



Homeland Security

May 29, 2006

The Honorable Scott J. Bloch
Special Counsel
Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: Special Counsel File Nos. DI-05-1907, DI-05-2163 and DI-05-2164

Dear Mr. Bloch:

In response to your November 16, 2005 letter, enclosed is a report completed by the U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, in accordance with 5 U.S.C. § 1213(d). These cases alleged mismanagement by Border Patrol supervisors at the Port Angeles Border Patrol Station and the Blaine Border Patrol Sector Headquarters.

Should you have any further questions please do not hesitate to contact my office or Hugo Teufel in the DHS Office of the General Counsel at (202) 282-9673.

Sincerely,

A handwritten signature in black ink that reads "Michael Jackson".

Michael Jackson

Enclosure

OSC FILE Nos. DI-05-1907, DI-05-2163 and DI-05-2164

1. SUMMARY OF THE INFORMATION WITH RESPECT TO WHICH THE INVESTIGATION WAS INITIATED

Johnathan M. Kohlman, Mark A. Aguirre and Jonathan B. Russell, Border Patrol Agents (BPAs), forwarded a letter of complaint to the Office of Special Counsel (OSC) alleging that United States Border Patrol (BP) supervisors and managers at the BP Port Angeles Station and Blaine Sector Headquarters (Blaine Sector) ordered the discontinuation of successful low-visibility tactics and adopted high-visibility tactics that stood no reasonable chance of deterring smuggling activity, instituted a series of management decisions that left the State of Washington's Olympic Peninsula unprotected for 16 hours per day and engaged in other actions that constituted gross mismanagement resulting in a substantial and specific danger to public safety.

The PBAs assigned to the Port Angeles Station further alleged that Michael Baker, Patrol Agent In Charge (PAIC) engaged in violations of law, rule or regulation, gross mismanagement and gross waste of funds.

On November 16, 2005, the OSC forwarded these allegations to Michael Chertoff, Secretary of Homeland Security, for investigation.

In a letter dated December 23, 2005, Secretary Chertoff referred the matter to Richard Skinner, Inspector General (IG), Department of Homeland Security (DHS), for investigation.

On January 25, 2006, IG Skinner replied to Secretary Chertoff and deferred investigation of the matter to U.S. Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) stating that DHS/IG generally investigates "criminal activity or egregious employee misconduct rather than complaints about management practices or questionable equipment purchases."

In a letter dated February 3, 2006, Elizabeth Redman, DHS Assistant IG for Investigations, forwarded the allegations to ICE/OPR for investigation.

The OPR Special Investigations Unit (SIU) was subsequently assigned to investigate these allegations. Field investigative work began on March 14, 2006, in Port Angeles and Blaine, Washington.

The accusations as contained in the OSC letter of November 16, 2005, alleged that BP managers and supervisors at the Port Angeles Station and Blaine Sector:

- Adopted inappropriate tactics and policies that required Border Patrol Agents (BPAs) assigned to the Port Angeles Station to adopt high-visibility tactics to include:
 - a requirement that BPAs work the same duty schedule as the assigned supervisor;
 - a requirement that BPAs wear the prescribed agency uniform when on duty; and
 - a requirement that BPAs operate marked BP vehicles while on duty and discontinue home to work use of those assigned vehicles;

- Exposed BPAs to surveillance conducted by organized smugglers;
- Impeded cooperation with other federal and local law enforcement agencies by prohibiting BPAs from providing operational support to those agencies; and
- Grossly wasted Government funds.

In addition to the above accusations, the BPAs alleged that BP managers and supervisors assigned to the Port Angeles Station and Blaine Sector approved of, or engaged in, a series of actions that constituted gross mismanagement. These acts include:

- A Port Angeles Station supervisor misused Government-owned equipment by allowing family members to use two Government-owned kayaks,
- A Port Angeles Station supervisor, with the knowledge of Blaine Sector management, used a Government-owned vehicle for home to work transportation while residing farther than permitted by agency directive, and
- A Port Angeles Station supervisor purchased \$10,000 worth of unneeded marine equipment.

The BPAs further alleged that a Port Angeles Station supervisor was derelict in his law enforcement duties by leaving his post of assignment during a surveillance.

