called in to investigate any of the allegations, which were testified to under oath by CBP Customs employees. A file on Anti-Semitism in the port was also admitted to by the then Port Director and mid-management level supervisors were identified as having committed such incidents, but no FBI investigation.

*\*See Exhibit 25 – FOBP/Brian Israel Report*

In fact, discrimination was also a primary motivating factor behind another officer’s prosecution who was prosecuted by the U.S. Attorney of Buffalo District. This CBP Officer was targeted after a complaint by the Foreign Minister of the People’s

Republic of China following the apprehension of three foreign nationals from the PRC who were behaving suspiciously during the apprehension of an individual at the Niagara Falls, NY POE who had possession of narcotics. In point of fact, the three Chinese ladies that were apprehended were meeting with the doper. This officer was acquitted but was the sole officer prosecuted, although there were ten other officers who participated in apprehending the subjects. This CBPO was targeted solely for his sexual orientation, with discriminatory activities against him quite the constant at the hands of fellow employees.

As identified earlier, Border Patrol Chief David Aguilar was just rewarded by President Bush for supporting the Bush agenda that compromises his agency's mission, which has always included the apprehension and processing of illegal aliens.

In fact, Chief Aguilar conducted a series of station shift musters, or national amnesty mission tours as some have referred to them, to state he did not support amnesty. However, agents reported walking away feeling he threw his "stars around" and was trying to bully and intimidate agents and that Aguilar supported amnesty, which a report is identified much more extensively and includes an exhibit.

Chief Patrol Agents like Aguilar, Carlos X. Carrillo (Laredo Sector), and Victor M. Manjarrez Jr. (El Paso Sector) as well as others have bought into the agenda. Carrillo's interview with local Laredo media clearly showed his support of the agenda, which was later posted online by numerous organizations including our own. Also, Manjarrez, Jr. in an interview with The Associated Press, stated that without comprehensive immigration reform border agents continue to split their attention between "economic migrants," criminals, and potential terrorists.

"Most of these people are economic migrants but we have to deal with them between the ports of entry because we have not, in terms of a legislative fix, determined what we do with these people," Manjarrez said. "I think it's pretty obvious that the country has a need for economic migrants. To what degree, I don't know. That's for the country to decide and for the politicians to decide."

"When you look at the series of events that have happened over the last five, six years ... our mission changed," Manjarrez said. "Our primary mission changed from our traditional focus. Our primary mission now is terrorists and weapons of mass destruction. That's what we should be focused on. We can't focus on that as much as we would like because of all the other issues that we deal with."

What that means to the average American, and line agents is Aguilar, Carrillo, Manjarrez, and those who are responsible for leadership positions at CBP have caved in to politicians and bureaucrats that obstruct justice rather than doing their jobs and enforcing the laws of the land under the Constitution of the United States. The chiefs' stress the importance of the agency's newly redefined mission by marginalizing, or more accurately, eliminating the long-standing mission in order to justify rewarding lawbreakers the agents are responsible for apprehending. Clearly, Aguilar was just rewarded for his part is supporting that very agenda.

However, let's examine for a moment what has led to this thought process within our agencies such as the Border Patrol as well as Customs. Part of this is the fact that DHS allows individuals who are prior deported illegal aliens who earned citizenship serving in Vietnam, such as Luis Garcia, former Customs DFO in El Paso, or children of illegal aliens such as Victor Manjarrez, Jr., Chief Patrol Agent of El Paso Border Patrol Sector. In 2006, Garcia also was a Presidential Merit Award Winner. While some may term these success stories, ala living the "American Dream", we face potential consequences. Some children of illegal aliens, or former illegal aliens themselves, as sources report Garcia admitted in a deposition, and can be very sympathetic to illegal aliens and have loyalties to Mexico, which can affect their judgment and decisions. Garcia has been reported by sources as wearing a Mexican flag lapel pin on his uniform. It's been reported that the Border Patrol in their efforts to recruit new agents per their goal to increase manpower to 18,000, have agents who upon apprehending drug/human smugglers have found agency recruiting materials in the suspects vehicles or possessions.

*\*See Exhibits 26 and 27 – Time article on Manjarrez & Luis Garcia bio*

Recruiting is a top priority, but it is reported inside agency circles that the agency in order to meet their goals are dumbing down standards and not looking for top candidates. Nowadays, the agency will accept just about anyone. Considering the duties and responsibilities, one would think security clearances would be a required part of a background check but such clearances are not mandatory. Instead agency management compromises quality for quantity, and as a result accepting less than the best. Previously, the best applicants and trainees always came from law enforcement and the military. It appears that is no longer the case.

The challenge to meet numbers goals has also affected instruction at the academy. For example, agents have reported that the new Spanish language program is nothing more than a watered down "Rosetta Stone" program. Instruction was cut down from 19 weeks to 14 weeks. Many officers report that cronies attend training classes in classrooms with instructors, in the normal training method, while those who are not, are essentially pointed to a computer terminal and qualify after a number of hours in this informal method. Numerous reports show the academy may have better technology, but the instruction leaves a lot to be desired. Border Patrol agents who got through the academy enjoyed long careers in the patrol or other federal agencies due primarily to their high level of training. In essence, this compromise will soon have consequences for the agency and directly affect our national security that could be catastrophic.

However, this change began with the creation of DHS and the destruction of Legacy INS previously under DOJ. Prior to the appointment of David Aguilar, Jayson Ahern, Tom Winkowski, Luis Barker and countless others, you could not meet an officer or agent of any federal law enforcement agency unwilling to discuss with a colleague, friend, or Member of Congress the following:

1. Being excited to go to work and looking forward to my job every day
2. Loving the job and the challenges

3. Taking a bullet for (insert name of fellow officer/agent)
4. Esprit de corps/camaraderie
5. Defending America

Today, the opposite is true. It must be reported that morale was diminishing well before word about the prosecutions by Johnny Sutton against Brugman, Ramos, Compean, Crawford, and Gilmer Hernandez reached the nation. This change in morale began shortly after the merger, though not as apparent until after David Aguilar was appointed as Chief of the Border Patrol from Tucson Sector as has been reported by many retired and active duty agents at all levels. Customs officers, though their stories are not as widely reported yet, report the same loss of morale. Today, morale has been completely destroyed for the following reasons:

1. National Security Compromises
2. Compromising officer safety
3. Harassing/stalking employees for not going along to get along
4. Sacrificing officers for political agendas
5. Policies that tie field agents' hands
6. Loss of trust in leaders
7. Promotions based on screw-up move-up, cronyism, and discrimination
8. Unfair and unequal disciplinary practices
9. Lowering recruiting standards

It must be stated that when teams have morale issues within the world of professional sports owners change the coaching staff, the management team, or the players. However, with so many thousands of employees under the Office of Border Patrol as well as the Office of Field Operations reporting morale issues, you simply cannot change the employees. Congress has failed to investigate morale issues, and mistakenly accepted such issues to be one of the A-typical management – union issues regarding collective bargaining, salaries, benefits, and the standard issues. The fact remains that those are not the issues. It is, as stated throughout the report, the entire collection of misconduct issues that managers representing the agency are getting away with, without worrying about Congress looking over their shoulders. Why should they worry when Silver Reyes is there in position with Congress giving him the benefit of the doubt as a former Border Patrol' Chief Patrol Agent.

Agents/officers feel they are under assault and worry about doing their jobs for fear of reprisals. Officers look constantly for jobs elsewhere, including lateral transfers to other agencies. Officers note the high number of unqualified superiors placed in positions through cronyism, or watch fellow officers who “screw up” in any number of ways that would get most others fired or prosecuted “move up,” a practice called “screw up-move up”. Of course, that can be seen with a double meaning, because in today’s CBP, Customs and the Border Patrol it is well rumored that to move up, employees can literally work their way up the chain of command by exchanging sexual favors for promotions.

It is very important not to ignore the cronyism aspect that has become the standard of the Bush Administration. Sure, as the old expression goes, to the victor goes the spoils, but there is a point where it goes too far. With the administration of Bush 43, that concept is a colossal understatement.

Many within the Border Patrol feel cronyism has been taking place, when considering all the former Tucson subordinates of Chief Aguilar that are now sector chiefs or occupying top ranking positions throughout the agency. Many employees of CBP state that CBP has become a form of organized crime, the primary difference being that “this family has badges.” The brass of the Border Patrol is referred to as the Tucson Mafia. However, as pertaining to a sex ring similar to Customs, one has yet to be proven within the patrol though well rumored to have taken place.

The Customs service is also in need of examination for cronyism when considering the reports that have emerged over the past decade from Customs officers (including former Legacy Inspectors as they were known). Individuals that run in “the clique” are now in top positions throughout the agency, such as current CBP Deputy Commissioner Jayson Ahern who has been named for over a decade in reports for participation in a sex ring.

As identified earlier in this report, Ahern was named in a case just filed in a Florida Federal District Court by Denise Calleja. Ahern was also the subject of several reports a decade ago by the Miami Herald, which will be addressed in greater detail shortly.

It appears that the agency has long been plagued by notorious scandals and misconduct including as a sex ring where officers have received promotions based on the sole qualification of sex with the right superior officers, and where lower ranking officers pimp fellow officers to provide willing partners for the sole purpose of sex. This has happened while agents were on regular and overtime duty and at agency facilities including garages while still in uniform. This information has been published in articles and has come out in complaints and other legal documents, and is posted on websites.

It is important to keep in mind that the former Soviet Union’s KGB and other security agencies as well as organized crime organizations would utilize such conduct to gain control over behaviorally challenged individuals that compromised themselves.

In 1999, David Kidwell, then of the Miami Herald, reported in a series of articles that key high ranking Legacy Customs officials in Miami had been accused by a number of employees of “fostering a rampant atmosphere of **sexual harassment** in the 1980s.”

Kidwell and the Miami Herald further reported that, “Ten employees supported allegations of drunken skinny- dipping parties, strip “pornopoly”, on the job drinking, **sexual** aids left in women’s mailboxes and obscene phone calls.

Many blame former Customs Commissioner Ray Kelly who could have done something about it, but instead merely transferred managers around from, for example, Los Angeles/Long Beach to Miami, and vice-versa. This still continues today.

*\*See Exhibit 28 – Miami Herald Articles on Sex-Ring/Cronyism*

While this next statement based on an Article 46 (technical term) type of written Grievance by an NTEU (Customs Union) steward during September 2005 filed with Luis Garcia the El Paso Director of Field Operations for Customs, could have been listed in the portion addressing retaliations, it is important to see it in the sex ring context.

