



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20250-315



August 9, 1999

Honorable Elaine Kaplan  
Special Counsel  
Office of Special Counsel  
1730 M Street NW., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-99-1151

Dear Ms. Kaplan:

This is in response to your letter of July 8, 1999, to Secretary Daniel R. Glickman, regarding a complaint made by James E. Patterson, a former agricultural economist with the U.S. Embassy in Mexico. He was previously employed by the Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture (USDA). I have been designated to respond on behalf of Secretary Glickman because this matter concerns a complaint received by the USDA Whistleblower Hotline which is managed by the Office of Inspector General (OIG).

On October 10, 1996, Mr. Patterson filed a complaint stating that FAS officials in Washington, D.C., and Mexico City, Mexico, had improperly suspended him for allegedly disclosing official information without authorization, violated his rights when an FAS official entered his residence in Mexico City to conduct a search without his consent, and failed to reimburse him for travel expenses. He also alleged other misconduct by U.S. personnel, including the U.S. Ambassador to Mexico.

The issues involved in this case were investigated by, or referred to, the organizations with responsibility for the type of issue involved. Most of the issues were referred to the FAS Compliance Branch for investigation and response back to this office. The allegation against the U.S. Ambassador was referred to the Inspector General of the U.S. Department of State. The allegation of Mr. Patterson's improper possession of a classified cable had been referred earlier by the USDA Security Officer to the Federal Bureau of Investigation (FBI), U.S. Department of Justice. Our office carefully reviewed the investigative findings and researched relevant Federal, USDA, and State Department regulations. We also interviewed FAS employees assigned to Washington, D.C., and Mexico City, as well as the U.S. Embassy Resident Security Officer (RSO) in Mexico.

The investigation findings did not support Mr. Patterson's claim of misconduct by FAS officials or the U.S. Ambassador. The Compliance Branch of FAS conducted lengthy investigations of the alleged misconduct of both the FAS officials and Mr. Patterson. These investigations did not establish any misconduct by FAS officials, other than by Mr. Patterson

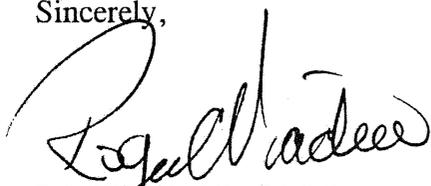
Ms. Elaine Kaplan

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himself. The Inspector General, U.S. Department of State, conducted a preliminary inquiry into the allegations made against the Ambassador and determined that the FAS investigation adequately addressed his conduct and that those actions were appropriate. The FBI declined to investigate Mr. Patterson's alleged improper possession of classified material because the allegation did not meet their parameters for initiating an investigation. Enclosed is a synopsis of the findings of the investigations.

If you have any questions about this matter, please contact me on (202) 720-8001 or Gregory S. Seybold, Assistant Inspector General for Investigations, on (202) 720-3306. Requests or questions regarding OIG records may be directed to Nancy Bartel, Chief, Policy Development and Information Branch, at (202) 720-5677.

Sincerely,



ROGER C. VIADERO  
Inspector General

Enclosure

## SYNOPSIS OF INVESTIGATIONS

A former agricultural economist, James E. Patterson, was evacuated from Mexico on July 16, 1996, by the U.S. Department of State for medical evaluation because he had failed to maintain his medical treatment pursuant to his Class 2 clearance and because he had threatened the Agricultural Minister-Counselor. Mr. Patterson was employed at the time by the Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture (USDA). After arriving in Washington, D.C., Mr. Patterson was given a complete physical and mental evaluation by the U.S. Department of State Medical Division. The results of this evaluation and the fact that the USDA Minister-Counselor and his staff in Mexico feared Mr. Patterson, precipitated his being assigned a Class 5 status, thereby precluding him from being posted to a duty station outside the United States. FAS determined this decision was directly related to health and safety issues and did not infringe on Mr. Patterson's rights or result in unfair treatment.

Mr. Patterson was unable to return to Mexico based on the U.S. Department of State's assignment of a Class 5 clearance; however, his personal effects remained in Mexico and needed to be shipped back to Washington, D.C. FAS advised that Foreign Service Manual regulations, specifically 6 FAM 182.1 (11) and (12), 172(2), and 178(C), authorize the senior agency official assigned to an Embassy to contact the General Services Officer (GSO) to make arrangements for the return of an employee's effects to the United States, to include entering U.S. government property to pack an employee's private possessions. This action was initiated by the Agricultural Minister-Counselor. The GSO then arranged for movers to go to Mr. Patterson's residence to make an estimate of what was needed and the amount of time needed to pack and load his effects. This could only be accomplished by entering Mr. Patterson's residence and inspecting closets and drawers to determine how many boxes would be needed. The Minister-Counselor directed a USDA employee to meet the movers at Mr. Patterson's residence to witness this process.