2. A DESCRIPTION OF THE CONDUCT OF THE INVESTIGATION

Senior Special Agents (SSAs) assigned to ICE, OPR, SIU, conducted appropriate investigative interviews and obtained relevant evidence at the Port Angeles Station and Blaine Sector between March 12 and March 17, 2006. During the course of this investigation, the ICE, OPR, SIU interviewed and obtained statements from the following personnel:

- Chief Patrol Agent (CPA) Ronald Hemley, Blaine Sector
- Deputy Chief Patrol Agent (DCPA) Joseph Giuliano, Blaine Sector
- Assistant Chief Patrol Agent (ACPA) Wesley Vanderheyden, Blaine Sector
- Assistant Chief Patrol Agent Aaron Miller, Blaine Sector
- Assistant Chief Patrol Agent Ramon Nunez, Blaine Sector
- Border Patrol Agent Johnathan Kohlman, Port Angeles Station
- Border Patrol Agent Michael Aguirre, Port Angeles Station
- Border Patrol Agent Jonathan Russell, Port Angeles Station
- Special Agent in Charge (SAC) Leigh Winchell, ICE/OI SAC Seattle
- Resident Agent in Charge (RAC) Edward Bluhm, ICE/OI RAC Port Angeles
- Resident Agent in Charge Ronald Peragrin, U.S. Coast Guard Investigative Service, Port Angeles

PAIC Michael Baker, now retired, declined to provide a written or oral statement to ICE, OPR, SIU investigators.

In addition to conducting interviews as outlined above, ICE, OPR, SIU recovered relevant documentary evidence and data contained on computer hard-drives used by CPA Henley, DCPA Giluliano and retired Port Angeles Station PAIC Baker.

3. SUMMARY OF EVIDENCE OBTAINED FROM THE INVESTIGATION

ICE, OPR, SIU, determined that the following allegations brought by BPAs assigned to the Port Angeles Station against BP management were **UNFOUNDED**:

- Adopted inappropriate new tactics and policies;
- Exposed BPAs to surveillance conducted by organized smugglers;
- Impeded cooperation with other federal and local law enforcement agencies;

- Inappropriately assigned agents to work the same duty schedule as the assigned supervisor;
- Inappropriately required that agents wear the prescribed agency uniform when on duty;
- Inappropriately assigned marked BP vehicles and discontinued home to work use of those vehicles;
- Inappropriately prohibited agents from providing support to operations involving other law enforcement agencies;
- Inappropriately used a Government-owned vehicle for home to work transportation while residing farther than permitted by agency directive; and
- Engaged in a gross waste of agency funds.

ICE, OPR, SIU determined that the following allegations brought by BPAs assigned to the Port Angeles Station against BP management were **UNSUBSTANTIATED**:

- Inappropriately used Government-owned equipment by allowing family members to use two Government-owned kayaks; and
- Tactics, policies and procedures implemented by Blaine Sector BP management left the border unprotected for 16 hours a day, creating a substantial and specific danger to the public.

Based upon a preponderance of the evidence, ICE, OPR, SIU, determined that the following allegations brought by BPAs assigned to the Port Angeles Station against BP management were **SUBSTANTIATED**:

- Inattention to duty; and
- Violated DHS Directive regarding facility security.

4. INVESTIGATIVE FINDINGS

- A) Blaine Sector and Port Angeles Station BP management adopted inappropriate tactics and policies at the Port Angeles Station.

As a component office of CBP, the BP is a key and critical part of the uniformed face at the border and is tasked with preventing illegal entry between the ports of entry. To accomplish this mission, the BP relies on a wide range of methods including low-visibility tactics designed to apprehend individuals after they have illegally entered the United States and high-visibility tactics designed, in part, to provide a visible deterrence to individuals attempting to enter the United States illegally. In part due to limited staffpower, BP senior managers directed the adoption of high-visibility tactics nationally to deter illegal cross-border activity. To the extent possible, these highly visible uniformed BPAs assigned at border locations are supported by small groups of highly mobile plain-clothes BPAs who use low-visibility tactics to apprehend individuals who circumvent the uniformed agents. The combination of these tactics creates a highly successful "defense-in-depth."

As a result of the September 11, 2001, terrorist attacks, CBP senior management in Washington, DC made a determination that the BP should be focused on its core mission of patrolling and securing the border. This decision resulted in BPAs being redeployed to border areas to conduct traditional patrol duties and away from non-traditional duties including conducting criminal investigations. This refocusing of the core BP mission to a high profile deterrent strategy was accelerated in 2003 with the integration of the BP into CBP.