“In a prior case Luis Garcia failed/refused to investigate a protected disclosure by (NAME OF VICTIM REDACTED) in regards to sexual harassment, DFO Garcia immediately fired (NAME OF VICTIM REDACTED) in an effort to reprise against her for this protected disclosure. The Equal Employment Opportunity Commission found DFO Luis Garcia Guilty of discrimination. Needless to say ACFO Jayson P. Ahern and Daniel Sutherland openly applaud the discrimination and to date refuses to discipline DFO Luis Garcia even after a conviction.”

Within this particular grievance then-ACFO Ahern and Daniel W. Sutherland, DHS Officer for Civil Rights and Civil Liberties (appointee of Bush 43 on April 16, 2003), are named 2-3 additional times for having been notified of complaints and failing to protect the employees.

Kidwell wrote similar articles about the cronyism and culture of corruption taking place in Miami that Commissioner Kelly was also informed about and yet, did nothing to stop beyond those transfers. Today, Commissioner Ray Kelly is the police commissioner of NYPD, and just merely bringing up his name to Legacy Customs employees of all ranks brings comments questioning his integrity and others that can't be repeated beyond a locker room type area due to the language utilized.

In a matter this report will call the Brownsville 4 case, Brownsville-based Customs Officers Anastacio Armijo, III, Armando Davalos, IV, Jaime Gonzalez, and Eliut Torres, filed a complaint with the EEOC for being discriminated against due to race, or national origin (Hispanics), when they were not selected for a 90-day temporary position as Canine Trainers GS-1895-12.

In May 2006 Chief Barry Johnston, sent an announcement to all GS-11 officers in Brownsville announcing a temporary GS-1895-12 position, to which the Administrative Law Judge Kayte Duderstadt decided as stated in her August 13, 2007 ruling that “the temporary position that places a GS-11 in a significantly better position for promotion.” Of six applicants, one was selected who was Anglo, which established a “prima facie case of national origin discrimination”.

Johnston recommended his selection to Brownsville Port Director Margie Gutierrez who agreed with the selection, which was then questioned by the National

Treasury Employees Union (NTEU) as to the selected officers' qualifications. The ALJ agreed after a review by Human Resources determined that Officer Turnbough who was selected by Johnston was not qualified due to not having certification to carry a firearm (1895s carry firearms unlike 0401s), had not held a series 1895 position, and while a series 1895 officer was required to pass a physical examination, a series 0401 was not. As Officer Turnbough is a series 0401 level officer, he was not qualified for the position.

Chief Johnston testified during the hearing as to “no one outshined the others”, but the ALJ was clearly persuaded otherwise given the fact that the agency placed “significantly greater emphasis” on the training of the canines of the 1895 series given their numbers, over 90% of the amount of total canines in Brownsville versus the less than 10% of dogs of the 0401 series in Brownsville. Also, that “each of the complainants had a proven record of working with canines which detected narcotics, explosives, currencies and humans” while the selected officer had experience with agricultural items. Another key factor in the decision was the fact the complainants were firearms qualified, unlike the officer selected by Johnston who claimed he selected Officer Turnbough on the basis of seniority. The ALJ stated in her decision as follows:

“While the EOD date or seniority could be a nondiscriminatory consideration, in this case it was the only, and I emphasize the only, consideration which gave the selectee an advantage.”

Accordingly, the ALJ found that “the Complainants were discriminated against because of race or national origin, Hispanic, when they were not selected...” The remainder of the ruling, which was not contested by management, is attached as Exhibit 24 in the Exhibit Section. It must be noted that favorable rulings on the part of employees are far and few between.

*\*See Exhibit 29 – The Brownsville 4 Case, blatant management discrimination*

There is a current case in El Paso where an ICE employee has been a victim of discrimination and retaliation as a whistleblower. While there are many aspects to this employee, a hard worker with unquestionable integrity, which is extraordinary considering what this report has clearly established and identified in regards to El Paso's chaos. In this instance, the employee applied for a position as a Detention and Removal Officer and was hired. However, the announcement clearly shows there is no requirement for an employee to fly as part of the job description. In fact, there are a number of cases where officers in El Paso are not being asked to fly, even when they do not have an exemption for, let's say, medical reasons. The employee for who termination has been proposed has such a documented medical condition. So though the documentation has been provided and the condition is established, and though a flying requirement is not located anywhere in the announcement and job description, the employee is being terminated.

But wait, it gets better. While the arbitrator was reviewing the case, the arbitrator was speaking with agency management and inquired as to the fact that the alleged flight

requirement was not listed anywhere on the announcement. The manager then informed the arbitrator that flying was part of the job description. The arbitrator informed the manager he had the announcement in his possession, to which the manager informed the arbitrator that he just decided right then and there it was part of the job description.

Naturally the employee has an excellent case on a number of grounds should the employee seek suit. The agency, realizing they've fouled up the termination and left themselves vulnerable have had to withdraw the proposed termination and for a short time offered a different position since withdrawn. That short-term offer came with a demotion to a lower position at the same pay. Is that fair? Absolutely not, when considering the employee's next promotional step is to a management position.

This case shows how arrogant many in the agency are and the multiple rules they have depending on who and what. For those without exemption, that are monkeyboys, there is no requirement, but to those that are hard working employees trying to do their jobs, that have a medical exemption, no accommodation is provided or offered, which is a textbook example of discrimination. Instead, managers try to fire the employee, though in reality the termination is purely in retaliation against a whistleblower.

Agency managers have failed to follow procedures, which include contacting the FBI when agents are assaulted, or shot at. They also failed when national security radiation detection portals at our ports of entry are disabled by a potential terrorist under the influence and in possession of narcotics traveling at an excessive rate of speed, or when officers are victims of sexual assault and battery by fellow employees.

If a crime happens where an officer calls local law enforcement, like an assault by a fellow employee or superior officer, on or off duty, some agencies refuse to take reports claiming, according to sources, that the federal officers need to call the FBI, Internal Affairs, the Inspector General, or Office of Professional Responsibility. Who does the officer call when this happens? In El Paso, you don't call your Member of Congress, a former Chief Patrol Agent, who tells officers to follow the chain of command, or ignores them.

Up to this point in the report, I have given examples of misconduct on an individual case by case basis, and similar in example to the point being made. However, I have saved the case of CBPO Denise Calleja until the end of the section on DHS for it presents one of the most despicable, disgusting, vile displays of governmental misconduct. The Calleja case is the textbook example of how DHS and its' agencies as reorganized by Act of Congress have behaved because the Congress has been unwilling to hold them accountable though reports going back to Legacy days show that misconduct has gone on without consequence. This case does not show a law enforcement agency at its finest. Instead it shows a bunch of sick, disgusting, lowlife, narcissistic, adolescent vermin masquerading around as federal law enforcement officers. They play games, are more concerned about notches in their belts, and use their guns and badges for intimidation purposes. If Congress fails to act, by conducting open hearings

after reading this, they will be responsible for any loss of life that takes place as a result of the contents of this report.

Rather than present a rough narrative, we shall present the facts as stated in the actual complaint was just filed in the U.S. District Court, Southern District of Florida on October 10, 2008. The term plaintiff refers to CBPO Calleja as complainant-victim.

20. On January 12, 2006, in the international arrivals area, a fellow CBP Officer, Lorenzo Hyman, in front of other officers, including a CBP supervisor, Louis Gregory, grabbed the Plaintiff's breasts, laughing and said "are these real" and, in words to the effect, "I want to make love to you".
21. Complainant demanded in front of CBP Supervisor Louis Gregory that CBP officer Lorenzo Hyman never do such a thing again.
22. On April 4, 2006, Officer Hyman put his arms around the Plaintiff as if giving her a hug, but instead, proceeded to rub his body against her breasts and genital area, while asking her "when are you going to let me make love to you?"
23. Plaintiff repeatedly rejected Officer Hyman's sexual advances and told him to leave her alone, not touch her or to make sexual advances again.
24. After the Plaintiff's rejections of Officer Hyman's advances, he started to harass the Plaintiff in the workplace.
25. On June 16, 2006, Officer Hyman attempted yet again to rub himself against the Plaintiff; and told her "they could go up to the hotel and get a room after work."
26. Following her rejections of his sexual advances on June 16, 2006, Officer Hyman continued to harass the Plaintiff; and he told her he was going to "fix it" so she was no longer permanently assigned to the U.S. side of the Crew Booth<sup>1</sup>.
  
66. CBPO Hyman was promoted to supervisor at the Miami International Airport.
67. Plaintiff was never disciplined for any inappropriate behavior while she worked as a CBP Officer.
68. Plaintiff had previously applied for openings in specialty units, and comments were made to her, regarding her "not playing the game," meaning explicitly providing sexual favors for male superiors, or alleging that she did not have enough experience for the positions for which she had applied.
69. Plaintiff has had many hours of specialized training and she was imminently qualified for positions which she had sought, however, she was not selected for any of the positions for which she had applied.
70. Employees with less experience and training than Plaintiff, were selected for the positions for which Plaintiff had applied.
71. Supervisors Cambiaso and Spooner told Plaintiff that she was being "blackballed," because of her previous EEO Complaint and because she did not go out drinking (and "play the game") with other employees.

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<sup>1</sup> The construction of the U.S. side of the Crew Booth was such that it allowed for the placement of her leg in a position that did not cause it stress. (\*Author's Note: Due to disability)

72. Plaintiff was told by Supervisors Kimmell and Walter Lee that until she learned how to “play the game”: (go out drinking and give out sexual favors), her career would not go very far.
85. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000(e)-2(a), *et seq.*, prohibits an employer from making employment decisions, or from taking any personnel action, affecting the terms, conditions and privileges of one’s employment, based upon racial classifications, considerations or race based reasons.
86. The Plaintiff is of Asian origin; and she possessed the requisite qualifications and skills to be retained as an employee, assigned to the Crew Booth.
87. Plaintiff is a member of a protected class, due to her Race (Asian) and she was subjected to unlawful discrimination, and or singled out, by her employer, when:
  - a. Plaintiff was told by Officers Estrada, Cambiaso, Sandadonto and Lopicola that her appearance was rather exotic, and that would be helpful in advancing her career.
  - b. Chief Jarrett told the Plaintiff that “your people are lazy, stupid liars,” did not do anything, and was worthless.”

