

Secretary

U.S. Department of Homeland Security  
Washington, DC 20528



Homeland  
Security

March 23, 2004

Mr. Scott J. Bloch  
Special Counsel  
U.S. Office of Special Counsel  
1730 M Street, NW, Suite 300  
Washington, DC 20036-4505

Dear Mr. Bloch:

On November 26, 2003, then Acting Special Counsel, William Reukauf, advised my office of the requirement to conduct an investigation into allegations of travel improprieties by Border Patrol Agents (BPA) and to submit a report of our findings to OSC. In fact, the Department of Justice, Office of Inspector General (OIG), had already completed an investigation into this matter which was received by U.S. Customs and Border Protection (CBP) in mid-October, 2003.

I am pleased to submit to you the final report summarizing the actions taken by CBP to date and the recommended actions which we believe will allow the agency to more effectively monitor the agency's system for the payment of travel expenses.

Sincerely,

A handwritten signature in cursive script that reads "Tom Ridge".

Tom Ridge

RECEIVED  
OFFICE OF  
SPECIAL COUNSEL  
U.S. DEPARTMENT OF  
HOMELAND SECURITY  
2004 MAR 30 PM 3:17

Report to the Office of Special Counsel  
Pursuant to 5 U.S.C. §1213(d)

**1. Summary of information resulting in the initiation of the investigation.**

In January 1999, the Department of Justice ("DOJ"), Immigration and Naturalization Service ("INS") established Operation "Safeguard 99" ("Operation Safeguard") along the Southwest U.S. border. The INS implemented Operation Safeguard to significantly reduce illegal border crossings in the area. One area of particular focus was the Tucson Arizona Sector ("Tucson Sector") of the former U.S. Border Patrol (now referred to as the U.S. Customs and Border Protection ("CBP"), Office of Border Patrol). The Tucson Sector separated its geographic area into three priority sections, one of which was the Douglas, Arizona Border Patrol Station ("Douglas Station"). The strategy of Operation Safeguard involved (1) deploying numerous Border Patrol Agents ("BPAs") along the border, (2) gaining control of the area, (3) maintaining control of the area, and (4) expanding BPAs presence over other border areas as the flow of illegal entries shifted.

In January 2000, the Tucson Sector began the Douglas Station phase of Operation Safeguard. At the time, approximately 350 BPAs were permanently assigned to that station. To achieve its objectives, the Douglas Station required many more BPAs. Accordingly, approximately 100 additional BPAs from other sectors were detailed each month to the Douglas Station, normally for 30 days, but in many cases for much longer periods. The large influx of BPAs into the area on a recurring basis created an immediate and continuing need for employee housing and also generated competition among the various lodging providers seeking to attract the BPAs' business.

In February 2001, former Senior Patrol Agent Larry Davenport and former Supervisory Border Patrol Agent Willie Forester reported to the DOJ Office of the Inspector General ("OIG") that Supervisory Border Patrol Agents (SBPAs) and BPAs were receiving kickbacks and making fraudulent reimbursement claims associated with their lodging expenses while on detail to Douglas Station for Operation Safeguard. Messrs. Davenport and Forester specifically alleged that three SBPAs were renting rooms to detailed BPAs, either in their personal residence or in rental properties they owned. They further alleged that the practice of the three SBPAs was to charge a lodging rate lower than the maximum lodging per diem and provide the BPAs false receipts reflecting payment of the full per diem amount, or they would charge the BPAs the full lodging per diem and then refund the BPAs a portion of their rent in cash or in the form of other incentives. However, the BPAs were seeking reimbursement from the government at the full per diem rate. Messrs. Davenport and Forester also alleged that many detailed BPAs were accepting cash incentives, credits, and

other “kickbacks” from other accommodations providers in the Douglas area, while claiming reimbursement for the full per diem amount.

Messrs. Davenport and Forester advised the OIG that Douglas Station management officials knew about these alleged improper activities, but had failed to address the problem. Mr. Davenport alleged that he raised the issue of the kickbacks and reimbursement activities with his superiors at least two times prior to reporting the matter to OIG.<sup>1</sup> In September 2001, after Messrs. Davenport and Forester reported their allegations to United States Representative Jim Kolbe, the OIG initiated an investigation into these matters.

## **2. Description of the conduct of the investigation.**

OIG’s investigation focused on Messrs. Davenport’s and Forester’s allegations that BPAs detailed to the Tucson Sector in support of Operation Safeguard were obtaining various “kickbacks” as incentives to stay at particular lodging facilities in the Douglas and Sierra Vista areas, and that the BPAs did not deduct an amount corresponding to these “kickbacks” - from their lodging or Meals and Incidental Expenses (M&IE) claims - when they filed their travel vouchers. The incentives were described as cash, gift certificates, and food vouchers.

The OIG’s reports focused on BPAs who lodged with two particular accommodations providers in Douglas, Arizona. The OIG determined that the accommodations providers at these two locations typically charged the BPAs an amount equal to the full allowable per diem, and offered cash back and/or supermarket gift certificates or vouchers to BPAs as incentives for lodging with them. However, in some cases, the accommodation providers charged the BPA less than the full allowable lodging per diem, but provided the BPA a detailed receipt reflecting payment of the full lodging per diem.

The OIG’s reports also included the results of its investigation of three SBPAs who rented out properties to BPAs detailed to the Douglas area in support of Operation Safeguard. One of the SBPAs rented a bedroom in his primary residence to detailed BPAs on two different occasions. This SBPA admitted that he provided the BPAs with false receipts reflecting that each had paid him the maximum lodging per diem.

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<sup>1</sup> As noted in Section 5 of this report, a special panel was convened to review the OIG’s investigatory reports and to propose any warranted adverse or disciplinary action against the BPAs, SBPAs, and Tucson Sector management officials identified in the reports. The special panel determined that the OIG reports did not provide sufficient information with respect to any potential misconduct on the part of Tucson Sector management. Thus, the special panel recommended additional investigation and follow-up interviews with Tucson Sector management before it decides whether adverse or disciplinary action should be proposed against any of the management staff. Specifically, it recommended that follow-up interviews be conducted with the Tucson Sector’s entire chain-of-command – starting with the first-line supervisors.

The OIG's investigation also determined that two other SBPAs purchased rental properties in the Douglas and Sierra Vista areas respectively after the start of Operation Safeguard. These properties were then rented to BPAs who were detailed to Douglas. The OIG interviewed the BPAs who lodged at the two SBPAs' properties and discovered that one of the SBPAs exercised supervisory authority over two of his BPA tenants. In addition, a few of the BPA tenants stated that this SBPA and/or his wife solicited their rental business.

In February 2003, the OIG released to the INS its final Reports of Investigation, which confirmed Messrs. Davenport's and Forester's allegations that SBPAs and BPAs detailed to the Douglas Station were accepting cash incentives, credits, and other forms of kickbacks from lodging facilities, while claiming the full per diem amount as reimbursement for their lodging expenses. The report also concluded that in one case an SBPA had rented his personal residence to BPAs. While he had charged them approximately half of the full lodging per diem, he had nonetheless provided the BPAs with inflated receipts reflecting that they had paid the full lodging per diem. These BPAs subsequently submitted the inflated lodging receipts with their travel vouchers for reimbursement.

### *Management Action*

As a part of the Office of Border Patrol's transition into the newly created CBP, CBP's Office of Labor and Employee Relations ("LER") staff assumed responsibility for providing the Border Patrol with its labor and employee relations support. This change in servicing responsibility is still evolving, but the transition process began in October 2003. As a part of this process, the former INS Office of Human Resources transferred all its pending employee discipline files to CBP/LER. This file transfer included the OIG's Reports of Investigation resulting from Messrs. Davenport's and Forester's disclosures. CBP received the OIG's reports in approximately mid-October 2003. On November 3, 2003, LER began reviewing and analyzing the evidence gathered in those investigations to determine whether disciplinary and/or other corrective administrative action with respect to the BPAs identified as subjects of the investigation should be proposed.

During the week of November 19, 2003, the Office of Special Counsel ("OSC") notified CBP/LER of its involvement in the matters raised by Messrs. Davenport and Forester. On November 21, 2003, CBP Deputy Commissioner Douglas Browning was briefed regarding the OIG's investigation, as well as OSC's role in its receipt of disclosures made by Messrs. Davenport and Forester. Subsequent to this briefing, CBP Commissioner Robert Bonner, in coordination with the Headquarters Office of Border Patrol, convened a task force, or special panel, to review these investigatory reports and to propose any adverse or disciplinary action warranted by the evidence. **See Attachment 1.** The special panel was comprised of three senior managers with no direct connection to the

matters that formed the subject of the investigation. The members of this task force included the Chief Patrol Agent, Miami Sector; the Chief Patrol Agent, Spokane Sector; and the Port Director for Baltimore.