By way of a Memorandum of Understanding (MOU), dated November 16, 2004, the CBP Commissioner and the ICE Assistant Secretary implemented guidelines between the BP and ICE which clearly outlined the functions each agency was to perform and how the two agencies were

to cooperate. The MOU governed interaction between the BP and ICE to maximize the collective contributions of each agency in support of the overall "defense-in-depth" strategy while de-conflicting inter-agency investigative and interdiction activities. The MOU states, in part:

We will not be able to achieve control of the border unless our apprehensions demonstrate the futility of attempting to enter the United States illegally in the first instance. For that reason, some of our enforcement actions will take place away from the physical border, at interior checkpoints, and lateral from those checkpoints. Further, the Strategy contemplates denial of transport modes used to move or transit illegal aliens, wherever they are located in the U.S., in order to interdict illegal migrants before they reach their ultimate destinations in the interior of America. We will concentrate our limited resources as much as possible on operations designed to accomplish the primary goal of both CBP and Border Patrol: control of our nation's borders.

The Department of Homeland Security has given Immigration and Customs Enforcement (ICE) primary responsibility for conducting purely interior immigration enforcement, meaning enforcement operations distant from the borders primarily aimed at domiciled aliens illegally residing in the United States.

In 2004 the BP published the National Border Patrol Strategy, identifying how it intended to achieve operational control of the Nation's borders.¹ The BP identified six core elements:

- (1) securing the right combination of personnel, technology and infrastructure;
- (2) improving mobility and rapid deployment to quickly counter and interdict based on shifts in smuggling routes and tactical intelligence;
- (3) deploying "defense-in-depth" that makes full use of interior checkpoints and enforcement operations calculated to deny successful migration;
- (4) coordinating and partnering with other law enforcement agencies to achieve goals;
- (5) improving border awareness and intelligence; and
- (6) strengthening the Headquarters command structure.

The National Border Patrol Strategy also recognized that control of the borders could not be achieved by merely enforcing at the line. The BP must also include a "defense-in-depth" component for which it relies upon other component agencies such as ICE.

To accomplish the mission of the BP, CBP relies on its 21-sector CPAs to direct all BP activity within their sector. Insofar as practical, field operations are standardized on a national scale, but variations from sector to sector are authorized depending upon the density of population, terrain, routes and methods of transportation from the border area, and location and nature of available employment. The daily command and control authority of the CPA is delegated down to each BPA through the station PAIC. The PAIC is responsible to the CPA for the day-to-day operations of the stations.

The BP is a uniformed component office of CBP. BPAs know that the vast majority of their duty time will be in uniform in a marked BP vehicle performing tasks as described in the BP job series 1896 position description. In certain limited instances BPAs are permitted to wear civilian clothing or are issued unmarked vehicles. These instances include, but are not limited to, an assignment to a specialized BP task force such as the Integrated Border Enforcement Teams (IBET), appearances in court, and short duration tactical operations. The daily determination of prescribed clothing and tactics is controlled by the PAIC of each BP Station based on guidance received from his chain of command.

¹ Operational control is defined as the ability to detect, respond and interdict border penetrations in areas deemed as high priority due to threat potential or national security objectives.

The Blaine Sector has four subordinate BP Stations. These are Lynden, Bellingham, Blaine, and Port Angeles, all located in the State of Washington. In addition to these stations, the Blaine Sector has specialized teams that are used with traditional uniformed BPAs including an IBET and several K9 agents. These specialized teams and K9 agents are deployed throughout the sector on an as-needed basis to augment the "defense-in-depth" as outlined in the National Border Patrol Strategy.

According to statistics provided by ACPA Ramon Nunez, Blaine Sector, BPAs working plain-clothes assignments and/or driving unmarked vehicles make up approximately 8 percent of all the line agents in the Blaine Sector.

As noted previously, in November 2004, the BP and ICE entered into an agreement concerning operations at and near the immediate vicinity of the border. This agreement states that neither CBP nor ICE could fully secure the homeland without the commitment and support of the other. It further identified that the BP has primary responsibility for all border-related interdiction activity between the ports of entry and that the Office of Investigations (OI), ICE, has primary responsibility for all investigations. This memorandum established procedures that allow for maximum use of DHS law enforcement resources by eliminating mission overlap in border areas including those found in the Port Angeles Station area of responsibility.