*\*Again, See Exhibit 2 – Denise Calleja case, actual filing*

Customs Senior Manager, David Longoria, was engaged in sexual activity with multiple employees that resulted in an unexpected pregnancy by an employee as reported by sources. The new term that arose is “screw-up knock-up”. In order to give the appearance of some form of discipline, Longoria was detailed to the El Paso Intelligence Center (EPIC) from the port. We’ll see if he is promoted at the end of his year at EPIC, as is the pattern. Sources report insiders treated the incident as if it were a joke. Sources state that he, like Garcia is related to Reyes, and that Longoria is a crony of CBP Deputy Commissioner Jayson Ahern. The case was filed on September 12, 2007 and concluded on February 5, 2008 resulting in Longoria’s agreeing to relinquish parental rights.

*\*See Exhibit 30 – David Longoria vs. Christina J. Daly Cause No. 2007CM6255.*

Sources also report an incident that took place in El Paso at the Bridge of the America’s involving a Chief (supervisory manager, GS-13) of Customs. In this matter, the Chief was re-entering the U.S. through the POE with unknown female companions in a vehicle when they reached a booth. The females informed the officers that they did not have proper identification with them during the inspection. At this point, the Chief, who sources report as being inebriated, then began to throw his weight around by announcing who he was, and screaming at officers on duty in the port. The Chief then proceeded to violate the DHS Table of Penalties by showing his badge and credentials and demanding the inspection cease and his party be allowed to enter the country. When other officers show badges and credentials, many often are disciplined to the maximum allowable under the Table of Penalties. The penalty for this Chief was to be selected as a Port Director (GS-14) of the Bahamas. The incident took place February/March of 2007.

Sources further report that this same Chief also had an EEO complaint filed against him for forcing his way into a female officer's room against her will during a temporary duty assignment both officers were on. It's reported he was inebriated during this incident, too. Penalties, if any, are unknown, though he continues to move up within the agency and given his promotions regardless of conduct. The time period of this particular incident is reported to be about five years ago when he was a Supervisory Officer (GS-12).

In Houston we have Terry Estell, Port Director for Customs who has previously served in many places including Los Angeles/Long Beach. On June 17, 2008, he utilized a mandatory required attendance that is solely for presentation/ discussion of official CBP business only, to invite employees to attend his commencement sermon to be given at his church on June 22<sup>nd</sup>. Mr. Estell then stated that while attendance was not mandatory, "he would be pleased if" (officers) 'would attend his commencement sermon". At the conclusion of the meeting, Mr. Estell placed a flyer with the information regarding his "ministerial calling" in a common area where it could be read by employees, after having previously passed out flyers during the "timeout."

*\*See Exhibit 31 – Estell “Ministerial Calling” Flyers*

While not calling it mandatory, officers understood what it meant. Numerous employees felt intimidated and that those who attended would be given preferential treatment as this report shows happening across the nation. The employees also are aware that other employees have been disciplined and terminated by discussing issues such as religion, politics, current, or past racial issues, and other matters. In fact, CBP employees cannot post any "announcements" unless approved by Mr. Estell personally. Sources report that if they did not attend the event or if they had reported that his remarks offended an employee, the employee(s) would have been retaliated against in the future by management, meaning Mr. Estell and his cronies.

The CBP "Standards of Conduct" directive, which established the U.S. Customs and Border Protection (CBP) policy on the ethical conduct and responsibilities of all employees, Section 6.7.5 states that "employees will use official duty time to perform official duties".

I agree with employees that this instance hardly falls under Section 6.7.5 and does not meet proper use of official time. It is yet another example of do as I say, not as I do, unless you are a crony or manager who just decide what rules to abide by or uphold depending on who it is, themselves included.

Finally, there is the case of former Customs Officer Julia Davis who served in San Ysidro, California. Her case is an example of just about everything this report has identified including sexual harassment from screw-up move-up managers, discrimination, retaliation, phony investigations, and national security compromises that resulted in 23 SIAs being allowed to enter the U.S. on July 4, 2004 without fingerprinting or proper background checks, all of which was covered up by Customs management and Internal

Affairs. This nightmare from hell case that defines CBP today is EEOC No. 340-04-00317X, and it resulted in victory for Davis, and a scathing statement by Judge Leach against CBP.

*\*See Exhibit 32 – EEOC Decision & PR Newswire release on CBPO Julia Davis case*

Previously, we compared DHS agency managers to John Belushi's drunken Animal House, but that is inadequate even if we include the Girls Gone Wild video series. The irony here is that some managers and employees have been caught on tape.

Sources report constant discrimination by managers when it comes to promotions, unless part of a clique, race, or participation in the sex ring, and harassment to the point of stalking as we have identified in this report. The actions are condoned, and each perpetrator continues to be promoted, while phony investigations are run in name only, except to harass employee whistleblowers. Is it any wonder we cannot control our borders and Ports of Entry, and why drug prices remained low with no major arrests or prosecutions of kingpins? In fact, drug availability is high while cost is low, a testament to ineffectiveness. Why? Leaders are compromised and ripe to be blackmailed.

Congress must take immediate action examining each matter individually and collectively and cease their inaction. Regardless of what they feel about border security, or the pandering promises made to groups for support such as corporate America or ethnocentric open borders activists, we are talking about national security. Narcotic and human traffickers, as well as potential terrorists can all equally access our compromised borders and ports of entry.

Our sources are all willing to testify before the Congress, under oath, in hearings, BUT they require whistleblower protection from DHS managers who will retaliate against them. Congress must protect our officers so they can do their jobs and know they are protected from those leaders that have driven it into the ground. The word of agency leaders means nothing and as a result DHS cannot be trusted to police themselves.

Congress must clean up DHS' culture of corruption now. We have a right to know who has been compromised, or covering-up for leaders so they can ALL be brought to justice.

As we have stated in a previous report, we remained appalled by the lack of action by the administration to bring the murderer of Border Patrol Agent Luis Aguilar to justice. The Departments of State, Homeland Security, and Justice all sat on their hands and took no action, even after Mexican law enforcement officers let it be known that the alleged killer was taken into custody. That too screams for a thorough investigation, and justice.

Sadly, no matter what happens there is nothing that can bring back Agent Luis Aguilar to his family, friends, and fellow agents. A Yuma Sector agent, he was killed in the line of duty on January 19, 2008, and was the first casualty as a result of the Bush Administration's imperialist global agenda and resulting War on Law Enforcement.

# Section II

## The Justice Department: Corrupt, Overzealous, & Out of Control

The War on Law Enforcement is a political assault through prosecution by the Department of Justice (DOJ). As a result of information gleaned actively when investigating the Border Patrol, we expanded our investigations to include CBP Customs, and eventually other agencies.

Due to our involvement in the case of U.S. vs. Ignacio Ramos and Jose Alonso Compean by U.S. Attorney Johnny Sutton's El Paso Office, we began receiving calls from attorneys defending law enforcement officers being prosecuted regardless of the crimes committed by criminal illegal aliens. We then began receiving contacts that never seemed to stop from attorneys defending officers being terminated by their agencies on trumped up charges solely pushed to discredit federal law enforcement officers who were in positions to blow the whistle on corrupt and incompetent superiors compromising U.S. National Security.

Due to media reports, as well as active duty and retired agents, we expanded The War on Law Enforcement between 2004 and 2008 to meet the challenge that started with, as previously stated, one agency. It is our belief that U.S. law enforcement officers have been sacrificed for "Globalism" due to a pattern that quickly became apparent. However, before addressing the pattern, we need to briefly examine how this war happened, or in other words, how DOJ has been able to get away with it.

Democrats and Republicans in Washington, DC have equally criticized the DOJ through Bush's second term, albeit for different reasons. With the Democratic majority, it's been for their enforcement of the controversial Patriot Act, wiretapping, and even the presidential privilege of firing several U.S. Attorneys, and though valid, has ignored the real failures of Bush's DOJ.

Meanwhile Republicans have questioned DOJ and more specifically Johnny Sutton, U.S. Attorney, for his prosecution of law enforcement officers in his area of responsibility, the western district of Texas, while protecting criminal illegal aliens engaged in criminal activities. Republican Congressmen ignored other prosecutors with the sole exception of Sutton, a longtime political insider and friend of George W. Bush.

The average American is split when it comes to the Patriot Act due to a critical point. In the same way it can be used to help prevent further 9-11 type attacks, the provisions within it, including wiretapping, can be misused by corrupt bureaucrats to monitor citizens engaging in their right to peaceably engage in the constitutional right of free speech. Such things can occur simply for criticizing politicians' policies and agendas. When we examine how DHS' enforcement agencies have been co-opted and compromised, it is understood how DOJ can be viewed with the same skepticism.

Michael A. Battle, the Director of the Executive Office of U.S. Attorneys at DOJ and former U.S. Attorney for the Western District of New York, terminated seven fellow U.S. Attorneys on December 7, 2006. While this may have been proper in that political

appointees serve at the pleasure of the president, circumstances around the terminations is what many Democrats found questionable.

Where the Democrats and Republicans both failed is that the same Michael A. Battle was the prosecutor, as U.S. Attorney, in the case of the U.S. vs. Robert Rhodes, a CBP Customs Officer at the Niagara Falls, NY Port of Entry along the Canadian Border. This Rhodes case, which was prosecuted at the request of the Foreign Minister of the People's Republic of China, and will be discussed more thoroughly in this report as the textbook example of a prosecution in order to serve up a scalp for the sole purpose of politics.

The Congress has completely failed to hold DOJ accountable. Republicans were quick to realize that though the case of U.S. vs. Ignacio Ramos and Jose Alonso Compean was not cut and dry, the agents did screw up, but did it rise to the point of 11 and 12 years in prison respectively?

What was also obvious to many is that the prosecution behaved in an overzealous manner, and something did not smell right about the prosecution. It was clear that Sutton's office engaged in Herculean efforts to protect Osvaldo Alderete – Davila, a known drug smuggler. Regardless of which side you agree with, something about the prosecution of this case was wrong. Congress failed to hold Sutton accountable as a result of two mere hearings.

The majority party of Congress must dig much deeper. Why? Johnny Sutton is a buddy of the president, appointed to the western district, which includes the president's ranch located in Crawford, Texas, and God only knows where digging on Sutton could lead, especially since the House of Death case is still out there being ignored and numerous grizzly murders took place with Sutton's knowledge.

The Democrats, as a majority, did not want to touch this case, because God forbid, we examine any case involving Mexican illegal aliens. They've also failed to look at the other questionable prosecutions of law enforcement officers.