In addition to the special panel, other offices within CBP played a significant role in reviewing and analyzing the evidence gathered in these investigations. Specifically, the Office of Chief Counsel dedicated a team of attorneys to review the investigations, and LER assigned a team of four Employee Relations Specialists to present the facts underlying the individual cases to the special panel.

After reviewing the voluminous files in this case, the special panel convened on December 16-17, 2003 to determine whether adverse or disciplinary action should be proposed against the subjects identified in the reports. The team of Employee Relations Specialists assigned to present the cases briefed the special panel regarding the allegations made against each individual SBPA and BPA identified in the OIG's reports. The special panel reviewed 68 individual cases during the meeting. The panel proposed the following: (a) 43 adverse actions; and (b) 2 disciplinary actions. In 23 cases, the panel determined that no action was warranted. Of the 43 adverse actions, the special panel specifically proposed 30-day suspensions for 36 BPAs, a 45-day suspension for one BPA, a 45-day suspension and a demotion for one BPA, and the removal of 5 BPAs.

As of January 12, 2004, proposal letters were delivered to the appropriate Border Patrol sectors for issuance. Closure letters were also delivered to the appropriate sectors for issuance to those BPAs with respect to whom the special panel recommended no adverse or disciplinary action.

### **3. Summary of evidence obtained from the investigation.**

Initially, the OIG obtained a list from the INS Western Region identifying all employees who were detailed to Operation Safeguard. Next, the OIG requested all available INS travel vouchers submitted by employees who were detailed to the Tucson Sector during Fiscal Years 2000 and 2001. As a result, the OIG obtained and audited 3,045 travel vouchers covering those individuals who were detailed to all Tucson Sector Border Patrol stations in support of Operation Safeguard in Fiscal Years 2000 and 2001. In addition, the OIG identified numerous accommodation providers in whose lodgings detailed BPAs stayed during this period. The OIG subpoenaed the lodging receipts and rental contract records from the accommodation providers who lodged the largest numbers of BPAs.

The OIG also obtained and reviewed records maintained at the Cochise County Tax Assessor and the Recorder's Office to determine the ownership of rental properties. The OIG reviewed INS documents relating to Operation Safeguard as well as receipts the accommodations providers retained in the

course of their rental businesses. In addition, the OIG interviewed several accommodations providers (and their staff) who had provided much of the lodging to the detailed BPAs in the Douglas and Sierra Vista, Arizona, areas.

Finally, the OIG obtained sworn statements and/or affidavits from those who were interviewed. In fact, the OIG interviewed more than 100 BPAs, including agents who were detailed to the Tucson Sector, many of their supervisors, and several Border Patrol management officials. Further, the OIG identified and interviewed seven INS employees or spouses of INS employees who provided lodging for detailed agents.

#### **4. Violations or apparent violations of law, rule, or regulation.**

After a careful review of the evidence compiled in the OIG investigation, the special panel proposed adverse action or disciplinary action for the following violations or apparent violations of law, rule, or regulations:

- Providing false statements
- Lack of candor
- Falsification of travel vouchers
- Providing false lodging receipts
- Improper retention of cash from an accommodations provider while on official duty.
- Improper retention of promotional materials from an accommodations provider while on official duty.
- Creating the appearance of a conflict of interest
- Creating the appearance of using public office for financial gain

#### **5. Description of actions taken or planned as a result of the investigation:**

##### **A. Changes in agency rules, regulations, or practices**

###### *Action taken*

On December 12, 2001, the INS Office of Internal Affairs Director submitted a Procedural Reform Recommendation to INS management entitled "Lodging During Detail Assignments." See **Attachment 2**. Subsequently, in April 2002, the INS Assistant Commissioner for Financial Management transmitted a memorandum to all INS employees concerning their lodging arrangements during temporary assignments. See **Attachment 3**. The memorandum referred to the Federal Travel Regulations and discussed regulations addressing such issues as: (1) the types of accommodations, (2) lodging with friends or relatives, (3) obtaining proper and correct receipts for lodging amounts, and (4) receiving vouchers or credits from commercial lodging providers. The Chief of the Border Patrol has also issued directions to all Sector Chiefs regarding these travel-related issues. See **Attachment 4**.

In addition to the above described actions, beginning in April 2002, the Tucson Sector began briefing all incoming detailed agents about rental and housing issues. Tucson Sector officials began advising the agents about the regulations requiring the submission of proper receipts for lodging secured while on official travel. Further, the Tucson Sector also began the practice of attaching the Assistant Commissioner's April 2002 memorandum to all travel authorization forms for all employees who were being detailed.

Moreover, in April 2002, San Diego Border Patrol Sector management issued a memorandum to all Sector employees that addressed various questions relating to lodging at commercial and private lodging establishments. It provided overall guidance and set forth detailed ethical and professional standards associated with filing travel vouchers. **See Attachment 5.**

Finally, in September 2002, former INS Commissioner James W. Ziglar issued a memorandum to all employees, entitled "Claiming Expenses for Official Travel." The memorandum advised employees of potential misconduct issues regarding the submission of travel vouchers and provided additional guidance for any travel-related questions. **See Attachment 6.**

#### ***Action planned and/or recommendations***

As referenced previously, CBP Commissioner Bonner convened a special panel on December 16 and 17, 2003, to review and discuss the results of the OIG's investigations, and to propose any necessary adverse action or disciplinary action related to the BPAs identified in the OIG's investigatory reports. During the course of their review, the members of the special panel made several specific recommendations that they believe would significantly reduce the likelihood of a recurrence of travel-related improprieties, such as those found in the OIG's report. Specifically, the special panel recommended the agency take the following steps:

- Continue improvements in the process for supervisory review of vouchers submitted by BPAs participating in large-scale details.
- Develop a process for reviewing credit card purchases claimed as expenses by BPAs participating in large-scale details.
- Provide training to supervisors and managers, which reinforces the requirement to report any misconduct within the appropriate chain of command.
- Provide ethics training to BPAs to reinforce the requirement to seek guidance within the proper chain-of-command whenever BPAs have any concerns about the acceptability or propriety of a situation or activity.
- Recommend ethics/travel training at the CBP academies specific to the issues raised in this investigation.

- Require restitution in those cases where the deciding official determines that the BPA or SBPA improperly retained cash from an accommodation provider while on official duty.

Furthermore, the special panel made an additional recommendation related to the scope of the investigation itself. The special panel noted that it was unable to address issues related to the Tucson Sector management's role in the travel-related improprieties. The special panel indicated that the Reports of Investigation provided insufficient evidence of that role and did not develop the facts relevant to all such issues. Therefore, it recommended additional investigation and follow-up interviews with management from the Tucson Sector. The panel recommended that the interviews be conducted with the Tucson Sector's entire chain-of-command – starting with the first-line supervisors. The panel recommended that the scope of the interviews encompass pertinent questions that were not asked in earlier interviews.

Since the reorganizations associated with the establishment of the Department of Homeland Security, the Office of Border Patrol is now within CBP. Thus, all of the special panel's recommendations have been forwarded to Commissioner Bonner, so that he may consider their implementation on a CBP-wide basis, in the interests of benefiting the organization as a whole.

**B. Restoration of any aggrieved employee**

Not applicable.

**C. Disciplinary action against any employee**

Of the 68 individual cases arising from the OIG's investigation, the task force proposed 43 adverse actions, including 5 proposed removals, and 2 disciplinary actions.

**D. Referral to the Attorney General of any evidence of criminal violation**

According to the Tucson OIG office, the U.S. Attorney's Office for the Southern District of California declined criminal prosecution of three individuals named in the OIG reports. Two of the cases in which prosecution was denied were subsequently presented to the Tucson U.S. Attorney Office for criminal prosecution. The Tucson U.S. attorney's office has indicated a willingness to present these two cases to the grand jury, however it has identified the need for some further investigation. Moreover, one additional BPA was indicted on September 24, 2003, in the U.S. District Court for the District of Arizona on several counts for making false, fictitious or fraudulent claims. His trial is scheduled for May 4, 2004.