The tactics adopted by Blaine Sector management for use at the Port Angeles Station are consistent with methods and procedures used successfully throughout the other 20 BP sectors and are consistent with the National Border Patrol Strategy, Border Patrol Manual and agreement between CBP and ICE concerning operations within the border area.

While current staffing at the Port Angeles Station does not permit 24/7 coverage by BPAs, the active participation by other DHS components including 72 U.S. Coast Guard officers, 8 cutters and 3 helicopters assigned to Air Station Port Angeles, Station Neah Bay and Station Quillayute River; 3 ICE/OI Special Agents assigned to Resident Agent in Charge (RAC) Port Angeles and approximately 10 CBP Officers assigned to the Port Angeles port of entry; coupled with the state, county and city police officers assigned throughout the Olympic Peninsula create an overall security posture that makes it extremely difficult for undetected illegal entry into the United States.

- B) Blaine Sector and/or Port Angeles Station BP managers and/or supervisors exposed BPAs to surveillance conducted by organized smugglers due to the assignment of marked BP vehicles and requirement that BPAs wear a uniform.

As stated previously, the BP is a uniformed component office of CBP. As such, BPAs are aware that the majority of their duty time will be in uniform using a marked BP vehicle. In certain limited instances, a BPA may be permitted to wear civilian clothing or be issued an unmarked vehicle. These instances include being assigned to a specialized BP team such as IBET, appearances in court, and short duration tactical operations. The daily determination of prescribed clothing and tactics is controlled by the PAIC of each BP Station based upon guidance received from his or her chain of command.

As uniformed officers assigned to a uniformed agency, the BPAs assigned to the Port Angeles Station are exposed to the same potential for surveillance by criminals as officers assigned to other uniformed agencies. The current requirement that BPAs wear their agency patrol uniform when working does not increase the likelihood of being watched by criminals beyond what one would normally expect.

As part of every BPA's training, they are taught a variety of techniques to identify criminals and are also instructed to react and successfully defend themselves if physically attacked.

Additionally, each BPA must notify his or her supervisor if they receive any threats or believe they are being watched. Research of all available indexes and databases did not disclose any threat made against BPAs assigned to the Port Angeles Station since they started wearing their uniforms in early 2005 or prior to that time.

CBP marked BP vehicles are parked in a secured parking area when not being used by BPAs during their assigned duty hours. The use of personally owned vehicles to travel to and from home reduces the possibility of being followed by any criminal elements the BPAs may have encountered during duty hours.

- C) Blaine Sector and/or Port Angeles Station BP managers and/or supervisors impeded cooperation with other federal and local law enforcement agencies by prescribing that Port Angeles Station BPAs use high-visibility patrol tactics.

Prior to September 11, 2001, BPAs nationwide performed duties that were not directly related to the core BP function of securing the border. Many of these assignments occurred away from the immediate border area and included participation with investigative resources of other agencies in either official or *ad hoc* task force settings. The duties BPAs performed while participating with these task forces were usually investigative in nature and often not related to the core BP mission of securing the border.

As a result of the September 11, 2001, terrorist attacks, CBP senior management in Washington, DC determined that the BP should focus on a core mission of patrolling and securing the border in a highly visible and deterrent posture. This resulted in BPAs being deployed to border areas to conduct traditional patrol duties and away from formal participation with other agencies as part of task forces. This reduction in direct support given to other agencies may be viewed as impeding cooperation. Such is the case in Port Angeles where the assigned BPAs participated with ICE/OI and several state and local law enforcement agencies on the Olympic Peninsula Narcotics Enforcement Team (OPNET). The participation of Port Angeles BPAs on OPNET, while certainly successful from a general law enforcement standpoint, did not contribute to the coordinated high-profile focus the BP established nationally after September 11, 2001.

Uniformed BPAs are now focused on the primary agency mission of preventing illegal entry into the United States (U.S.) by achieving control of the border. To achieve this goal, BPAs are expected to maintain close liaison with all law enforcement agencies within each station's area of responsibility.