In point of fact, numerous law enforcement officers have been prosecuted on flimsy evidence by the corrupt and morally bankrupt Department of Justice primarily centered on charges involving deprivation of civil rights of criminal illegal aliens including human traffickers and narco-terrorists. The names include David Sipe, Gary Brugman, Stephanie Mohr, Ignacio Ramos, Jose Compean, Robert Rhodes, Gilmer Hernandez, Cory Voorhis, and Nicholas Corbett (local Arizona prosecution).

This entire situation requires questions to be asked of both the Executive and Legislative Branches. Why has the Congress effectively ignored all the cases, including investigating them as what they really were, politically motivated prosecutions? The House Republicans were standing up to the Bush 43 Administration when it came to Sutton's Ramos/Compean prosecution and were examining the compromise of security of America along the borders, coastlines, and ports of entry. In fact, Jim Sensenbrenner,

Chairman of the Committee on the Judiciary had been requested by Congressman John Hostettler, Chairman of the J-Committee's Subcommittee Immigration and Border Security Subcommittee to charter a hearing looking into the Ramos/Compean case.

House Republicans were investigating and were scheduling hearings on issues that the White House did not want investigated. I was personally briefing Republican House Members in Washington that serve on key committees including Committee Chairmen such as Duncan Hunter and Sensenbrenner, as well as Subcommittee Chairmen such as John Hostettler, Ed Royce, Dana Rohrabacher, and key senior Members such as Walter Jones, Virgil Goode, Tom Tancredo, Brian Bilbray, Steve King (IA), Ted Poe, John Culberson, and senior committee staff at Judiciary, Homeland Security, International Relations, and Appropriations, all with some form of jurisdiction into the issues our organization was investigating.

The only receptive Democrat, at the time was Sheila Jackson-Lee the Ranking Member of the Hostettler Subcommittee, who directed me to meet with her committee staff though I spoke to her personally about Ramos/Compean's case and other matters. At one point, after a House Rules Committee hearing in September 2006, and probably due to my presence, an impromptu meeting between Hostettler, Jackson-Lee and her top aide at the Judiciary Committee took place at the Capitol Building. which I witnessed firsthand.

Outside of Jackson-Lee there was zero traction and interest with any of the other Democrats, especially El Paso's Silvestre Reyes as discussed in the Section addressing DHS. If anything, Reyes was clearly the Member most opposed to getting to the bottom of what happened and why. However, for anyone who has observed these National Security (aka, Homeland Security) issues, the Democrats, led by Congressman Joe Baca and Senator Barack Obama, have long misstated the facts and played race cards for votes over Immigration Raids, border infrastructure including fence construction.

Before I digress further, here's the point. House Republicans were investigating the glaring issue of DHS security compromises and were investigating the questionable prosecutions on the part of DOJ, in essence "Pandora's Box", while the House Democrats had no interest outside of my pushing Jackson-Lee given her comments to me in El Paso at the field hearing. At a time when the biggest problems of the Bush Administration could be exposed to the light of day, the 2006 general elections came and with it, the Republicans lost both Houses of Congress. The loss of the Senate was not significant given that they were listening but doing nothing about the cases. No Senate hearings were scheduled, or even in discussion, unlike their House counterparts.

For the Bush neocon imperialist agenda to remain intact without Congressional interference, it required a change in Congressional majority for the reasons as stated above. If one finds this to be a preposterous statement consider the loss of the champion of Congressional judiciary hearings John Hostettler of Indiana, and the other Republican districts. Hostettler's loss was too overwhelming and one-sided for an incumbent regardless of the fact the area it was a swing-district. He won that district for five

previous terms. Since the White House knew the Democrats would not look further into those matters except to maybe hold stacked lip-service hearings, a change in Congressional Majority was required and happened in the light of day.

U.S. Senator Dianne Feinstein and Representative Bill Delahunt chaired committee hearings into this case, but were the sole Democrats to attend. For his declaration of requesting to participate during the August 17, 2006 Judiciary Committee hearing in El Paso, notably absent was El Paso Congressman Silvestre Reyes. These two hearings were the sole hearings held examining any of the cases of the War on Law Enforcement, and consider that when reviewing the Ramos – Compean prosecution, it pales by comparison to the prosecutions of Rhodes, Sipe, or Stephanie Mohr, a police woman and K-9 handler from Maryland.

Testifying on behalf of the government was U.S. Attorney Sutton, David Aguilar Chief of the Border Patrol, and Chief Luis Barker (retired), while TJ Bonner, president of the National Border Patrol Council (agents' union), as well as David Botsford, appellate counsel for Ignacio Ramos testified. It must be noted here that the committee did not invite a representative of Mr. Compean's choice to testify on his' behalf. The Compean reps would have been appellate counsel, Bob Baskett of Dallas Texas, or a representative of FOBP as his contracted advocate having worked on his case since late March 2006.

While the Congress intensively looked at the Battle firings, which led to a number of DOJ officials resigning in numbers reminiscent of the Watergate era, the most critical link, in this case Battle, was completely ignored. The Battle link could also have opened up "Pandora's Box" due to his prosecution of CBPO Robert Rhodes and demonstrates beyond any doubt a pattern of bad prosecutions at the expense of sacrificial lamb law enforcement officers and the extent that Bush's DOJ was willing to go to gain convictions in these purely politically motivated cases.

However, before moving on in this vein, it's important to address cronyism yet again, only this time within the Department of Justice. That's a pretty obvious one when one looks at Alberto Gonzalez, Michael Battle, and Johnny Sutton. While Gonzalez and Sutton were cronies from Bush's days as Governor of Texas, Battle was an undistinguished prosecutor in the Western District of New York, though known locally for two highly questionable prosecutions, the aforementioned Rhodes case, and Benamar Banatta, an Algerian refugee living in Canada, held for five years by the U.S. Government beginning on September 12, 2001 after the 9-11 Attack on America.

The Washington Times published an article on November 23, 2003 that included the following:

[Federal Magistrate H. Kenneth] Schroeder issued an unsparing report in September, writing that federal prosecutors and FBI and immigration agents engaged in a "sham" to make it appear that Banatta was being held for immigration violations. Prosecutors trampled on legal deadlines intended to protect his constitutional rights and later offered explanations for their maneuvers that "bordered on ridiculousness," Schroeder wrote.

And he found that the government compounded its mistakes by failing to act once it was clear that Banatta was not an accomplice to terrorists.

"The defendant in this case undeniably was deprived of his liberty," Schroeder wrote, "and held in custody under harsh conditions which can be said to be oppressive." To keep Banatta imprisoned any longer, the magistrate concluded, "would be to join in the charade that has been perpetrated."

*See Exhibit 33 – Washington Post Article: A Prisoner of Panic After 9/11*

This type of prosecution is hardly shocking given Battle's record between the prosecutions of Banatta and Robert Rhodes. CBP Customs Officer Robert Rhodes was targeted and prosecuted by the Bush Administration to appease the Red Chinese Government.

World Net Daily reported the following: "The July 21, 2004, incident that led to Rhodes' prosecution involved Zhao Yan, a Chinese national woman who was arrested by Rhodes at the Rainbow Bridge in the Port of Buffalo, New York. Zhao Yan was with two other female suspects who fled when Rhodes and 13 other border agents attempted to arrest them."

Going a step back, there were three Chinese women, who had overstayed their visas and were meeting a drug smuggler who was in the process of being apprehended by Rhodes and one other Customs Officer at the Port of Entry for narcotic possession as he attempted to enter the U.S. from Canada.

When Rhodes' fellow officer noticed the three women were clearly more than interested spectators, he directed Rhodes to attend to them at which point the women attempted to flee the port. Rhodes and 13 other officers then pursued the women and apprehended them.

Zhao Yan then resisted arrest and did not just struggle, but fought to prevent her apprehension. At one point, she reached for something unknown to Customs Officers who directed her to stop and not move. She then exposed film in her camera, which later turned out to have pictures of a secure area at the port.

A critical point must be made here; there are surveillance cameras at each Port of Entry. The principal camera that would have shown the struggle mysteriously was not working, as Rhodes' defense counsel was informed when he subpoenaed the film from each camera. In fact, the camera turned out to have been down one hour or so before the incident and several hours afterwards.

Considering this is a key entry point at the port, a person with common street sense could smell something is not right with the government's story. So the government claimed the camera was down during the incident and that there was no footage. I don't

think so. If you don't buy their story, then you agree with me that the government tampered with and destroyed evidence. Does obstruction of justice come to mind?

Within a day Rhodes was charged with violating Zhao's civil rights by using excessive force, which was absolutely preposterous when you consider the communications that immediately took place between Beijing and Washington, D.C., and were documented on the record by Rhodes' attorney Steve Cohen.

It was immediately clear that this prosecution by Battle's office was politically motivated based on statements by Secretary of State Colin Powell and Secretary of Homeland Security Tom Ridge who were in contact with Red China officials almost immediately, including Foreign Minister Li Zhaoxing within a day of the incident.

In fact, the Consulate-General of the People's Republic of China in New York reports the following on their website to this day:

*US Homeland Security Secretary Tom Ridge has expressed "great regret" over the beating of Chinese businesswoman Zhao Yan by officers of the US Customs and Border Protection last week, officials of the Chinese embassy said on Thursday.*

*In a telephone call to Lan Lijun, charge d'affaires of the Chinese embassy, Ridge described the beating of the Chinese businesswoman as "a horrible incident" which was "totally unacceptable" and expressed "great regret" to the Chinese government and people.*

*Ridge said that Robert Rhodes, the first officer of the US Customs and Border Protection to attack Zhao Yan, had been charged with felony assault, Chinese embassy officials said. Ridge said he had asked the US Customs and Border Protection officers to take measures to prevent such incidents from happening again, Chinese embassy officials said.*

*Lan Lijun urged the US side to make thorough investigations into the case, punish persons responsible and keep the Chinese side informed of the investigation and handling process.*

*Chinese Foreign Minister Li Zhaoxing, during a telephone conversation with US Secretary of State Colin Powell on Monday, urged the US government to carry out a thorough investigation into the attack and bring those responsible for the incident to justice.*

*"We regret the apparent mistreatment of a Chinese national by a US customs officer in Niagara Falls," the US State Department said in a statement Thursday.*

*"We have communicated to the Chinese Government that the US customs officer was arrested by Customs and Border Patrol Police and his case referred for criminal prosecution," it said.*

*Powell also wrote to his Chinese counterpart Li Zhaoxing after their phone conversation that the United States government would thoroughly investigate the beating case of a Chinese citizen Zhao Yan according to US laws.*

*In a letter that Chinese Foreign Minister Li Zhaoxing received in Beijing on Thursday, Powell said he felt deeply disturbed when he learned of the mistreatment that Chinese citizen Zhao Yan underwent at the hands of US Customs and Border Protection officers.*

*Powell said that the accused officer has been suspended from his post and detained on charges of felony assault, pledging that the US government would continue its thorough investigation.*

*"Secretary Powell has been very clear that America is an open society; we welcome visitors from around the world, and our goal is to ensure that they have a safe and enjoyable stay in the United States," the State Department statement said.*

*It said the United States would ensure that such incidents did not recur.*

*The department had pledged earlier this week that the US authorities would get to the bottom of the case.*

As an attorney, Ridge's legal training was set aside and his moral judgment was suspended so that he could appease the Red Chinese Government and hand them a scalp. Clearly, he did not have the facts of the case yet, as it had not been investigated, a fact that was acknowledged by the Red Chinese Government through their request for an investigation into the incident. How ironic that the Chinese Communist Government was more respectful of due process of law than the Bush administration.