**Customs and Border Protection  
Document Routing Form**

Congressional  DHS  Routine  FYI

Date: 2/11/04

*Autopaper*

FROM	Writer's Name <b>SHARON SNELLINGS</b>		Office <b>HRM/LEP</b>		Executive Secretariat Staff Tracking No. <b>0040090</b>			
	Telephone No. <b>x73286</b>		Room No.		Subject: <b>OCS Final Report - Oper. Safeguard</b>			
To	Destination	Initials	Date	Comments - Commissioner's Staff Only				
8	Commissioner	<i>MS</i>	<i>2/11/04</i>	TO: <i>Mirella Clara 2/11/04</i> Pls let me know if any highlights if there is anything I need to know in this report. <i>PAS</i> <i>RFC 2/13</i>				
6	Deputy Commissioner	<i>DRB</i>	<i>2/13</i>					
7	Chief of Staff							
	Senior Policy Advisor							
	Senior Policy Advisor							
5	Spec. Asst. to Dep. Commissioner	<i>CRD</i>	<i>2-13</i>					
	Program Manager							
	ESS							
To	Destination	Initials/Date	To	Destination	Initials/Date	To	Destination	Initials/Date
<b>Anti-Terrorism</b>			<b>Finance</b>			<b>Public Affairs</b>		
				Asst. Commissioner			Asst. Commissioner	
<b>Border Patrol</b>			<b>Human Resources Management</b>			<b>Regulations &amp; Rulings</b>		
3	Chief	<i>SON 2-10</i> <i>HR 2/11/04</i>		Asst. Commissioner	<i>HRM 2/11</i>		Asst. Commissioner	
				Issuance Review				
<b>Chief Counsel</b>			<b>Information and Technology</b>			<b>Strategic Trade</b>		
4	<i>Sharon Snellings</i>	<i>2.13.04</i>	1	LEP	<i>ACS 2/11/04</i>		Asst. Commissioner	
<b>Congressional Affairs</b>			<b>The Interdiction Committee</b>					
	Asst. Commissioner			Asst. Commissioner		<b>Trade Relations</b>		
<b>Equal Employment Opportunity</b>			<b>Internal Affairs</b>			<b>Training and Development</b>		
				Asst. Commissioner		Asst. Commissioner		
<b>Field Operations</b>			<b>International Affairs</b>					
	Asst. Commissioner			Asst. Commissioner				
			<b>Investigations</b>			<b>Office Comments</b>		
			Asst. Commissioner					
			<b>Planning and Policy</b>					
						<b>04-02167</b>		

**U.S. CUSTOMS AND BORDER PROTECTION**  
**Department of Homeland Security**

1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229

*Commissioner*

December 2, 2003

TO: Chief Patrol Agent, Miami Sector  
Chief Patrol Agent, Spokane Sector  
Port Director, Baltimore

FROM: *[Signature]*  
Commissioner

SUBJECT: Special Delegation of Authority

I hereby delegate the authority to you to review Reports of Investigation concerning allegations of travel improprieties related to the Border Patrol Operation Safeguard, convene no later than December 19, 2003 to deliberate on the contents of the reports, and render any necessary proposed notices for disciplinary or adverse actions under the provisions of 5 CFR 752.

cc: Assistant Commissioner, Border Patrol  
Assistant Commissioner, Field Operations

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# An Investigation of Travel Reimbursements in Connection with the INS's Operation Safeguard

December 2002  
Office of the Inspector General

## EXHIBIT 5



U.S. Department of Justice  
Immigration and Naturalization  
Service  
Office of Internal Audit

425 I Street NW  
Washington, DC  
20536

**ORIG: MR.  
BOHLINGER  
cc: MCGEE FILE**

**DEC 12, 2001**

MEMORANDUM GEORGE H. BOHLINGER III  
FOR EXECUTIVE ASSOCIATE COMMISSIONER  
MANAGEMENT

MICHAEL A. PEARSON  
EXECUTIVE ASSOCIATE COMMISSIONER  
FIELD OPERATIONS

FROM: *[Signed]*  
John P. Chase  
Director  
Office of Internal Audit

SUBJECT: Procedural Reform Recommendation - Lodging During Detail Assignments

The purpose of this memorandum is to provide information regarding findings in several investigations of allegations of employee misconduct related to lodging arrangements and claims for reimbursement. The allegations were lodged primarily in areas in which there are a large number of detailed employees, such as at the Service's training academics or in long term, large scale enforcement operations. These findings have ethical and misconduct implications for individual employees, and highlight the agency's obligation to disseminate information to detailees and permanent staff in the location of the detail, in a manner that protects employees from inadvertently becoming involved in situations that represent violations. It is recommended that this information be reviewed with an eye toward correcting systemic weaknesses.

The information presented below is based upon prior and current investigations by the Office of Internal Audit (OIA) and the Office of Inspector General (OIG) into situations described below.

Under each allegation is a discussion of the potential violation or ethical consideration.

- **Service employees coming to a detail assignment were put in contact with by other employees or learned of by word of mouth, local property management companies which provided lodging at a lower rate than the allowable daily lodging rate, and were issued receipts reflecting the full allowable amount. They then vouchered the full allowable daily lodging rate and were reimbursed.**

This scenario, in which employees were issued a receipt which did not accurately reflect the amount they paid for lodging is 3 clear violation, which can subject the employee to criminal penalties (18 United States Code 287, False, Fictitious or Fraudulent Claims), or disciplinary or adverse action. Employees are authorized to claim up to the allotted lodging amount in a particular location. If they are not charged the full amount, they are not entitled to claim it.

- **Service employees coming to J, detail assignment were put in contact with by other employees or learned of by word of mouth, a local commercial establishment or property management company which provided lodging at the full allowable daily lodging rate, but were given a "rebate" each day. These rebates took various forms depending upon the location: vouchers usable at hotel dining, bar and barber facilities; vouchers usable at local grocery stores; cash; and also a certain dollar amount per day that an employee could charge to their room for food and incidentals at the hotel. The rebate amount was not, included in or deducted from the lodging rate in any of these situations.**

In these scenarios, the rebate or credit falls into the category of promotional material received in conjunction with official travel from a commercial activity. This is not the equivalent of a hotel offering a continental breakfast or happy hour to all guests, built into the lodging rate, for which a federal traveler would not have to account. Title 41 of the Code of Federal Regulations (CFR) Section 101-25.103-2 states that, "All promotional materials, (e.g., bonus flights, reduced fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in conjunction with official travel and based on the purchase of a ticket or other services (e.g., car rental) are properly considered to be due the government and may not be retained by the employee. The Comptroller General of the United States has stated that employees are obligated to account for any gift, gratuity or benefit received from private sources incident to the performance of official duties (sec Compo Gen. Decision 5- 199656, July 15, 1981)." When an employee receives promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official." If an employee uses a coupon or credit provided by a lodging establishment, they should adjust the Meals and Incidental Expenses (M&IE) claimed on their voucher accordingly (e.g., subtract the amount of the credit or value of the coupon per day from their M&IE claim).

Another alternative would be for management to negotiate a favorable market rate for lodging with the providers, and disallow gratuities up front. It is noted that the INS is not currently in compliance with 41 CFR 101-25.103-1, which states that federal agencies in a position to receive promotional materials shall establish internal procedures for the receipt and disposition of same.

- **Service employers rented rooms in private residences located for them by spouses of permanent academy or Sector employees. Additionally, some of the rental properties were owned by Service employees. In some cases, employees were charged the full allowable daily lodging rate, in others, they were charged less than the full daily rate, but were issued a receipt of the full rate amount.**
- **The spouses of permanent academy staff operated as "relocation" entities and provided lodging for incoming detail instructors. Some of the spouses were operating as an incorporated business entity, others were not and were simply**

**issuing monthly lodging receipts under a fictitious business name. Some of the spouses paid a "finders fee" to staff who forwarded names or potential detailee renters to them.**

While there is no prohibition against owning a rental property and renting to other employees (or through a rental company), some factors should be considered.

The first scenario, above, again represents a clear violation in the form of a false claim if the employee submits a voucher claiming the full allowable lodging rate. The issue of employee or spousal employment in the real estate business, and either locating or providing rental properties to other employees who come to the area on an official detail, has several ethical-implications. If the rental business was not an ongoing concern before the details started, the employee could be construed to be profiting from knowledge related to their official duties (e.g., the number and identity of incoming detailees), a possible conflict of interest under 18 USC 208, prohibition against participating in matters affecting an employee's own financial interests (See also, 5 CFR Part 2635, Use of Nonpublic Information). Even if the rental business is managed by the spouse, the spousal relationship still equates it with an employee's own financial interests.

Evidence obtained in these investigations disclosed that employees who claimed there was an "arms length" relationship with their spouse's business in that the business was in the spouse's name only, actually engaged in showing properties to other employees and served as intermediaries for messages about properties and rental payments. This confirmed that the situation reflected upon their own financial interests.

There may also be an inappropriate supervisor/subordinate relationship if a permanent supervisory employee (or spouse) is engaging in a financial transaction with someone under their supervision. The "finders fee" is inappropriately offered and accepted. Employees should not be profiting from information obtained by virtue of their official positions.

- **Service employees rented rooms in the private residences of permanent employees of a detail location, and were charged and issued a receipt for the full daily lodging rate, which they then claimed for reimbursement on a voucher.**

Again, there is no prohibition against owning rental property and renting to other employees, however, the Federal Travel Regulations speak to the issue rentals in one's primary residence.