The BP is one part of DHS' overall security structure. To successfully ensure the continued security of the border, each agency relies on the other to perform its core security mission with as little mission overlap as possible. By agreement, ICE/OI and the BP outlined specific procedures to ensure minimal mission overlap. This agreement states that ICE/OI will conduct the majority of smuggling investigations while the BP will focus almost exclusively on cross-border interdiction. The agreement also outlines specific communication and coordination procedures to eliminate duplication of effort and ensure mutual mission support among the agencies.

Investigation by ICE, OPR, SIU, disclosed that BPAs assigned to the Port Angeles Station historically had an excellent relationship with other law enforcement agencies, particularly ICE/OI, which resulted in several large narcotics seizures. The CPA, DCPA and ACPA of the Blaine Sector indicated that each station PAIC has the ability to prescribe the daily tactics employed at his or her station. In certain limited instances, the station PAIC may permit BPAs to wear civilian clothing or use unmarked vehicles. Additionally, upon a request from another agency, or pursuant to a documented need by the PAIC, IBET or other specialized BP team can be deployed to provide support to other agencies including ICE/OI.

- D) Blaine Sector and/or Port Angeles Station BP managers and/or supervisors inappropriately assigned BPAs to work the same duty schedule as the assigned supervisor thereby leaving the border unprotected for up to 16 hours a day.

DHS has assigned over 80 employees to the Olympic Peninsula, including U.S. Coast Guard personnel, ICE Special Agents and CBP Officers. These individuals are assigned to three U.S. Coast Guards Stations, two RAC Offices, one BP Station and two ports of entry. The area of responsibility covered by the Port Angeles Station encompasses over 7,000 square miles. The terrain ranges from rugged seacoasts to mountainous areas. To provide an appropriate level of security, DHS relies on each federal law enforcement agency to perform its duties with as little overlap as possible. The current staffing level of the Port Angeles Station is insufficient to allow the BP to effectively provide an acceptable level of security without relying on other agencies.

Barring any specific need or intelligence driven requirement, the core duty hours of the Port Angeles Station have been set as 8 a. m. to 4 p. m. Regardless of the shift scheduling of the Port Angeles BPAs, they only work 10 hours per day, leaving the border technically unprotected for 14 hours each day. The assignment of these three BPAs to a set shift, however, does not necessarily increase the risk to public safety as alleged. During interviews conducted with CPA Henley and DCPA Giuliano, each indicated that the PAIC of each station has the authority to vary the duty shifts of the BPAs assigned.

The tactics adopted by Blaine Sector management for use at the Port Angeles Station are consistent with the methods and procedures used by the other 20 BP sectors. They are also consistent with the National Border Patrol Strategy, BP Manual and agreement between CBP and ICE concerning operations within the border area.

The current staffing level at the Port Angeles Station does not permit 24/7 coverage by the BPAs assigned to that station. The active participation by other DHS components to include 72 U.S. Coast Guard officers, 8 Coast Guard cutters, 3 helicopters assigned to Air Station Port Angeles, Station Neah Bay and Station Quillayute River, 3 ICE Special Agents assigned to RAIC Port Angeles and approximately 10 CBP officers assigned to the Port Angeles port of entry coupled with state and local police officers assigned throughout the Olympic Peninsula, create an overall security posture that makes undetected illegal entry into the United States extremely difficult.

- E) Blaine Sector and/or Port Angeles Station BP managers and/or supervisors inappropriately required BPAs to wear the prescribed agency uniform when on duty.

The majority of BPAs are engaged in border enforcement operations as outlined in the National Border Patrol Strategy using tactics and procedures as outlined in the BP Operations Manual. Standards and methods are prescribed on a national level with each Sector CPA granted the authority to deviate from these methods based on operational need. The Sector CPA's direction is carried out on the BP station level by the PAIC, who has discretion in assigning daily tasks.

In the period prior to the September 11, 2001 attacks, the BP arguably performed tasks that, while important, were not directly related to the core BP function of securing the border. Many of these tasks occurred away from the immediate border area and were conducted in conjunction with investigative resources from other federal, state and local law enforcement agencies. This largely investigative work freed the assigned BPAs from patrol restrictions that required they work a set schedule in uniform and operate marked BP vehicles.