The entire case was patently absurd as agreed to by a jury who unanimously acquitted Rhodes after three hours of deliberation. It was also unconscionable given the effect on Rhodes personally, who was financially broken as a result of the prosecution and even though acquitted was unable to find work, which is very similar to the situation faced by CBPO Brian Israel that was mentioned previously in the DHS Section of this report.

*\*See Exhibit 34 – U.S. vs. Robert Rhodes in the words of Attorney Steve Cohen*

Now if that's not the definitive example of a bogus prosecution that was politically motivated, I don't know any other way to define it. We clearly had contact between members of Bush's Cabinet and key officials in Red China's Government, and the end result is they were handed CBPO Robert Rhodes' scalp on a platter. The Rhodes case akin to the prosecutions of Sipe, Brugman, Hernandez, Corbett, Voorhis, and Mohr.

The sole case that does not fit the politically motivated prosecution is Johnny Sutton's prosecution of Ignacio Ramos and Jose Compean as there was no request from

Mexico for an investigation or prosecution. Regardless, the pattern of misconduct is clearly recognizable.

In investigating these cases, an alarming pattern emerged:

1. Suborning of perjury
2. Abuse of authority
3. Suppressing, tampering, and destroying evidence
4. Playing race cards designed to inflame juries
5. Misrepresentation of facts in official statements
6. Witness intimidation
7. Failure to disclose criminal records of government witnesses
8. Failure to disclose benefits given to illegal aliens
9. Putting out a cover story with conclusion, prior to completing an investigation, and then going back to plug in the facts

David Sipe's defense counsel Jack Wolfe of McAllen, Texas has provided a statement identified as Exhibit 35 follows this narrative. Mr. Wolfe can describe this pattern in terms different than Mr. Cohen, as Mr. Wolfe was previously a lead Assistant U.S. Attorney for South Texas in charge of the McAllen office.

The case of U.S. vs. David Sipe actually began towards the end of the Clinton Administration as a number of Border Patrol Agents responded to motion sensor detection near Panitas, TX in the McAllen Border Patrol Sector, as it was known.

The date was April 5, 2000 at about 4:00am, when Agent David Sipe, a former Army Ranger, spotted a group of about 15-20 illegal aliens, at which point he activated his flashlight, which shined upon the aliens. Though several in the group ran into the thick brush along the river, Sipe was able to apprehend three of the aliens. He then went back into the brush at which point three aliens began to run. Agent Sipe chased them and was able to catch the third alien by striking him on the upper leg with his maglite flashlight. As the alien went down, he turned towards Sipe in a fighting stance, upon which Sipe took the alien down and straddled him. The other two aliens hit the ground about 10-15 feet away from Sipe.

The agent, by himself, and attempting to subdue an alien that was resisting arrest, ignoring verbal commands, and with two other aliens a few feet away where they could easily have attacked Sipe, he struck the struggling illegal on the head two times that did nothing to stop the alien that continued to attempt to get loose. Sipe struck him a 3<sup>rd</sup> time, at which point the alien stopped resisting. However, in striking the illegal alien that final time, a gash opened up, which required five staples to close later at the hospital where he was treated. Two other agents arrived at the scene of the struggle and that is when the aliens on the ground got up and surrendered.

Sipe gave a detailed report of the incident at the station, the alien provided conflicting stories, and though he did not want charges pressed, he finally was released

from custody after changing his story to an acceptable version. He had been held as a witness by the U.S. Attorney's office prior to his release.

Agent Sipe was then fired by the Border Patrol and was charged with violating the civil rights of the criminal alien who turned out to be a known human trafficker that had just been apprehended by a different agent in the same area.

What took place is eerily similar to the other "War on Law Enforcement" cases, as we've called them as the civil rights charge was used, though the agent caught a known smuggler that was resisting arrest.

As in the other cases the government provided the "witnesses" social security cards, witness fees, travel expenses, and the use of government phones to call relatives in Mexico. Also, they were allowed to travel back and forth between Mexico and North Carolina. In addition, when this "victim" Jose Guevara, a known associate of the "Goatman" a well-known human and drug smuggler, was stopped while smuggling illegal aliens, he was promptly let go for he was under immunity from the U.S. Attorney's office. If this story seems eerily familiar, it is.

During the first trial Sipe initially was convicted before a motion by his defense counsel, Jack Wolfe, demonstrated prosecutorial misconduct upon, which Judge Ricardo H. Hinojosa agreed with, overturned the verdict and granted a new trial. When the prosecutors appealed the judge's decision to overturn the case, the 5<sup>th</sup> Circuit Court of Appeals agreed that evidence was suppressed, preventing a proper defense and sustained the decision by Judge Hinojosa.

The government's misconduct continued in this case, during the second trial though to no avail as the jury found Sipe not guilty after but one hour of deliberation.

The effect on Mr. Sipe was losing his job, his name and reputation, and having been a convicted felon for some time, his home. Unlike any of the other officers, his wife divorced him.

*\*See Exhibit 35 – U.S. vs. David Sipe case in the words of Attorney Jack Wolfe*

Of course having delved into the other cases, which were outrageous, each in their own way, I need to go back to the case FOBP (and me) cut teeth on, that being U.S. vs. Ignacio Ramos and Jose Alonso Compean. Rather than just focus on the incident, much of which is already well documented and established, I am going to address the misconduct by the prosecutor's office, in this case Johnny Sutton.

In its first press statement on the Ramos/Compean case, released on April 13, 2005, Sutton's office accused Compean initially of firing his service issued sidearm 12 times, while "Ramos fired approximately two times from his service pistol striking the victim. Ballistics testing confirmed that the bullet which struck the victim was from

Ramos' service weapon." The two agents were indicted for assault with intent to commit murder, assault with serious bodily injury and assault with a deadly weapon.

*\*See Exhibits 36-38 – Sutton's statements on Hardrick Crawford, Gilmer Hernandez, and the Ramos/Compean Cases*

Over the course of a year, the story from Sutton's office changed to Compean firing 14 times, Ramos now only shooting once, and new charges of obstruction of justice as well as a civil rights charge. The new story utilized for the trial and since is that the "victim" Osvaldo Alderete-Davila was an "unarmed guy smuggling to make money to help his poor sick mother", was fleeing to get back to Mexico, and that the agents were out to get one of their own, meaning Sutton's office was playing the race card, that the agents violated the public's trust through a cover up. It's been three and a half years since the Fabens incident and Sutton's story has consistently changed over time to demonize the agents using all means possible.

The old adage is keep the story simple, and tell the truth in order to keep your facts straight. As Sutton's story kept changing, it's time for closer scrutiny into some critical issues.

First, the asinine assertion by Sutton, as he kept stating before the Senate Judiciary Committee on July 17, 2007, that Alderete-Davila was an unarmed guy just doesn't fly in the face of reality. It's well established that dopers carrying 750 pounds of narcotics do not carry such amounts unarmed. That's an invitation to a wildcat or rival outfit to attempt to take the load for their' own distribution and/or use.

Second, the statement that he was unarmed is not based on fact, as Alderete-Davila was not apprehended that day, having successfully fled the scene (absconded) back into Mexico. So we're only able to go off the "credible" word of a criminal engaged in unlawful activity.

Now keep in mind that it was during the hearing before the 5<sup>th</sup> Circuit of Appeals in New Orleans, LA that we learned through the following exchange that Sutton's office suborned perjury and admitted so when questioned by a member of the appellate panel.

**Judge Higgenbotham: "Did he violate the terms of the immunity agreement?"**

**Sutton's office: "He told some lies."**

Before I address the immunity agreement, I'll address the "unarmed guy" aspect first, followed by "shot in the back", then the immunity agreement itself, which gets back to credibility of the "victim", followed by the amount of shots fired by the two agents.

Believing Alderete-Davila's story of his not possessing a firearm, let alone brandishing a weapon toward Agents Compean and Ramos, as the government has done, ignores the fact that both agents testified contradictory to Aldrete in their court testimony and Agent Compean's written and oral statement to arresting officers. The government

has ignored that it is in the best interest of Alderete to not admit to possessing a firearm, as well as to dispute the agent's claim that Alderete brandished a firearm towards them, because Aldrete would have faced criminal charges in Mexico. Of course, it hardly needs to be said what such admission would have do to his million dollar lawsuit.

Dr. Winston Warne, surgeon at Beaumont Army Medical Center in his testimony during the trial as a sworn government witness actually corroborated the agents' claim that Alderete-Davila was turned in a bladed position, stepping back towards the agents, and he repeatedly clarified this in questioning. Therefore, the entry was on an angle and Alderete-Davila was not shot in the back as Johnny Sutton has always claimed. That means that the "victim" or "unarmed guy" could very well have turned back with "something shiny in his hand" as claimed in the agents' testimony as well as in statements given orally and in writing by Compean.

Based on these two points alone, which original trial counsels have yet to state why they didn't connect, let alone utilize, Sutton's theory in painting Alderete-Davila as an unarmed guy doesn't fly in light of what firearm possession would mean in Mexico had the dooper admitted it, and of the testimony of Dr. Warne.