US Department of Justice  
Immigration and Naturalization Service

HQFIN 80/9

~~202 APR 23 AM 11:54~~

*Johnny Williams*

425 I Street, NW  
Washington, DC 20536

2002

MEMORANDUM FOR ALL INS EMPLOYEES

FROM: Judy R. Harrison *Judy R. Harrison*  
Assistant Commissioner  
Office of Financial Management

SUBJECT: Frequently Asked Questions #18—Lodging During Temporary Duty Travel

This is the eighteenth in a series of frequently asked question messages from the Office of Financial Management concerning policy for travel. The topic of this memorandum is Lodging During Temporary Duty Travel (TDY). If you have further questions, please contact Tamara Echols at (202) 307-4617 or Kurt Snyder at (202) 616-9939.

Please note that the information contained in these messages does not supersede specific language in the Immigration and Naturalization Service's bargaining unit contracts. Rather, the provisions of these messages should be understood and applied in a manner consistent with the requirements of the applicable labor agreement, if any.

General Rules

1. QUESTION: What types of accommodations should I obtain while on official TDY?

ANSWER: Employees are encouraged to stay in conventional lodging facilities, such as commercial hotels, motels and lodges, that have been approved by the Federal Emergency Management Agency (FEMA) as "approved accommodations." For a list of FEMA approved hotels, you may visit [www.policyworks.gov/travel](http://www.policyworks.gov/travel) or make your reservations through your local Travel Management Center (TMC). Reference: *Federal Travel Regulation (FTR) Section 301-11.11*

Memorandum for All Employees

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Subject: Frequently Asked Questions about Temporary Duty Travel #18

2. QUESTION: What if I choose to stay with a friend or relative?

ANSWER: Employees are permitted to stay with friends or relatives while on TDY. However, employees who rent from a place that is not commercially available to the public will not be reimbursed the cost of comparable conventional lodging in the area or a flat "token" amount. Instead, reimbursement will be limited to additional costs your host incurs in accommodating you, (e.g., the rental of a cot or bed). The extra costs paid to the friend or relative for such items may be reimbursed to the employee but must be substantiated with proof, such as a bill or statement. Reference: *FTR Section 301-11.12*

If an employee stays in a room or house of an individual who is in the business of renting rooms to the public, then the employee renting the accommodations may be reimbursed for the rental costs. The rental cost should not exceed the amount charged to the general public and the maximum per diem rate allowed for that location.

3. QUESTION: What if the property owner or the property management offer or agree to provide a receipt for a higher amount than the amount actually paid?

ANSWER: An employee may not submit a claim that does not accurately reflect the amount paid for lodging. Submitting a claim for more than the amount actually incurred is a violation of the US Code (18 United States Code 287, False, Fictitious or Fraudulent Claims) and can subject the employee to criminal penalties, or disciplinary or adverse action. Employees are authorized to claim up to the allotted lodging amount in a particular location. If the employee is not charged the maximum lodging per diem amount, the employee is not entitled to claim it. Employees should ensure that the lodging receipt reflects the actual costs incurred, net of any cash rebates or similar credits.

4. QUESTION: What should I do with vouchers or credits that I receive while staying at a commercial lodging facility?

ANSWER: Pursuant to Section 1116 of the National Defense Authorization Act for Fiscal Year 2002, the General Services Administration has issued the following regulation: Any promotional benefits or materials received from a travel service provider (i.e., frequent flyer miles, upgrades, or access to carrier clubs or facilities, and coupons for discounted meals or services provided by the hotel) in connection with official travel may be retained for personal use, if such items are obtained under the same conditions as those offered to the general public and at no additional cost to the Government. Reference: *FTR 301-10 Amendment*



DEPARTMENT OF HOMELAND SECURITY  
Bureau of Customs and Border Protection  
U.S. Border Patrol

OBP 80/9.4-C

28

Office of the Chief  
U.S. Border Patrol  
1300 Pennsylvania Avenue, NW  
Suite 6.5E  
Washington, DC 20229

MEMORANDUM FOR: ALL DETAILED AGENTS  
FROM: Robert L. Harris  
Deputy Chief  
U.S. Border Patrol  
SUBJECT: Travel Reimbursements in Connection With  
Detail Assignments

All detailed agents are reminded of the travel policies regarding reimbursements for lodging expenses while on detail.

All claims for lodging must reflect the exact amount of rent paid and be accompanied by a receipt. If a detailed agent receives amenities or cash rebates from the lodging provider, the claim for reimbursement must be reduced based upon the amount of these amenities or rebates. Items that must be deducted from the cost of lodging include grocery coupons, gym memberships, cash rebates, and free meal coupons to restaurants that are not within the hotel.

Use of a physical fitness facility on the hotel property is not an item that requires deduction. Free meals provided by a hotel are allowable and do not require a reduction in the amount of the lodging claim.

Should an agent rent a room in a private residence, both parties must ensure that the receipt reflects the actual amount of rent paid.

Federal travel regulations specify that detailed agents in these circumstances may be reimbursed only for the additional costs incurred by the host or hostess for accommodating them and that they may be reimbursed only if the detailed agent and the homeowner are able to substantiate the costs and the Border Patrol determines the costs to be reasonable. Agents may not be reimbursed for the cost of comparable conventional lodging in the area or a flat "token" amount. Requests for reimbursement of this type place both the detailed agent and the landlord under scrutiny.

If you have any questions regarding this guidance, contact the Assistant Chief to whom you are reporting.

OBP:CATwood:ca and dir:8-26-03:03-01265

bcc: OBP 80/9.4-C  
Master Log



Department of Homeland Security  
Bureau of Customs and Border Protection  
U.S. Border Patrol

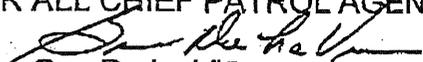
OBP

NOV 13 2003

Office of the Chief  
U.S. Border Patrol  
1300 Pennsylvania Avenue, NW  
Suite 6.5E  
Washington, DC 20229

MEMORANDUM FOR ALL CHIEF PATROL AGENTS

FROM:

  
Gus De La Vifia  
Chief  
U. S. Border Patrol

SUBJECT:

Travel Reimbursements in Connection With Detail Assignments

In light of the transition, I would like to reiterate the importance of complying with the travel policies regarding reimbursements for lodging expenses while on detail.

All claims for lodging must reflect the exact amount of rent paid and be accompanied by a receipt. Sectors may require a copy of lodging receipts be provided to the reimbursement approving official prior to the processing claims. If a detailed employee received amenities of cash rebates from the lodging provider, the claim for reimbursement must be reduced based upon the amount of these amenities or rebates. Items that must be deducted from the cost of lodging include grocery coupons, gym memberships, cash rebates, and free meal coupons to restaurants that are not within the lodging facility.

Use of a physical fitness facility on the hotel property is not an item that requires deduction. Free meals provided by a hotel are allowable and do not require a reduction in the amount of the lodging claim.

Should an employee rent a room in a private residence, both parties must ensure that the receipt reflects the actual amount of rent paid. Federal travel regulations specify that detailed personnel in these circumstances may be reimbursed only for the additional costs incurred by the host or hostess for accommodating them and that they may be reimbursed only if the detailed employee and the homeowner are able to substantiate the costs and the Border Patrol determines the costs to be reasonable. Employees may not be reimbursed for the cost of comparable conventional lodging in the area or a flat "token" amount. Requests for reimbursement of this type place both the detailed employee and the landlord under scrutiny.

Please ensure this guidance is appropriately disseminated to all employees under your supervision.



U.S. Department of Justice  
Immigration and Naturalization Service  
U.S. Border Patrol  
Office of the Chief Patrol Agent  
San Diego Sector

SDC 120/3-C

2411 Baswell Road  
Chula Vista, CA 91914-3519

May 24, 2002

MEMORANDUM FOR STAFF OFFICERS  
PATROL AGENTS IN CHARGE  
DEPARTMENT HEADS  
SAN DIEGO SECTOR

FROM: *For* William T. Veal  
Chief Patrol Agent

SUBJECT: Frequently Asked Questions #18-Lodging During Temporary Duty Travel

Attached is a memorandum from Assistant Commissioner Judy R. Harrison, Headquarters Office of Financial Management, regarding frequently asked question messages from the Office of Financial Management concerning policy for travel. The topic of this memorandum is Lodging During Temporary Duty Travel (TDY).

Headquarters Border Patrol (HQBOR) has advised us that a copy of this memorandum is to be attached to all G-250 forms (travel authorizations) regarding agents going on TDY for thirty (30) days or longer. Examples of these are Operation Safeguard, Northern Vigilance, details to the academy, and other extended detail assignments.

If you have any questions, contact Annette Chappell at (619) 216-4103.