As a result of the September 11, 2001, attacks, BP senior management made a determination that BP sectors would focus on the core BP mission of securing the border. This focus resulted in BPAs previously performing nontraditional BP duties being deployed to border areas to conduct

traditional patrol duties. This redeployment away from investigative work to traditional duties also necessitated that agents wear the BP uniform and primarily use marked BP vehicles. Based on staffpower availability within the BP, senior managers directed the adoption of high-visibility tactics to deter entrance into the United States. With the creation of CBP in 2003, and the subsequent incorporation of the BP into CBP, the emphasis on the core BP mission was accelerated and reinforced.

Blaine Sector PAICs at the station level have the authority to permit assigned BPAs to deviate from the normal daily duty hours, manner of dress and tactics used. This deviation from the norm must be directed to the primary mission of the BP and be based on a unique tactical operational need. Except in exigent circumstances, this change in normal operations should be briefed to the ACPA for the affected area by the station PAIC and be accompanied by an operations plan that outlines specific BPA taskings.

- F) Blaine Sector and/or Port Angeles Station BP managers and/or supervisors inappropriately assigned marked BP vehicles and discontinued home to work use of those vehicles.

The Blaine Sector is staffed by approximately 150 BPAs and supervisors assigned to four border patrol stations including Port Angeles. As in other BP sectors, BPAs assigned to the Blaine Sector are assigned marked vehicles unless they are assigned to a specialized enforcement team or task force, or other special circumstances exist. BPAs assigned to BP stations within the Blaine Sector at Lynden, Bellingham and Blaine are assigned marked BP vehicles and not granted home to work vehicle authorization. Approximately 92 percent of the Blaine Sector BPAs use marked patrol vehicles while 8 percent are assigned unmarked vehicles.

The BPAs assigned to the Port Angeles Station are not assigned to a specialized team or task force and therefore are assigned marked BP patrol vehicles. The initial assignment of unmarked vehicles to BPAs assigned to the Port Angeles Station was due to a lack of secured parking in the immediate vicinity of the Port Angeles Station. Blaine Sector management made a determination that the Government-owned vehicles assigned to the Port Angeles Station would be more secure if the BPAs assigned to that station were allowed to take the vehicles home at the end of their shift of duty. The Blaine Sector CPA considered this a temporary measure until secure parking for the vehicles could be found.

In January 2005, ACPA Vanderheyden was assigned oversight responsibility for the Port Angeles Station. ACPA Vanderheyden took immediate steps to obtain secure parking at the Port Angeles Station and arranged to have the appropriate marked BP vehicles transferred to the Port Angeles Station. In March 2005, Port Angeles Station BPAs were assigned marked BP vehicles.

- G) Blaine Sector and/or Port Angeles Station BP managers and/or supervisors inappropriately prohibited agents from providing support to operations involving other law enforcement agencies.

BPAs assigned to the Port Angeles Station have engaged in joint operations with other federal and state agencies throughout the Olympic Peninsula. These operations, while in many instances highly successful, did not directly support the BP's core mission of patrolling and securing the border and often meant that BPAs were employed in areas away from the border. Subsequent to the September 11, 2001, attacks, BP senior management made a determination that the BP would focus on its core mission of securing the border by establishing and maintaining a high-profile deterrent enforcement presence on the border, which resulted in the redeployment of BPAs to border areas and away from internal enforcement. This strategy was reiterated in 2003 with the BP's incorporation into CBP.

DHS relies on partnership and coordination with other law enforcement agencies operating in the Olympic Peninsula to successfully control the border and maintain national security. Each agency is relied upon to successfully perform their core missions in support of the overall security effort.

Blaine Sector managers require the submission and approval of operational plans when assisting other agencies to ensure BP personnel are used in a manner consistent with BP's core mission. Operational plans outlining the nature of the activity to be undertaken and what is expected of each participant ensures enforcement activities are conducted within the understanding of existing MOUs and that participating entities are properly used. Blaine Sector management does not discourage assisting other law enforcement agencies; however, it is their position that assistance cannot be done at the sacrifice of their primary mission of maintaining a high-profile deterrent enforcement presence on the border.

- H) A Port Angeles Station supervisor inappropriately used Government-owned equipment by allowing family members to use two Government-owned kayaks.

ICE, OPR, SIU conducted witness interviews and obtained documentation relating to the alleged misuse of the Government-owned kayaks by the Port Angeles Station PAIC Baker.