*\*Source: U.S. vs. Ramos/Compean Trial Transcript Volume 9*

The Immunity Agreement was offered to Alderete-Davila and signed on March 16, 2005, which gave the dooper a certain amount of taxpayer financed protection from prosecution. The key points of the immunity agreement were as follows:

2. You agree to testify truthfully and completely at any Grand Jury hearing, court hearing, and/or trial when called by the Government as a witness.
3. You must neither attempt to protect any person or entity, nor falsely implicate any person or entity.
4. Notwithstanding this agreement, testimony given by you under oath may be used against you in a prosecution for perjury or giving a false statement.

The caveat being that he was protected directly and indirectly from any information that arose from the investigation and trial, "provided that you do not violate the terms of this agreement".

Alderete-Davila did exactly what he was not allowed to do by telling lies as admitted to by Sutton's office during the appellate hearing, by withholding the names of individuals such as the infamous "hunting party" that he informed OIG was going to go out and shoot an agent in retribution, as well as the name of the clinic he claimed to be treated at in Mexico after the shooting.

To date, Alderete-Davila has yet to be prosecuted for violating his immunity agreement and for the events of February 17, 2005, as he should have been. Therefore, no reasonable person can at this point buy this dooper as a credible witness given these facts. As a result, the credibility of the Johnny Sutton and his assistants, as well as of the

agencies involved in the investigation come into question, and this must be thoroughly scrutinized.

*\*See Exhibit 39 – Johnny Sutton’s Immunity Agreement with Osvaldo Alderete-Davila*

As previously mentioned, the shot count was initially 12 for Compean, 2 for Ramos, and one year later the new count was 14 for Compean, and one for Ramos. Now, just on the surface, that doesn’t mean a whole lot until we break down the shots fired as “heard” by the witnesses, which is not contradicted by any agent on the scene, or by the “victim” Alderete-Davila.

Sutton has issued numerous statements mentioning the fact that Agent Compean changed magazines, I’d imagine because it implies an inference of impropriety in that action. Yet, nothing could be further from the truth. Officers are trained to exchange to full magazines if it can be done in safety so they do not risk running out of ammunition at a critical time. Agent Compean did not believe he had totally exhausted his first clip, and had the opportunity to change them out. He did not fire again, because Aldrete had reverted from a threatening suspect to a fleeing one at that point, and was almost into Mexico.

In fact, Agent Vasquez, a government witness, testified that he heard a number of shots, a pause, and a single shot. This is consistent with the testimonies by Ramos and Compean regarding their shots. None of the agents claimed to have heard a number of shots, pause, more shots, and pause, followed by a single shot. This fact shows that Agent Compean did not fire a second series of shots, although Mr. Sutton continues to claim that Agent Compean fired 14 shots. A clip for a .40 caliber firearm does not hold 14 bullets. Their clips hold 10 with a single shell in the chamber.

Sutton’s office comes to the amount of shots based on Vasquez’ picking up 5 additional shell casings. However, the shell casings did not have the same appearance, nor did anyone hear 14 shots, though 10 shots, 9 by Compean and 1 by Ramos were testified to by all that heard the shots. Sutton needs this to stick, because it gives credence to his whole conspiracy theory, without it, the story has yet another hole.

At this point, let’s go back to the beginning of the investigation. How did it start? It began with contacts. The dooper had contacts to a Border Patrol agent in Willcox, AZ that he grew up with named Rene Sanchez. Much has been said about the fact that they knew each other, but nobody has ever asked why the fact that this connection was not disclosed on Rene Sanchez agency application and did not come up during background. It’s well known that Rene Sanchez remains an agent to this day. However, his station area had been identified in this report as having issues with bad shootings, and agents patrolling in Arizona instead of their own station’s area of responsibility in New Mexico.

Then comes the issue of the chain of custody of evidence. Col. Warme, the Army Surgeon who operated on Alderete-Davila testified that he gave the bullet extracted

during surgery to OIG Special Agent Chris Sanchez. It is also written in the doctor's progress notes provided to defense during discovery as follows:

*“Date: 03/16/05; Time: 1737 hours – Removed bullet w/o (without) difficulty thru small 2 cm longitudinal incision. Bullet given directly to Special Agent Christopher Sanchez who maintained chain of custody for forensic purpose.”*

Alderete-Davila's patient discharge records show he was released from the hospital, accompanied by Christopher Sanchez, the same day at 19:30 hours, two hours later.

*\*See Exhibit 40 – Doctor's Report and Discharge Records*

The question that screams to be asked here is where was the Mexican Consulate representative that is always present when it comes to any and all Border Patrol incidents along the southern border. There is no statement, testimony, or documentation that Alderete-Davila was ever accompanied by a representative of his government, which is highly suspicious given their record on border incidents. Here we have an investigation of a shooting, that allegedly resulted in an injury to a citizen of Mexico, with a surgery that took place at a U.S. Army Medical Center, and the sole personal attendees to Alderete-Davila are Special Agent Chris Sanchez, and as I recall Border Patrol Agent Rene Sanchez. It is all very unusual and demands scrutiny.

The Texas Department of Public Safety Crime Laboratory Service received the bullet that was extracted on March 17, 2005, according to an official time stamp. This raises a very critical question in that if the bullet, as evidence in an official investigation, was removed by Dr. Warne on March 16 at 17:37pm (5:37pm) and immediately turned over to Special Agent Christopher Sanchez, why was it not stamped in as received until March 17, 2005? Where was the bullet for the next few hours? Did Special Agent Chris Sanchez take the bullet home with him as well as the dooper, Alderete-Davila? We know that Dr. Warne turned the alleged bullet over to Special Agent Sanchez as forensic evidence, and that the evidence was not stamped in by DPS until the next calendar day as submitted by Special Agent Brian Carter. It's apparent that the chain of custody at that point could have been broken given the time span.

From this act rises a question as to why none of the four defense counsels representing Ramos and Compean contest this question of chain of custody. Instead, Ramos' lead counsel Mary Stillinger stipulated on the bullet rather than challenging it every which way to Sunday. As Congressman Ted Poe (R-TX), a former judge and prosecutor told me, “You never stipulate on the bullet. You challenge it.” It is a question that Stillinger has yet to be asked by Congress publicly and yet to answer.

There are those who believe that one has to stick to the theory that it was Ramos bullet, since the story matches the entry wound. However, as we do not know if the dooper was actually shot that day, and as we do not know the distance Alderete-Davila claims he was shot from, meaning the distance between Ramos and the dooper, we have no way to

know if it really was Ramos bullet. We know that Ramos used a .40 caliber sidearm, and the alleged recovered bullet was a .40 caliber slug. However, that is all we know. We do not know the distance, which would tell us if it was “flying straight”, or on an “upward or downward trajectory” when the dooper claims he was hit. This line of questioning was never asked during the trial.

For all the evidence shows, Ramos could have fired his weapon from long range, let's say 100 yards, 200 yards, and could have missed altogether. For all we know considering the dooper withheld information, he could have actually been shot in Mexico for losing the load, or to set up the agent, since shots were fired and technically were unreported, which I'll also address shortly. It's the stipulation and lack of fight on the part of the defense that raises questions as to why. Were they really this incompetent? I'm not a lawyer, and have certainly never attended law school, but these questions seem pretty important to me.

Let's stick on this theory of why it is so important to Ramos' defense. First, it's the machismo that he was a good shot, which his quarterly qualification records prove without question. This theory also gives credence to Ramos' shot hitting the dooper, turned in the bladed position, as Dr. Warne corroborated in his testimony unlike Sutton's story of the dooper being shot in the back. So that gives the defense two incentives.

Let's examine the alternative theory, which is Ramos' shot missed. What does this mean? It does not mean he is a bad shot, as the dooper was moving on foot across the border, meaning the Rio Grande River. It means that Warne's testimony is irrelevant, as that would not have been Ramos' bullet. Why not fight it? Why have some chosen to stick with the theory it was Ramos' bullet?

If it's not Ramos' bullet, then we have to ask more questions. Who shot him? When was he shot? Did someone switch the bullet so that it would match? Who switched it? Why did it take one calendar day for OIG to get the bullet to DPS? Why DPS? Why not the FBI, the Federal agency with jurisdiction on incidents involving federal officers and agents? Finally, again it must be asked, why did Stillinger stipulate on the bullet, and why did he and his family go along with it? That question remains unanswered just as the prison mugging with the Samaritan saving Ramos during the gang hit. What inmate saves a known Border Patrol Agent in prison during a gang hit? I know I've never heard of such a thing. Many officers I've talked with have found that odd, too.

This brings me to the results of the ballistic report on Ramos' alleged bullet. After receiving the evidence, as stamped in on March 17, 2005, Joseph J.J. Correa, DPS Criminalist IV conducted a test to, “*if possible, determine the manufacturer of the firearm that fired the submitted bullet*”. The March 18, 2005 lab report states as follows:

*“The copper-jacketed bullet was fired from a barrel having six lands and grooves inclined to the right. The manufacturer of the firearm that fired the copper-jacketed bullet is unknown, but could include commonly encountered models of 40 S&W caliber FN/Browning, Beretta, Heckler & Koch, and Ruger Pistols.”*

There was absolutely nothing definitive in that ballistic report that specifies that the alleged bullet was discharged by Ramos' sidearm, a .40 caliber Beretta pistol, model 96D. Yet, the arrest warrant served on both Ramos and Compean by Special Agent Sanchez as issued on March 18, 2005 by U.S. Magistrate Judge Richard P. Mesa of El Paso's Western District Court states:

*4. Ballistic testing confirms a government issued weapon belonging to U.S. Border Patrol Agent Ignacio "Nacho" Ramos, a 96D Beretta .40 caliber automatic pistol, serial number BER067069M, fired a bullet (a .40 caliber Smith & Wesson jacketed hollow point) which hit the victim in the left buttocks while he was attempting to flee to Mexico. Where the victim was shot on U.S. Government property between the U.S. bank of the Rio Grande River and the levy.*

Now if this doesn't raise questions, nothing will. First, the arrest warrant, as sworn out was incorrect as Point 4 of the warrant is contradicted by the ballistic report itself. Correa's lab results states, *"the manufacturer of the firearm... is unknown, but could include..."*

Nowhere in that analysis does it definitively say otherwise. Nor does the bullet magically match up until five days afterwards, in the Supplemental Report of March 23, 2005, though the serial number reported by Correa that date is listed as *BER067079M*. While it may be nothing but a mere typo, the number does not match as stated on the arrest warrant as sworn by Richard P. Mesa.