The Office of Inspector General (OIG) review disclosed that after Mr. Patterson had been evacuated to Washington, D.C., the Deputy Assistant Administrator, FAS, asked him if he had his vehicle registration since it needed to be returned to the Mexican Government before the car could be returned to the United States. The Deputy Assistant Administrator said that Mr. Patterson responded that the title was probably either in his car or apartment. The USDA employee assigned to witness the pre-pack survey was therefore directed to look for the Mexican title to Mr. Patterson's car while he was in the residence.

In what was initially thought to be a matter unrelated to Mr. Patterson, the Administrator, FAS, on July 23, 1996, directed the FAS Compliance Staff to investigate a leak of sensitive internal Embassy documents concerning U.S./Mexico tomato trade issues. This information had been released to Business Week magazine. The Compliance Staff initiated such an investigation, but Mr. Patterson was not initially a subject.

On August 9, 1996, about 2 weeks after the investigation into the information leak began, the pre-pack survey of Mr. Patterson's residence occurred. During this survey, a classified cable and sensitive internal Embassy documents which contained information leaked to the press were found in Mr. Patterson's residence. Documents indicating that Mr. Patterson had faxed the sensitive tomato information to a third party in Florida were also found.

The classified cable issue was referred by the USDA Security Officer to the Federal Bureau of Investigation (FBI), U.S. Department of Justice, for a criminal investigation. The FBI declined to conduct an investigation because the referral did not meet their parameters for initiating an investigation. The U.S. Embassy Resident Security Officer (RSO) conducted a damage assessment relating to the classified document and concluded that the damage was minimal. FAS charged Mr. Patterson with failure to safeguard the "confidential" document, in violation of Departmental Regulation DR 3440-1 and State Department procedure 12 FAM 0500; unauthorized access to a "confidential" document, in violation of 12 FAM 536.1-2; and improper removal of a classified document, in violation of 12 FAM 533.1.

The evidence involving the unauthorized release of sensitive tomato information was turned over to FAS' Compliance Branch, which then focused its investigation on Mr. Patterson. The information was sensitive, but unclassified. Mr. Patterson was charged with unauthorized release of information in violation of Standards of Ethical Conduct, 5 CFR 2635, and internal U.S. Department of State procedure 12 FAM 541. He was also placed on administrative leave with pay following his medical evacuation to Washington, D.C.

FAS advised that the matter concerning Mr. Patterson's travel expenses, which related to official travel in March 1996, was referred to the General Services Administration, Board of Contract Appeals.

Mr. Patterson had also claimed that the Agricultural Trade Director's daughter had disappeared under mysterious circumstances. Rather than contacting appropriate United States and Mexican authorities to assist in the search for his daughter, the Trade Director allegedly contacted representatives of the Mexican tomato industry who subsequently located and returned his daughter. This matter was investigated by FAS' Compliance Branch the results were reviewed by this office. The FAS Compliance Branch investigation disclosed that from the outset of their daughter's disappearance, both the Trade Director and his wife worked through the U.S. Embassy RSO and Mexican police authorities. The RSO was heavily involved in the search, along with Mexican authorities, including LOCATEL (the Mexican Government agency which helps locate missing persons), the Mexico City Federal District Police, and the Mexican Federal Judicial Police.

The Agricultural Trade Director acknowledged that about 3 days after his daughter was reported missing, he contacted the president of a large vegetable producers association in Culiacan, Sinaloa, Mexico, to ask for help in locating his daughter. He said he had reason to believe his daughter was on a bus bound for Tijuana, Mexico. Since all buses to Tijuana must travel through Sinaloa, he requested the assistance of an acquaintance on a "father to father" basis. Shortly after this contact, he was notified by this acquaintance that his daughter had been located at a bus station in Sinaloa.

The Agricultural Minister-Counselor advised that the Agricultural Trade Director's request for help from the Mexican tomato industry official did not cause a conflict of interest or influence subsequent negotiations about the importation of Mexican tomatoes into the United States. Moreover, the Minister Counselor said that the Trade Director, in his capacity, did not deal with or have responsibility for trade policy issues.

In conclusion, we carefully reviewed the FAS investigation reports, as well as conducted research of relevant regulations and statutes. We also consulted with the U.S. Embassy RSO. We did not find evidence to substantiate Mr. Patterson's claims of misconduct by FAS officials and do not believe additional inquiry by OIG is warranted at this time.