BPA's Kohlman, Russell and Aguirre each stated that they did not witness PAIC Baker or any members of PAIC Baker's family use the kayaks. BPA Kohlman stated that on one occasion PAIC Baker told him he (Baker) had allowed his wife to use the kayak on the Hood Canal. BPA's Russell and Aguirre said they were told by BPA Kohlman that PAIC Baker said his family members had used the kayaks.

DCPA Guiliano said that during a management inquiry he conducted into this allegation, PAIC Baker denied having allowed family members to use the Government-owned kayaks.

- I) A Port Angeles Station supervisor inappropriately used a Government-owned vehicle for home to work transportation while residing farther than permitted by agency directive.

U.S. Customs Directive 5260-004A, dated August 2002 (Home to Work Use of Motor Vehicles) is the controlling directive concerning appropriate home to work use of Government-owned vehicles. The directive states, in part, "HTW (Home to Work) may be authorized only within a 50-mile commuting radius from the employee's place of employment."

Prior to his retirement in January 2006, Port Angeles Station PAIC Baker showed a home address located in Poulsbo, Washington. Comparison of the latitudinal and longitudinal coordinates of Port Angeles and PAIC Baker's home address revealed that PAIC Baker's residence was within the required 50-mile radius.

- J) Inattentive to duties by a BP supervisor

Based on available evidence including affidavits provided by several witnesses, the allegation that Port Angeles Station PAIC Baker was inattentive to his duties is substantiated.

On May 28, 2004, PAIC Baker volunteered to assist in conducting surveillance during the hours of 3 p. m. to 11 p. m. of a subject suspected of smuggling narcotics through the Olympic Peninsula. At 8 p. m., PAIC Baker telephoned another surveillance team member and informed him that he was leaving his assigned post. At 9 p. m., PAIC Baker was observed driving away from the surveillance location. The Port Angeles BPAs allege PAIC Baker's actions allowed the subject of the investigation to escape surveillance. On June 4, 2004, the subject was arrested with 309 pounds of marijuana.

K) Gross waste of agency funds

Investigation revealed that in September 2002, marine equipment valued at approximately \$6,000 was purchased by Port Angeles Station PAIC Baker. The equipment purchased included marine survival suits, waterproof equipment bags and tactical vests among other small items. Based on the available evidence the limited anticipatory purchases made in 2002 are not considered a gross waste of agency funds.

The Port Angeles Station was established in 1988 and originally intended as a marine patrol station. Though no vessel was assigned, BPAs assigned to the Port Angeles Station have participated in joint marine patrols with the U.S. Coast Guard and the Washington State Police. While these instances were limited, they do indicate the continued interest in establishing either an independent marine patrol capability or a joint capability in conjunction with the U.S. Coast Guard. Additionally, in March 2005, Port Angeles Station PAIC Baker met with U.S. Coast Guard representatives in an effort to establish a program that would allow Port Angeles BPAs to conduct joint patrol operations with the U.S. Coast Guard.

ICE, OPR, SIU, obtained Department of Justice purchase order forms, dated 9/11/02, reflecting the purchase of the marine equipment and supplies at issue. The approving official listed on the forms stated he believed the purchases were justified citing Port Angeles Station's involvement in joint operations with U.S. Coast Guard personnel, the assignment of kayaks to the Port Angeles Station and potential for an additional vessel to be assigned to the Port Angeles Station.

L) A Port Angeles Station BP supervisor violated DHS Management Directive MD Number 11030.1 regarding Physical Protection of Facilities and Real Property.

DHS Management Directive MD Number 11030.1, Section 6(A)(2)(e) (Cleaning Force/ Answering Service) specifically states, in part, "Office keys will not be entrusted to a cleaning force."

BPAs assigned to the Port Angeles Station allege that former Port Angeles Station PAIC Baker gave office keys to building facilities personnel on more than one occasion, thereby allowing unauthorized access to several offices occupied by BP personnel and equipment. Documentation obtained by ICE OPR, SIU revealed that former Port Angeles Station PAIC Baker did in fact provide keys to facilities personnel in violation of DHS Management Directive MD Number 11030.1.

5. Description of Action Taken or Planned

Upon conclusion of ICE, OPR, SIU's investigation, all relevant information documented under OPR file number 2005-01817 will be forwarded to CBP for consideration and appropriate action.