*\*See Exhibits 41-43 – DPS Analysis/Results 3/18 and 3/23, Arrest Warrant*

Now remembering all of Sutton's banter about his alleging that Compean had filed a false report, we have an instance here of the Government's investigator swearing to a false arrest warrant as the ballistics report did not match, just as the serial number was also inaccurate. This is something else that raises questions though the most obvious is why didn't the defense raise the question of both clients having been served with flawed and inaccurate arrest warrants? You see a pattern here?

On the subject of the Compean report, a Form I-44 Border Patrol Report of Apprehension or Seizure, Compean makes it clear as to the size of drug load seized, vehicle seized, what it was, where it took place, and even who drove the seized load back to the station, which were Agents Ramos and Jose Mendoza. However, per the rules of the current Firearms Policy, which was agreed to under the Collective Bargaining Agreement, agents are not allowed to put a shooting in writing, and are limited to solely reporting it orally to a supervisor. It is the supervisor who is responsible for "cutting paper" meaning filing the written report. Here is where another Sutton propaganda myth becomes policy with the silence by every manager and supervisory officer of the Border Patrol, who were aware of the incident at that time. In fact, let's call it as it is, the Border Patrol's managers were clearly Sutton's silent accomplices as he in spread this patently false myth. Every officer that goes through firearms qualification knows the rules, so for Sutton to spread such facts unchecked only underscores the point.

*\*See Exhibit 44 – I-44 Border Patrol/Compean Report of Apprehension or Seizure*

The following is the rule pertaining to Reporting of Shooting Incidents,

“Any service employee who participates in or observes a reportable shooting incident, as defined in Subsection 3.H., shall orally report the incident to a supervisor.”

*\*See Exhibits 45 and 46 – Reporting of Shooting Incident & Firearm Policy*

At this point, it is appropriate to briefly touch upon El Paso Sector Chief Luis Barker’s interview of Jose Compean and union representative Rob Russell as the subject of reporting came up, which revealed that numerous agents reported the assault on Compean by Alderete-Davila, which FOS Richards as senior ranking agent on scene ignored, though he was repeatedly informed in the field and back at the station.

In fact, doing so brings us to a memo of activity during the investigation into the case as written by Special Agent Chris Sanchez on April 12, 2005 that states as follows:

“Investigation disclosed that on February 17, 2005, BP Agents Jose Compean and Ignacio Ramos shot at Aldrete-Davila and caused serious bodily injury to him. Investigation disclosed that the following BP Agents were at the location of the shooting incident, assisted in destroying evidence of the shooting, and/or knew/heard about the shooting: Oscar Juarez; Arturo Vasquez; Jose Mendoza; David Jaquez; Lance Medrano; Lorenzo Yrigoyen; Rene Mendez; Robert Arnold; and Jonathan Richards.”

Why didn’t FOS Richards report the assault on Compean when it was clearly well known, as Exhibit 7 disclosed? The agents on scene all knew something happened? Yet, the only agents prosecuted for the events that day were Ramos and Compean. Richards has since been promoted multiple times to his present position of PAIC of the Santa Teresa (NM) BP Station. Exhibit 8 discloses that FOS Jonathan Richards and SBPA Robert Arnold contradict each other as to events, and even to their arrival time. Arnold’s version is actually more believable than Richards’ version.

*\*See Exhibits 7 and 8, Compean/Barker Interview & OIG Interviews of BP Supervisors*

Yet, something that has long bothered me is why the van that was seized on February 17, 2005 was not the subject of a forensics examination for fingerprints until almost one month after the incident. Given the size of the dope load seized, one would believe an agency such as DEA, FBI, ICE, or the Border Patrol would have gone over the load vehicle within the next 24 hours. So that raises a question, why didn’t any agency conduct any type of physical exam of the vehicle until the Border Patrol did after nearly a month? It is not passing the smell test. The videotape used by the investigators to record the procedure was then turned over to Special Agent Chris Sanchez on March 18<sup>th</sup>.

*\*See Exhibit 47 – OIG Memo on the inspection of Alderete’s load vehicle*

The investigation, prosecution, and misrepresented cover stories (purely used as propaganda) in this case are all completely problematic and require intense scrutiny of Sutton's public statements as well as his assistants, and the investigating officers given the facts and contradictions that have emerged since the case was able to be looked at independently outside of El Paso, TX.

Consider the Kanof statement to Ramos as he testified where she played the race card accusing him of going after one of his own. This shows the usage of the reference to inflame the jury. That's the Bush Administration playbook being used where illegal aliens are involved. It's the definitive example of Executive Branch subordinates pushing the neocon imperialist agenda. Kanof also stated that if Ramos wanted to catch dopers, he should have joined DEA instead of the Border Patrol. As I've often said, dopers are not peers to law enforcement officers.

Consider an argument used by Fox News Channel's Alan Colmes during an interview I participated in about the case some time ago. Colmes kept stating that wasn't a jury of the agents' peers enough for one to accept the verdict to convict. The fact is that was not a jury of their peers. Let's consider the Judges Advocates General (JAG) Court that hears court-martials involving the armed services. The juries of soldiers, sailors, marines, and airmen, are their true peers, the men and women serving alongside them in uniform. Until we do the same for law enforcement, by providing a pool of individuals who work in the same line of work and have that point of reference that soldiers have that allows them to serve as jurors in the JAG Court, the jury pool will not consist of peers.

Now consider what Sutton's office did in order to gain convictions against the two agents. They suborned perjury, allowed the "victim/star witness" to withhold information and violate the terms of his immunity agreement. They also intimidated witnesses to the point that testimony was repeatedly changed until the witnesses told a story that they would accept. They kept info hidden about the dooper's intent to sue the government upon conviction, though Alderete-Davila had retained counsel long before the trial. The prosecution only informed the defense when the story was about to break.

They played the race card during cross-examination by the prosecution, and used the civil rights charge though directly contradicted by the U.S. vs. Verdugo-Urquidez Supreme Court Ruling. They stacked charges, and charged both agents with the same charges, written differently but the same nonetheless. They charged the agents with criminal charges for policy violations. They had numerous documents and testimony sealed, claiming an ongoing investigation into drug smuggling. They tried to bring in uncharged domestic violence incidents. They used the 924c enhanced mandatory minimum charge for usage of a firearm during the commission of a crime, though the agents were attempting to apprehend a fleeing suspect. Pick a rule, they broke it, or allowed to be broken, all to secure a conviction.

Their partners in the disinformation propaganda campaign, the DHS Office of Inspector General, knowingly misinformed four Members of Congress inquiring into the Ramos/Compean case, just as Sutton's office misstated the facts in official statements

released to the media as well as on his media campaign. There is no denying Karl Rove's handy work considering the White House was recruiting media specialists to help shape Sutton's message.

In doing so, Sutton's office trampled on the Constitution and laws pertaining to precedence, while not being taken to task by Congress for overstepping their authority beyond the discomfort of a few hours inconvenience via a Senate Judiciary Committee hearing.

Also, why would Sutton's office go to such extent to protect the dooper, by suppressing facts while letting the dooper do as he pleased including the commission of additional drug smuggling offenses across the border, and keeping them concealed from the jury? A question many people have is whom does this dooper lead to?

There are a couple of points that also demand being raised. One is the fact that all along it was clear that the government was more interested in one agent than the other, though they used the issue of picking up shell casings to further enhance their propaganda campaign all based on a theory of conspiracy. How else do you explain the better deals offered to one and not both? Sutton's office was not trying to turn either, only one had the better deal, which bears asking the question, why were they after one so vehemently?

Is there something that was not on the table that was motivating the prosecution to begin with? There has to be some explanation behind the conduct of Sutton's office, and it was not just that two law enforcement officers had crossed the line they allege was the incentive for prosecuting this case.

The second point that has to be raised in a comprehensive report evaluating this case is why Ramos' lead counsel took to calling a press conference and essentially stated it wasn't her client who picked up his shell casings after both agents self-reported to the Marshal's Service to begin serving their prison sentences. Compean co-counsel Chris Antcliff called a press conference denouncing that stunt immediately. Compean's counsels did not stipulate to the alleged bullet, Ramos' lead counsel did. So why the cheap ploy, which also came up during the Senate Judiciary Committee hearing? It appeared to be nothing more than an attempt to try and make her client look better by throwing the other defendant under the bus though it failed, as it should have.

Of course this is not the only case involving law enforcement in El Paso that has been questionable. Two other names need to be added, Noe Aleman, a former Border Patrol agent charged by Sutton's offices with smuggling his wife's blood nieces. It's another absurd case and very similar in conduct and improprieties by the government to the Benamar Banatta case prosecuted by Michael Battle as mentioned earlier. The Hardrick Crawford case prosecuted by Sutton also requires scrutiny.

Then there is the infamous case known as "The House of Death", located in Juarez, MX, which initially as the result of a murder became known to federal law enforcement in August 2003. I say initially because over the course of time, one murder

became several murders. Bill Conroy, reported the following in an article published by narconews:

*A confidential informant, who allegedly had attained high standing within the Juárez organization, played a critical role in snaring Santillan. The informant's name is Jesus Contreras, who is also known by the nickname "Lalo."*

*Between August 2003 and mid-January 2004, a dozen people were tortured, murdered and then buried in the yard of a house in the Mexican border town of Ciudad Juárez. Contreras, according to sources, participated in many of those murders.*

*The informant's handlers, agents and supervisors with the El Paso office of U.S. Immigration and Customs Enforcement (ICE), were allegedly fully aware of the Contreras' complicity in the murders. However, they did nothing to stop the killing for fear of jeopardizing the Santillan case and a separate cigarette-smuggling case that they were trying to make with the informant's help.*

When the initial murder first became known to Sandalio Gonzalez, former Special Agent in Charge of the U.S. Drug Enforcement Administration office in El Paso, TX, he contacted his Immigration and Customs Enforcement Agency counterpart, John Gaudioso the Special Agent in Charge for ICE in El Paso.

Eventually after a number of meetings the events became clear, Mr. Gonzalez fired off an official letter to Gaudioso, as well as to U.S. Attorney Johnny Sutton's office that expressed "my frustration and outrage at the mishandling of the (info redacted) investigation that has resulted in unnecessary loss of human life in the (info redacted) Republic of Mexico, and endangered the lives of Special Agents of the Drug Enforcement Administration (DEA) and their immediate families..."

*\*See Exhibit 48 – Letter to ICE from DEA regarding the House of Death*

Eventually the letter reached the upper echelon at the Department of Justice as well as the desk of DEA Administrator Karen Tandy. You'd think at this point, they'd be falling all over themselves to thank Mr. Gonzalez for exposing this nefarious parade of gruesome murders, but in fact the opposite happened. At that point, Gonzalez was ordered to shut up and stop talking about the case by a top official at DOJ, and with that it's clear the numerous murders were going to be ignored and with that, the cover-up began in earnest.