Attachment

Author: INS Broadcast at HQHUB  
Date: 04/30/2002 3:47 PM  
Format: normal

- TO: Robert V Marrufo at WRO-TCA-DGL-003, Vance L Marsh at WRO-LOS-XLF-001, Allan Marshall at WRO-007, Desiree A Marshall at WRO-LOS-008, Gregory S Marshall at WRO-SDC-IMB-001, James T Marshall at WRO-SDC-CAO-001, John S Marshall at WRO-TCA-NGL-001, Julie Marshall at WRO-POO-001, Kerri Lynn Marshall at WRO-SND-002, Leonard E Marshall at WRO-007, Sandra P Marshall at WRO-005, Debby L Martalet at WRO-SDC-SDA-001, Kathleen M Martell at WRO-SND-ECC-001, Allen W Martin at WRO-LIV-SAB-001, Amy C Martin at WRO-PHO-FLO-001, David N Martin at WRO-LOS-LAX-003, Diana S Martin at WRO-SDC-002, Holly Martin at WRO-PHO-003, Irene Martin at WRO-LOS-SBD-001, Jerry B Martin at WRO-SDC-ECJ-001, Joseph H Martin at WRO-PHO-SLU-001, Juvenal Martin at WRO-TCA-DGL-005, Lisa M Martin at WRO-SND-OTM-001, Luz R Martin at WRO-SFR-008, Margaret E Martin at WRO-PHO-002, Martha-Elsa Martin at WRO-SDC-SCM-001, Michael A Martin at WRO-ELC-ECT-001, Michael R Martin at WRO-SDC-CHU-001, Ruben Martin at WRO-SDC-BRF-002, Samuel J Martin at WRO-TCA-NGL-001, Stephen S Martin at WRO-ELC-CAX-001, Stuart D Martin at WRO-LOS-OCB-001, Thomas G Martin at WRO-TCA-NGL-001, William E Martin at WRO-SDC-IMB-001, Francisco J Martin Del Campo at WRO-TCA-NGL-003, Jose Martin Del Campo at WRO-SDC-SCM-001, Michael A Martin Del Campo at WRO-TCA-TUS-001, Silvester M Martincic at WRO-TCA-TUS-001, Alejandro X Martinez at WRO-TCA-DGL-003, Alfonso A Martinez at WRO-ELC-ELS-001, Alicia Martinez at WRO-LOS-ELM-001, Antonio R Martinez at WRO-YUM-YUS-002, Antonio V Martinez at WRO-SDC-TEM-001, Armando S Martinez at WRO-SND-ECC-001, Arnol F Martinez at WRO-CSC-007, Arthur Martinez at WRO-SDC-IMB-002, Bienvenido V Martinez at WRO-SFR-002, Brenda Martinez at WRO-SND-CTP-001, Carlos Martinez at WRO-ZLA-002
- Subject: Lodging During Temporary Travel

----- Message Contents -----

W,\*  
Forwarded on behalf of: Office of Financial Management  
Contact: Kurt Snyder (202) 616-9939  
Tamara Echols (202) 307-4617

\*\*\*\*\*

MEMORANDUM FOR ALL INS EMPLOYEES

FROM: Judy R. Harrison  
Assistant Commissioner  
Office of Financial Management

SUBJECT: Frequently Asked Questions #18-Lodging During Temporary Duty Travel

This is the eighteenth in a series of frequently asked question messages from the Office of Financial Management concerning policy for travel. The topic of this memorandum is Lodging During Temporary Duty Travel (TDY). If you have further questions, please contact Tamara Echols at (202) 307-4617 or Kurt Snyder at (202) 616-9939.

Please note that the information contained in these messages does not supersede specific language in the Immigration and Naturalization Service's bargaining unit contracts. Rather, the provisions of these messages should be understood and applied in a manner consistent with the requirements of the applicable labor agreement, if any.

1. QUESTION: What types of accommodations should I obtain while on official TDY?

ANSWER: Employees are encouraged to stay in conventional lodging facilities, such as commercial hotels, motels and lodges, that have been approved by the Federal Emergency Management Agency (FEMA) as "approved accommodations." For a list of FEMA approved hotels, you may visit [www.policyworks.gov/travel](http://www.policyworks.gov/travel) or make your reservations through your local Travel Management Center (TMC). Reference: Federal Travel Regulation (FTR) Section 301-11.11

2. QUESTION: What if I choose to stay with a friend or relative?

ANSWER: Employees are permitted to stay with friends or relatives while on TDY. However, employees who rent from a place that is not commercially available to the public will not be reimbursed the cost of comparable conventional lodging in the area or a flat "token" amount. Instead, reimbursement will be limited to additional costs your host incurs in accommodating you, (e.g., the rental of a cot or bed). The extra costs paid to the friend or relative for such items may be reimbursed to the employee but must be substantiated with proof, such as a bill or statement. Reference: FTR Section 301-11.12

If an employee stays in a room or house of an individual who is in the business of renting rooms to the public, then the employee renting the accommodations may be reimbursed for the rental costs. The rental cost should not exceed the amount charged to the general public and the maximum per diem rate allowed for that location.

QUESTION: What if the property owner or the property management r or agree to provide a receipt for a higher amount than the amount actually paid?

ANSWER: An employee may not submit a claim that does not accurately reflect the amount paid for lodging. Submitting a claim for more than the amount actually incurred is a violation of the US Code (18 United States Code 287, False, Fictitious or Fraudulent Claims) and can subject the employee to criminal penalties, or disciplinary or adverse action. Employees are authorized to claim up to the allotted lodging amount in a particular location. If the employee is not charged the maximum lodging per diem amount, the employee is not entitled to claim it. Employees should ensure that the lodging receipt reflects the actual costs incurred, net of any cash rebates or similar credits.

4. QUESTION: What should I do with vouchers or credits that I receive while staying at a commercial lodging facility?

ANSWER: Pursuant to Section 1116 of the National Defense Authorization Act for Fiscal Year 2002, the General Services Administration has issued the following regulation: Any promotional benefits or materials received from a travel service provider (i.e., frequent flyer miles, upgrades, or access to carrier clubs or facilities, and coupons for discounted meals or services provided by the hotel) in connection with official travel may be retained for personal use, if such items are obtained under the same conditions as those offered to the general public and at no additional cost to the Government. Reference: FTR 301-10 Amendment 104

2



U.S. Department of Justice  
Immigration and Naturalization Service  
U. S. Border Patrol  
Office of the Chief Patrol Agent  
San Diego Sector

SDC 50/1

2411 Baswell Road  
Chula Vista, California 91914-3519

April 24, 2002

MEMORANDUM FOR SECTOR STAFF  
PATROL AGENTS IN CHARGE,  
SUPERVISORY SPECIAL AGENTS  
ENFORCEMENT DEPARTMENT HEADS  
ALL AGENTS  
SAN DIEGO SECTOR

FROM: William T. Veal *William T. Veal*  
Chief Patrol Agent

SUBJECT: Ethical Issues Involving Travel Vouchers

.... The Service has recently experienced a significant increase in travel voucher problems, ranging from simple mistakes to ethical violations to fraud warranting criminal prosecution. Since the San Diego Sector frequently details employees to other Sectors and to the Academies, all employees are reminded of the following provisions of the Federal Travel Regulations regarding reimbursement for lodging in particular.

Reimbursement for lodging must be based on actual cost. Receipts are required for reimbursement of all lodging expenses, and receipts must accurately reflect the amount actually paid for lodging costs. It is unacceptable to submit a claim using a receipt which reflects a higher amount than actually paid for lodging. The cost of lodging, excluding tax, may be reimbursed if it does not exceed the maximum lodging amount prescribed by the applicable per diem rate. Employees are encouraged to present hotels with tax exempt forms whenever possible; however, taxes on lodging may be reimbursed as a miscellaneous expense.

## Ethical Issues Involving Travel Vouchers

### Page 2

For lodging at traditional locations such as hotels and motels, reimbursement will be at the single occupancy rate. If two employees on official travel share a hotel room while on detail, reimbursement per employee is limited to one-half of the double occupancy rate. If a detail employee shares a hotel room with a person who is not a Government employee on official travel, reimbursement for lodging is limited to the single occupancy rate. Detail employees on official travel may not accept "rebates" of hotel expenses or other perks such as free meals which are not available to all hotel guests. Further, any credits or "rebates" of hotel expenses which are available to all hotel guests and which are accepted by detail employees must be deducted from the detail employee's travel voucher so that the employee only claims the amount actually paid for lodging.

If an employee stays with relatives or friends while on detail, the employee is not entitled to reimbursement for the cost of lodging at comparable hotels or motels in the area; rather, the employee who stays with relatives or friends will generally not receive reimbursement for lodging unless the employee substantiates any additional costs that the host incurred in accommodating the employee, and only if those costs are deemed by the agency to be reasonable.

If a detail employee obtains lodging on a long-term basis (i.e. weekly or monthly rental of a room, apartment, house), the daily lodging rate is computed by dividing the total lodging cost by the number of days of occupancy for which the employee is authorized per diem, provided the cost does not exceed the daily rate for lodging. Otherwise, the daily lodging rate is computed by dividing the total lodging cost by the number of days in the rental period. If a detail employee owns a house at the detail location and stays in that house while on detail, the employee may not receive reimbursement for lodging at either the long-term or daily rate.

All employees are encouraged to use the highest standards of ethics and professionalism when representing the San Diego Sector on official travel. This includes integrity and attention to detail in the preparation and submission of travel vouchers. Failure to comply with the above rules may result in disallowance of reimbursement for lodging expenses. In addition, intentional violation of the Federal Travel Regulations, whether directly or indirectly, is a serious matter that may result in criminal investigation or prosecution, and/or disciplinary action up to and including removal from the Service.



U.S. Department of Justice  
Immigration and Naturalization Service

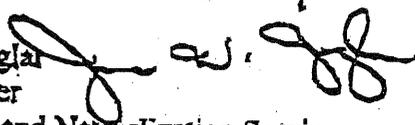
HQFIN 80/9

Office of the Commissioner

425 I Street NW  
Washington, DC 20536

SEP 05 2002

## MEMORANDUM FOR ALL EMPLOYEES

FROM: James W. Ziglar   
Commissioner  
Immigration and Naturalization Service

SUBJECT: Claiming Expenses for Official Travel

It has come to my attention that a few Immigration and Naturalization Service (INS) employees have allegedly submitted claims for travel expenses that they did not incur. The allegations are being investigated and anyone found to have made or been party to such claims should expect severe disciplinary action and/or criminal penalties. Submitting false travel claims has ethical and misconduct implications for individual employees and will not be tolerated at the INS.

The allegations currently under investigation indicate that certain employees have participated in offers with lodging establishments to obtain receipts stating that the maximum lodging rate allowable for that location was paid when, in fact, a lesser rate was paid. Filing a voucher that claims a higher amount than actually paid is a false, fictitious, or fraudulent claim against the Federal Government. In locations with a large number of detailed Government employees, local merchants may approach employees with special offers or enticements to obtain Government business. While many such offers or enticements are legitimate and provide value to the Government, it is the responsibility of employees to avoid arrangements designed to enable them to claim travel expenses not actually incurred.

I know that most INS employees are honest and law abiding when filing their travel vouchers. However, please know that we intend to identify those individuals who file fraudulent claims and deal with them appropriately.

It is essential to always follow the Federal Travel Regulation in incurring official travel expenses and in filing claims for reimbursement of those expenses. If you do not know whether certain expenses are allowable, contact your local administrative officer or the Travel Management Section of the Office of Financial Management at (202) 616-9939.



U.S. Customs and  
Border Protection

DEC 29 2004

Ms. Jennifer Pennington  
U.S. Office of Special Counsel  
1730 M Street, NW, Suite 300  
Washington, DC 20036-4505

RE: OSC File Nos. DI-02-0911 and DI-01-1264

Dear Ms. Pennington:

U.S. Customs and Border Protection's Office of Internal Affairs (IA) conducted a supplemental investigation into the possible culpability of Border Patrol managers involved in Operation Safeguard. We have completed the final report requested in your November 26, 2003, letter to Secretary Ridge. The report of investigation is enclosed for your review.

We conducted numerous interviews in this matter. The vast majority of managers and supervisors only became aware of the allegations after the Office of Inspector General investigation had begun. The managers also stated that when they became aware of the allegations in this case, they endeavored to take corrective action. We concluded that none of the Border Patrol managers and supervisors engaged in actionable misconduct.

In December of 2001, John Chase, then the Director of Immigration and Naturalization's (INS) Office of Internal Audit, sent a memorandum relating to lodging issues during detail assignments to the heads of Operations and Management at INS. Thereafter, INS Commissioner James Ziegler and the Chief Patrol Agents in both San Diego and Tucson Sectors issued memoranda concerning travel. Judy R. Harrison, INS Assistant Commissioner for the Office of Financial Management, directed memoranda and guidance to all INS employees relating to travel, titled "Frequently Asked Questions". These communications were sent to employees in both hard copy and email. Finally, a memorandum from Chief David Aguilar of the Border Patrol's Tucson Sector was sent to Chief of the Border Patrol, Gustavo DeLaVina, indicating that beginning May 20, 2001, all incoming Border Patrol detailees were specifically warned about potential improprieties relating to housing and rentals.

Should you have any questions about this matter, please contact me at (202) 344-1800.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Keeper".

William A. Keeper  
Assistant Commissioner  
Office of Internal Affairs

Enclosure



**Department of Homeland Security  
Customs and Border Protection  
Office of Internal Affairs**

**Report of Investigation**

**Tucson Border Patrol Sector  
Operation Safeguard  
200403950**

**SENSITIVE DOCUMENT**

**OFFICIAL USE ONLY**

Report of Investigation

**Date:** October 10, 2004

**Case Number:** 200403950

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**Title:** Tucson Travel Case, OSC Follow-up

**Status:** Completed

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Predication

This case was predicated upon a request from the Office of Special Counsel (OSC) to follow-up on the Department of Justice, Office of Inspector General, (DOJ/OIG) case report on the Tucson Travel Voucher case. OSC is interested in when supervisory and management officials found out about the travel voucher issue and what actions they took or did not take to address the issue.

Methodology

This case report on the Tucson Travel Voucher case, OSC follow-up, contains information obtained from: DOJ/OIG case reports on the Tucson Travel Voucher case; Customs and Border Protection/Labor Employee Relations (CBP/LER) discipline records; oral and written responses to proposed discipline; affidavit of David Aguilar, Chief Patrol Agent in Tucson at time of case; and 72 interviews obtained from managers and supervisors of Tucson and San Diego Sectors stationed or detailed to Tucson Sector during Operation Safeguard.

Investigation

In January of 1999, "Operation Safeguard" was initiated in the Tucson Sector of the Border Patrol. The temporary detailing of Border Patrol Agents from other Border Patrol Sectors was used to supplement and increase manpower. In January 2000, Tucson Sector began phase II of "Operation Safeguard." Phase II was centered on the Douglas Station area of operation. This part of the operation continued through April 2002.

As a result of "Operation Safeguard", approximately 100 Border Patrol Agents were detailed into the Tucson Sector each month. As a general rule, agents were responsible for obtaining temporary lodging for the detail. Douglas Station provided information on lodging providers from at least September 9, 2000. This information was included in the briefing packet provided to detailers. Additionally, providers were allowed to post information on the Station bulletin. Some providers advertised in the local papers and even sent flyers to Border Patrol Stations in San Diego Sector, where many of the detailers were permanently stationed.

Each Border Patrol Agent on detail was responsible for completing his or her travel voucher. Based on the DOJ/OIG report, some completed the vouchers themselves while others had support staff help complete the vouchers. Receipts for lodging were required.

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U.S. Customs and Border Protection  
Office of Internal Affairs

Each agent signed the voucher showing that the items claimed were true and correct. Supervisory personnel would then review and certify the voucher. This review was to ensure that the voucher was complete and appeared correct on its face. Supervisors were not required to perform audits of the vouchers with vendors to ensure validity of receipts. Vouchers were then sent to the Regional Office for processing.

On May 8, 2001, Supervisory Border Patrol Agent (SBPA) Willie Forester and Senior Border Patrol Agent (SPA) Larry Davenport advised Assistant Patrol Agent in Charge (APAIC) Norma King of the Douglas Station that they had filed a complaint with the DOJ/OIG alleging rental kickbacks. The alleged kickbacks were given to agents on detail from lodging providers. The allegations included information that several of these providers were SBPAs. Upon receipt of this information, APAIC King informed Tucson Sector management, DOJ/OIG and the Immigration and Naturalization Service/Office of Internal Audit (INS/OIA).

APAIC Norma King stated that after the information on the allegations was received, supervisors began to address musters concerning travel vouchers and the importance of claiming expenses correctly. According to APAIC King, detailers were warned about completing vouchers correctly and truthfully through orientations, the last being in February of 2002.

Based on the allegations, INS/OIA initiated an investigation and began interviewing people in June of 2001. DOJ/OIG initiated an investigation and began interviewing people in October of 2001. DOJ/OIG incorporated the INS/OIA information into its reports. The final DOJ/OIG report was completed in January of 2003.

The DOJ/OIG report stated that lodging providers had provided incentives to detailed agents to get the agents to stay at their establishments. Some of these incentives were in the form of coupons, some in the form of free meals; some were health club memberships, some in food and some in cash. The case also showed that a small group of agents had filed false vouchers and used false receipts to claim full lodging costs when in fact they had actually paid much less. The provider in this case had been a Supervisory Border Patrol Agent. The DOJ/OIG case did not uncover a widespread conspiracy by the Douglas Station to defraud the government.