*\*See Exhibit 49 – Gonzalez interview on House of Death with publication Reason.*

Now this fact raises a very disturbing question. Considering the pontifications and propaganda by Johnny Sutton throughout the Ramos and Compean case, how could Sutton sit/stand there with a straight face during the countless interviews, press conferences, and when he testified before the Senate Judiciary Committee? Especially when he and the entire Department of Justice as well as the Department of Homeland

Security and the associated respective agencies knew the amount of murders that had taken place given the methods used and complete disregard for human life. And also knowing that DEA Agents and their families had also been compromised.

I know it's been 23 ½ years since the murder of DEA Agent Enrique Camarena, but we cannot have forgotten the effect on law enforcement his kidnapping in broad daylight nor his brutal murder provided. Our people were compromised and instead of getting to the bottom of this intelligence disaster, and how it could have happened, instead they order SAC Gonzalez to shut up and then cover it up. That is obstruction of justice.

But wait, lets consider the picture that was just outlined about, Johnny Sutton. Consider that we have discussed a murder spree in Mexico that took place with the complete knowledge of DOJ and ICE. Let's also note the questionable prosecutions of law enforcement officers that clearly involved the protection of illegal aliens in the borderland region of Texas. It shows that Sutton and his assistants, as well as DOJ and DHS and the complete contradiction and hypocrisy for they've said one thing pertaining to the high-profile prosecutions of law enforcement officers, and another, through silence, for a scandal, the magnitude of which may never be fully known considering it has been completely ignored by the Congress and national media.

However, on the other side of the coin, let's go back to the "Valerie Plame case" as it's clear that case did not involve a number of murders, and a whole lot of political intrigue. Why is it that the national media was all over this case, though the House of Death, which also involved the exposure of DEA agents and their families in Juarez, MX as well as a number of gruesome murders that took place with the knowledge of ICE, DHS, DOJ, and U.S. Attorney Johnny Sutton was virtually ignored. It's clear when reading interviews of former DEA SAC Sandalio Gonzalez that murders took place with knowledge in the highest places of the U.S. Government, and were covered up.

Considering that Mr. Gonzalez, a Senior Executive Service official, addressed this issue in detail in his letter, it is safe to assume that any reasonable, honest prosecutor would investigate and seek indictments for all involved in allowing the murders to continue, as well as for participating in the cover-up and for conspiracy as accomplices in relation to the murders committed, as well as after the fact.

Is the fact that the mainstream media has not been interested, though here is a case known to the highest officials in our government, and therefore, in a position to expose the highest degree of corruption within the Bush Administration unimportant since it involved brown people as the late, great George Carlin used to say in his comedy act?

By not examining the investigations, prosecutions, and conduct utilized in this "War on Law Enforcement," the United States Congress has failed to do its job under the Constitution by failing to hold the Executive Branch, specifically the Department of Justice and the Department of Homeland Security accountable for their egregious and mind-boggling misconduct.

# Section III

## The Courts: Contemptible, Unaccountable, A Constitutional Crisis

As stated in the introduction at the beginning of this report, we also focus on the failure of the courts to interpret the law with impartiality to plaintiff and defendant equally. Instead, the courts are providing rulings that give comfort to lawbreakers, do not hold counsel accountable for suborning perjury, suppression of evidence, for failing to police their own, and who go so far as to ignore the laws of precedence including rulings from the U.S. Supreme Court.

This current Congress has failed to hold judges accountable per checks and balances granted to each of the three branches under the U.S. Constitution, though the House Committee on the Judiciary under Chairman Jim Sensenbrenner (R-WI) was actually doing that very thing.

On July 17, 2006, Chairman Sensenbrenner introduced House Resolution 916, which called for an inquiry into grounds for the impeachment of U.S. District Court Judge Manuel L. Real, of the Central District of California. The resolution itself stated the following, “When the judicial branch has failed to address serious allegations of judicial misconduct, as the Ninth Circuit arguably has in this matter, the Constitution provides the Congress only one course of action, opening an impeachment inquiry”.

Chairman Sensenbrenner was on target with what is taking place in the courts today, but not just in the Real case, which he introduced through H. Res. 916 to review. Our report will identify and address widespread allegations of judicial misconduct, which we believe is taking place throughout the Judicial Branch given the patterns in the previous two sections of this report.

*\*See Exhibit 50 – Sensenbrenner Impeachment Inquiry House Resolution*

Agents and officers are being financially broken trying to defend themselves from trumped up charges, as they go through a process completely unfair and corrupted. When the officers and agents lose their agency provided appeals of termination/suspension process, they go to the same Federal Court system and face Bush judicial branch appointees who have allowed the subornation of perjury, and protected dopers and human traffickers regardless of the facts.

It is in these very courtrooms where U.S. Attorneys have participated in witch-hunts and directly prevented prosecutions of criminals in violation of our laws. These judges, such as federal judges in Miami and El Paso, are not held accountable for their decisions, which include ignoring facts, the fabrication of evidence, the withholding of evidence and even minimizing or ignoring US Supreme Court rulings.

Consider that the pattern of abuses took place within the “friendly confines of partiality” such as the El Paso based Federal District Courtrooms of Judge Kathleen Cardone, the judge who served in a number of controversial cases prosecuted by U.S. Attorney Johnny Sutton, including U.S. vs. Ramos and Compean, Feb-March 2006.

Judge Cardone allowed U.S. Attorney Johnny Sutton to suppress material and evidence critical to the defense in the Ramos and Compean case. Had the jury been aware of the continued criminal activity of the government's star witness, this clearly would have damaged the credibility of that witness. The judge also allowed this witness (Alderete-Davila) to violate his immunity agreement by withholding information, through his perjury, and continuing his criminal activities without consequences. Instead of ordering this career dooper taken into custody after violating his immunity agreement for the crimes he committed on February 17, 2005, and the subsequent October 2005 drug loads, she allowed Alderete to be safely escorted under the protection of heavily armed U.S. Marshals back to Mexico.

The courts continue to ignore the fact that justice is supposed to be blind, as well as the rule of law, decency, fairness, and even rulings issued by the U.S. Supreme Court, including these misapplications of law such as charges for civil rights violations, and for charges that carry mandatory minimum sentences for using a firearm during attempted apprehensions of drug and human traffickers. Smugglers carry guns, as officers carry guns, except officers do so because it is authorized as part of their lawful duties.

In *U.S. vs. Verdugo-Urquidez*, the majority opinion written by the late Supreme Court Chief Justice William Rehnquist pertaining to civil rights and guests, and illegal aliens, stated "establish only that aliens receive constitutional protections when they have come within the territory of the United States and develop substantial connections within this country."

Furthermore, Chief Justice Rehnquist also stated in his majority opinion, "But once an alien lawfully enters and resides in this country he becomes invested with the rights guaranteed by the Constitution to all people within our borders" (quoting Bridges, supra, at 161 concurring opinion (emphasis added)) "Respondent is an alien who had no previous significant voluntary connection with the United States, so these cases avail him not." It's obvious to me that the Rehnquist Opinion disagreed with the civil rights charges being used by U.S. Attorneys like Johnny Sutton to make criminals appear to be victims though each incident occurred during the commission of crimes under federal law.

It is at this point, that I present John Cavicchi, an attorney at law representing CBP Customs Officer Eugene Cavicchi, an experienced officer in Miami Customs District who has also been a victim of the same trumped up charges and retaliations as a whistleblower, and also for not playing the games of "go along to get along" and "screw up move up" in both forms.

Mr. Cavicchi is experienced when it comes to the corruption of CBP Customs, as well as the courts in Massachusetts and Federal Government. In his report, and request for investigation, he identifies the very issues of judicial misconduct that Chairman Sensenbrenner outlined in his impeachment inquiry resolution that must be stopped now by the Congress. The courts cannot be trusted to police themselves, as you will learn.

\*See the Cavicchi Report on the Courts with Exhibits, Attached as Volume II

# Section IV

## Final Recommendations

It is clear that the Executive Branch of our government, in continuing to enact illegal treaties and trade agreements, which have yet to be passed by the Congress, let alone be heard in public hearings before the people of the United States, has compromised the security of the nation and its citizens.

The culture of corruption and deceit, as well as the compromise of officer safety, issues of violence, harassment, and stalking of federal officers by fellow officers and superior officers, including the outrageous sex-rings and practices of “screw-up move-up” have created an intolerable atmosphere that requires immediate action by the Congress. We cannot allow our leaders to continue to support policies that obstruct justice, and compromise security. We must learn who is compromised and remove them from positions that can be utilized for blackmail and intimidation.

Congress and agencies such as the Federal Bureau of Investigation (FBI) must act now, because a mass exodus has begun by Bush Administration officials and agency leaders who will put in papers and retire quietly because they know what could be coming, so better to get out now and let certain trails get cold. Julie Myers is the first of many Bush’ cronies to jump ship. Congress and the FBI must remember that minions have used “screw up move up” and have gone along to get along, and are now ready to make their jumps up the chains of command. Leaders need to be suspended, rubber gunned and investigated, so they cannot escape justice by retiring.

The White House, DOJ, and DHS must also be held accountable for their part in allowing numerous gruesome murders to take place in the House of Death case, and failure to address the compromise of DEA Agents and their families, as well as their role in the cover-up during and after the fact.

It is a fact that the federal courts are equally culpable in their inability to provide fair, speedy, and just hearings and trials. Congress must recognize the Constitutional crisis that exists today and authorize the appropriations necessary for the appointment of an independent Special Prosecutor who shall have the power to issue subpoenas and prosecute those elected and appointed officials of our government that are responsible for crimes being committed under the laws of the land. The Special Prosecutor is the only route as the Executive and Judicial Branches have proven, as demonstrated repeatedly throughout this report, that they cannot be trusted to police themselves with integrity. Only an independent Special Prosecutor can effectively investigate.

Nominees for cabinet appointments by President-Elect Obama and his successors must be scrutinized to assess their qualifications, and ability to perform their jobs. For eight years the Bush Administration took advantage of a virtual blank check to appoint cronies such those identified within this report. As a result, the free pass by the Senate must stop forever. The president appoints his personal staff and that is why personal staff does not require Senate confirmation. We will be watching each Obama appointment.

# Section V

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*\*Note: Biographies Available at FOBP.us*