In January of 2004, CBP/LER initiated proposals of discipline against agents involved in the voucher case based on the DOJ/OIG report. **(EXHIBIT A)** A total of 45 proposals of discipline were issued ranging from removal, to demotion, to 14 days suspension. The Deciding Official in these cases sustained discipline in 26 of the cases. Of the cases sustained by the Deciding Official, three (3) were for removal, one (1) was for 45 days suspension, 18 were for 20 days suspension, one (1) for 15 days suspension, two (2) for 14 days suspension and one (1) was for a written reprimand. In the group, proposals were made against four (4) supervisors. Discipline was sustained against three (3), including one for removal.

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U.S. Customs and Border Protection  
Office of Internal Affairs

In the oral and written replies to the Deciding Officer, issues were raised about what employees are entitled to concerning incentives offered by lodging providers. Indeed the Union argued that even the OIG was not sure what could or could not be accepted by employees. However, there is no evidence that any employee ever asked management about the issue until the INS/OIA investigation was initiated.

In addition to Douglas Station's efforts to address the voucher issue with agents and detailers, INS and Border Patrol also addressed the issues through memorandums to employees from senior officials. In December of 2001, John Chase, the Director of INS' Office of Internal Audit, prepared a memorandum to the heads of Operations and Management at INS discussing lodging during detailed assignments. INS Commissioner Ziegler and the Chief Patrol Agents of both San Diego and Tucson Sectors also produced memorandums concerning travel. Judy R. Harrison, INS' Assistant Commissioner for the Office of Financial Management, also issued memorandums and guidance to all INS employees titled "Frequently Asked Questions" relating to travel. These memorandums were sent hard copy and by email. Finally, a memorandum from Chief David Aguilar of the Tucson Sector addressed to Chief of the Border Patrol Gustavo DeLaVina states that commencing on May 20, 2001, all incoming details were addressed concerning improprieties relating to housing/rentals. **(EXHIBIT F)** Additionally, several managers stated that they were warned not to be too specific in discussing the voucher case with employees because it could have interfered with the OIG investigation.

One issue that was raised in the DOJ/OIG report was that Border Patrol and INS had not contracted to provide lodging on a long-term basis, thus saving money and preventing some of the above issues. I spoke to Robert Gilbert, currently the Chief Patrol Agent in Houlton, Maine, via telephone on July 21, 2004. Mr. Gilbert had been a Deputy Assistant Regional Director and the Assistant Regional Director for Border Patrol in the INS Western Regional Office from 2000 through 2003.

Mr. Gilbert stated that the Regional Office was responsible for providing funding for the operation and arranging for Sectors to make available manpower for detail to Tucson. He said the Region did not get involved in arranging lodging but would have voted against long term leases because they did not know how long operation in any one area would have to continue. In her interview of July 13, 2004, Norma King, currently the PAIC in Fort Hancock, Texas, stated it would have been impossible to arrange long-term leases in Douglas, Arizona. First, there were few places to lease. The nearest place with rooms of that quantity would have been in Tucson, which is located 2 hours away. The military base nearby had housing; however, it was always filled with TDYers and the military was also competing for local housing since the base housing was not adequate to accommodate all the TDY trainees.

In her interview concerning the Travel Voucher case, PAIC King was asked about when she became aware of the travel voucher and kickback problem. She stated she became aware of it when SBPA Forester and SPA Davenport spoke to her. **(EXHIBIT E)**

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U.S. Customs and Border Protection  
Office of Internal Affairs

She also stated that the Station immediately addressed the issue with the Station personnel and detailers at musters within two weeks of the allegations being made. Ms. King stated that agents were adults and responsible for their own travel vouchers and had a responsibility to follow the travel regulations. She stated that when she had a question about her travel she would ask management and review the guidelines so as not to do anything wrong. She believes the issues about the vouchers and lodging only became general knowledge after the complaint. Ms. King also stated that it seemed OIG and INS/OIA were not really interested in the allegations at first.

Chief Patrol Agent David Aguilar stated in his Affidavit that he and Tucson Sector became aware of the travel voucher issues after APAIC Norma King told them about the complaint. Chief Aguilar stated that a memorandum was issued and briefings of detailers were done to emphasize appropriate vouchering and improprieties. Chief Aguilar also stated that feedback from OIG on the case was minimal.

Rowdy Adams, currently an Associate Chief at Headquarters, Office of Border Patrol, was interviewed on August 30, 2004, at Tucson, Arizona. Mr. Adams was the Patrol Agent in Charge of Douglas Station from August of 2000 through 2002, when he was promoted to Assistant Chief at the Tucson Sector. Mr. Adams stated when he took over as the Patrol Agent in Charge, approximately 150 agents were being detailed into the Douglas Station and approximately 500 agents were stationed in Douglas permanently. This growth and size occurred in a short period of time to answer the large influx of alien and smuggling traffic. Mr. Adams stated that a lot of these agents were trainees and the Station had outgrown the supervisory, command and control, structure.

Mr. Adams also stated that Douglas was a very rural area with limited housing. He said detailed agents were on their own when it came to finding housing. The Station also provided a briefing packet when agents arrived on detail. According to Mr. Adams, these procedures were similar to other details around the country. In regard to travel vouchers, Mr. Adams stated agents were responsible for completing them and having the necessary receipts. He stated that supervisors reviewed the vouchers for correctness and to see if they appeared correct on the surface. Supervisors did not and have not gone to lodging providers to audit or double check vouchers. Mr. Adams stated that he had information about travel regulations added to the briefing packets starting in October of 2000. Mr. Adams became aware of the voucher problem in May of 2001. He stated that a supervisor and agent from Douglas brought the issue to the attention of the Assistant Patrol Agent in Charge Norma King. The allegations were reported to OIG, OIA and Sector Management. Mr. Adams stated that the specifics of some of the allegations and who was involved was not immediately known. He says it took some time for all the facts about the allegations to become known. Mr. Adams was disappointed in people involved with the fraud. He does not know why they would compromise their integrity over such issues. While he was disappointed, he was not surprised. He states that in the past when large, long-term details occurred, allegations were also present.

**Department of Homeland Security**  
U.S. Customs and Border Protection  
Office of Internal Affairs

Mr. Adams was not surprised that it took some time to find out about the allegations. He stated that things were very busy and people did not have the time to spend on checking on hotels or rental properties. Another issue that may have made it difficult to know about the development of the problem was that the Douglas Station and Tucson Sector were not involved in the selecting of agents to be detailed to Douglas. This was done by the sending Sector. This led to some problems, such as agents remaining on details for extended periods of time, with some even giving up leases in their home Sectors to stay in Douglas.

Douglas Station did send people home if they discovered problems with agents on detail. This included tardiness, sick leave abuse and problems with local officials. When asked how all of the problems could be avoided, Mr. Adams stated that he did not believe that all issues could be avoided. He stated because of the amount of traffic and personnel involved and lack of infrastructure, problems of some kind would develop.

Besides, King and Adams, 25 management and supervisory personnel from Douglas Station and Tucson Sector were interviewed. Those interviewed included assistant chief patrol agents down to first-line supervisors.

Interviews of the supervisory and management personnel at the Douglas Station and Sector Staff revealed consistent statements concerning the travel voucher case. Those interviewed stated that they only became aware of the issue after the allegations were reported. None of those interviewed ever heard allegations of supervisors using their positions to pressure detailers into renting any particular properties. While the issue of receiving training on completing vouchers varied from person to person, all agreed that the issue of taking a kickback or falsifying a voucher was an ethical issue that specific training was not needed for.

Managers and supervisors from Tucson Sector and Douglas Station stated that the time of "Operation Safeguard" was very hectic and busy. Indeed, it appears that supervisors were overwhelmed by arrests, seizures and incidents. There was little or no time to do anything but give the vouchers a cursory review for proper completion and math errors.

Supervisors from Douglas stated administrative oversight of detailers was the responsibility of detailed supervisors. In general, the supervisors from Douglas were responsible for operational issues and did not schedule days off, approve leave or review vouchers for detailers. All detailers, even those who extended their detailers, were required to attend the orientation briefings held by the Douglas Station. Orientation packets were provided to all detailers at the briefings.

Arguments put forward by the Union in discipline proceedings stated agents had not received training in preparing travel vouchers or in what was permitted to be claimed on a voucher during training. Most of the supervisors interviewed stated that at least some training was provided at or just after the academy. Some supervisors stated that they did not recall receiving training other than OJT. However, Kelly Good, now an Assistant

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Chief in Headquarters Border Patrol, who was both detailed to and stationed in Douglas, stated everybody received training on vouchers and that all agents received guidance on travel through e-mail and the federal travel regulations. Mr. Good stated that he taught vouchers to agents as a post academy instructor and that he was aware of the e-mails and made claims on his vouchers pursuant to those instructions. In any case, supervisors stated that if an agent was not sure about an issue on the voucher, he or she could have asked a supervisor or administrative assistant to get the correct information.

Supervisors stated they were not surprised they did not know about the voucher problem, as the people who were doing something wrong were not likely to tell everybody. They also pointed out that Douglas Station personnel did make the report of allegations to OIG.

Information on property ownership was checked on the Douglas Station supervisors who were interviewed. No information was discovered that showed any supervisors had rental properties other than those discovered in the OIG investigation. **(EXHIBIT D)**

Forty-four supervisors from the San Diego Sector detailed to Douglas during "Operation Safeguard" were interviewed from September 14 to 16, 2004, in San Diego. As in Douglas, the majority of the interviews yielded information that was similar and consistent.

Personnel from San Diego, the Sector that provided the majority of detailed agents to Douglas, stated that the situation in Douglas during "Operation Safeguard" was chaos, very busy and out of control. They stated alien traffic was very, very heavy and that incidents were frequent. They stated that the old Douglas Station was very, very small and did not have the room to accommodate all the new agents in the Station, plus the detailed agents. They claimed that it was not unusual for agents to stand in the hall during muster. This would have made it difficult to receive information and difficult for supervisors to properly supervise their agents. San Diego supervisors also reported that the local lodging providers would wait outside the briefing location and descend on agents in attempts to get them to rent lodging from them

Most supervisors stated that they were detailed to Douglas only once. Several were detailed twice and a very few had multiple trips to Douglas. Each station within the San Diego Sector was responsible for arranging detailers. Generally, young and/or inexperienced agents were detailed.

San Diego supervisors confirmed information provided by the supervisors in Douglas concerning the issue of who supervised detailed agents. As a general rule, agents on detail were supervised by detailed supervisors. This was done as most agents on detail came from the same Sector as the supervisors and it was thought it would be easier for detailers to complete and review time and attendance sheets for their own people.

While the supervisors had the responsibility for detailers, most vouchers were not reviewed or approved by the detailed supervisors. Rather, agents would wait until their

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return to San Diego, have the administrative assistant at the Station complete the voucher based on information they would provide and then the Station supervisor assigned administrative duties would approve the voucher.

San Diego supervisors confirmed the orientation meetings were held and packets of information handed out. However, some supervisors seemed to hold that the orientation was not very useful. Supervisors stated each detailer was responsible for obtaining their own lodging. Many stated they had information on where to stay from prior detailers in their home stations.

As in Douglas, the vast majority of people interviewed stated that they were not aware of the allegations in this case until the OIG investigation started. Many supervisors stated that they stayed at lodging providers that offered free breakfast or meals and that those incentives were also offered to everybody that stayed at the providers on a long-term basis. Responses varied as to knowledge of travel regulations and voucher procedures. However, supervisors did agree that taking kickbacks and falsifying vouchers was an ethical issue that needed no specific training.

Supervisory Border Patrol Agent Ed Quirk was interviewed on September 14, 2004. He was detailed to Douglas in December 1999, as a non-supervisory agent and stayed at the Bermudez property. He gave statements to OIG during their investigation. His answers were consistent with the OIG investigation. He stated he never was offered or took money; however, the agents he was staying with said the guy offered money and they refused and they all agreed that nobody would take money. Mr. Quirk stated he believes the allegations were reported. He claims agents did talk about the rumors. Mr. Quirk states that most of the agents on detail were new and training prior to going on detail about what to claim or not claim would have ended a lot of these problems. He states the detailed supervisors should have done a better job of looking after their agents. Mr. Quirk was promoted after his detail.

Of all the people interviewed during this investigation, only one, Bryant Brazley, a Supervisor from Chula Vista Station, stated that he let his agents down. He states that things at Douglas were out of control. He states he recalled talk about incentives and that these were passed up the chain of command, but he claims he never heard of any answers. He also stated he was aware that several local supervisors had rooms to rent. He claims that he advised agents that incentives might be wrong but he did not know the rules and they should check with people who would know the rules. He also said he heard rumors about cash kickbacks on his second or third detail. He didn't know anybody who did take cash. He said the issue was confusing and he feels now that he should have taken the issue to higher management. He says he failed his agents by not getting the answers to end some of the chaos.

In talking to the supervisors, no evidence was encountered that showed any other supervisors were involved in the rental of properties outside those identified in the OIG reports. George Haloulos, a Supervisor from San Diego, had purchased property in

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Douglas to rent. He stated he checked with counsel prior to doing this and was told nothing prohibits him from doing so. He stated he never hid the purchase. He stated he has been interviewed by OIG about the issue. He claims he never used his position to get detailers to rent his property. Nobody interviewed ever said they heard of supervisors using their position to coerce detailers into renting.

In talking to supervisors in Tucson and San Diego, it was surprising to hear that many did not recall seeing the memorandums from the Chief Patrol Agents, Commissioners Office, or travel regulations on travel, even though evidence exists that shows these policies were passed on to personnel.

### Findings

Based on a review of the OIG reports, responses in discipline cases, affidavits of senior officers and the interview of 72 supervisory and management officials from Tucson and San Diego Sector, we were unable to substantiate any allegations that supervisory personnel were involved in the Tucson Travel Voucher case outside those incidents identified in the OIG report. Indeed, testimony from the vast majority of 72 supervisors interviewed in the follow-up, showed that most found out about the allegations of misconduct after the start of the investigation by OIG and the information was more rumor than fact.

The situation in Douglas appeared to be chaotic at the beginning of "Operation Safeguard." The large increase in alien traffic, the large influx of new, inexperienced agents, and large numbers of detailed agents who were also new to the patrol quickly overwhelmed the existing command and control system existing at the Douglas Station. PAIC Adams took steps to address this issue; however, it took time for the efforts to take effect. Although steps were taken to correct the supervisory problems, many supervisors, both in Douglas and San Diego, did not have a sense of responsibility for or ownership of the agents on detail. With the amount of work and the lack of a feeling of responsibility, a lot of the little things that supervisors might catch were overlooked and may have been a reason that travel issues occurred.

Conditions in the local community also made it a difficult situation for supervisors. The local economy was depressed and many local residents and lodging providers saw "Operation Safeguard" as a way of making money. Supervisors reported that lodging providers acted aggressively to persuade detailers to stay in their establishments.

Union Representatives stated that agents were not aware of travel rules and how to complete travel vouchers. We received information from supervisors that also echoed this. However, numerous supervisors also stated that there was training provided and policy on travel is out there to be viewed. There were memorandums and policy issued on travel. Agents and supervisors had the federal travel regulations to consult, if so desired. What existed was a type of "self-deception" when it came to travel regulations. The attitude seemed to be that since nobody told me directly and I don't remember

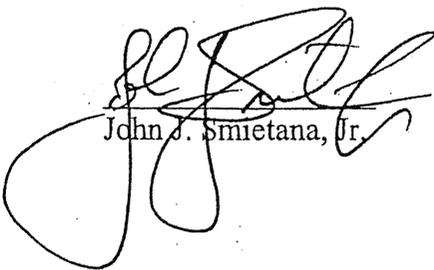
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on travel. Agents and supervisors had the federal travel regulations to consult, if so desired. What existed was a type of "self-deception" when it came to travel regulations. The attitude seemed to be that since nobody told me directly and I don't remember reading or seeing the regulation, then I guess this is all right. Yet at the same time, the supervisors interviewed stated that taking money and falsifying a voucher was wrong and that as an ethical issue everybody should know that.

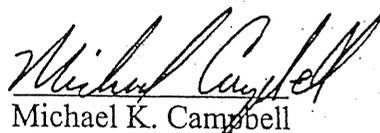
Memorandums and email prepared by several levels of management at INS and Border Patrol showed that when management became aware of the allegations in this case they tried to take corrective action to remedy the situation. In December of 2001, John Chase, the Director of INS' Office of Internal Audit, prepared a memorandum to the heads of Operations and Management at INS discussing lodging during detailed assignments. INS Commissioner Ziegler and the Chief Patrol Agents of both San Diego and Tucson Sectors also produced memorandums concerning travel. Judy R. Harrison, INS' Assistant Commissioner for the Office of Financial Management, also issued memorandums and guidance to all INS employees titled "Frequently Asked Questions" relating to travel. These memorandums were sent hard copy and by email. Finally, a memorandum from Chief David Aguilar of Tucson Sector addressed to Chief of the Border Patrol, Gustavo DeLaVina states that commencing on May 20, 2001, all incoming details were addressed concerning improprieties relating to housing/rentals.

The investigation revealed that the vast majority of managers and supervisors only became aware of the allegations after the OIG investigation. Corrective action on their part would have been very difficult since they did not know of the improprieties taking place. By the time the majority of the supervisors and managers became aware of the issue the above memorandums and guidance had been issued.

It is established that INS generated memorandums and guidance. However, the vast majority of people seem to have forgotten the memorandums and instructions. We recommend the implementation of a procedure requiring all employees to acknowledge that they have received and understood the agency's travel rules.



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Michael K. Campbell