In January 2006, Port Angeles Station PAIC Baker retired from Government service and has subsequently elected not to cooperate in this investigation in any meaningful way. As the allegations substantiated in this matter are administrative in nature, PAIC Baker is not subject to agency sanctions.



Homeland Security

November 6, 2006

The Honorable Scott J. Bloch
Special Counsel
Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, D.C. 200036-4505

Re: Special Counsel File Nos. DI-05-1907; DI-05-2163 and DI-05-2164

Dear Mr. Bloch:

Thank you for your November 16, 2005 letter concerning allegations of mismanagement by Border Patrol supervisors at the Port Angeles Border Patrol Station and the Blaine Border Patrol Sector Headquarters on May 29, 2005. In June 2006 The Department of Homeland Security (DHS) submitted a report completed by the U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, in accordance with 5 U.S.C. § 1213(d). After submitting the report, your staff requested additional information. Therefore, enclosed is a supplemental report completed by ICE/OPR addressing your staff's additional questions.

I have been designated by Secretary Chertoff to respond to your additional questions in accordance with 5 U.S.C. § 1213(d).

Should you have any further questions, please do not hesitate to contact my office or Julie A. Dunne in the DHS Office of the General Counsel at (202) 282-9180.

Sincerely,

A handwritten signature in black ink that reads "Michael Jackson".

Michael Jackson

Enclosure

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SPECIAL DELIVERY
WASHINGTON DC

OSC file Nos. DI-05-1907, DI-05-2163, DI-05-2164

1. The whistleblowers contend in the first paragraph on page 2 of the OSC Report of Disclosures Referred for Investigation (OSC Report), "that the unique situation of the Port Angeles Station demands low-visibility enforcement tactics." The gravamen of this allegation is that high visibility enforcement tactics do not work at this station. While page 5 of the Department of Homeland Security's (DHS) response indicates that high-visibility tactics are consistent with the methods and procedures used successfully throughout the other 20 Border Patrol sectors and are consistent with the National Border Patrol Strategy, Border Patrol Manual and agreements with other agencies, it fails to address whether Port Angeles is in fact unique and requires different tactics to accomplish the U.S. Customs and Border Protection (CBP) mission.

As a result of the September 11, 2001, terrorist attacks, senior management with the Office of the Border Patrol (OBP) determined that the OBP should focus on its core mission of patrolling and securing the border. This resulted in the redeployment of Border Patrol Agents (BPAs) to border areas to conduct traditional patrol duties and away from non-traditional duties, which included conducting criminal investigations. This refocusing of the core OBP mission to a high-profile forward deployed deterrence strategy was accelerated in 2003 with the integration of OBP into CBP in 2003.

In the initial response to the OSC Report, it was stated that as a component office of CBP, OBP is a key and critical part of the uniformed face at the border tasked with preventing illegal entry between the ports of entry. To accomplish this mission, OBP relies on a wide range of methods including low-visibility tactics designed to apprehend individuals after they have illegally entered the United States and high-visibility tactics designed, in part, to provide a visible deterrent to individuals attempting to enter the United States illegally. High-visibility tactics using highly visible uniformed BPAs have been adopted nationally to deter illegal cross-border activity. To the extent possible, these uniformed BPAs are supported by highly mobile plainclothes BPAs who use low-visibility tactics to create a successful "defense-in-depth."

On March 30, 2006, Joseph Giuliano, Deputy Chief Patrol Agent (DCPA), provided information relevant to this issue. DCPA Giuliano served in various capacities while assigned to OBP Blaine Sector and for approximately 3½ years had served as DCPA Blaine Sector. DCPA Giuliano was responsible for day-to-day operation and administrative oversight of the Blaine Sector to include oversight of the Assistant Chief Patrol Agents (ACPAs) assigned to that sector. DCPA Giuliano advised the Chief Patrol Agent (CPA) Blaine on operational issues and reported daily to the CPA regarding the status of the sector. DCPA Giuliano's duties included implementation of operational changes within the Blaine Sector.

DCPA Giuliano broadly characterized the primary deployment strategy at the Blaine Sector as a high-profile, high-visibility deterrent posture designed to discourage as many people as possible from attempting illegal entry into the United States. DCPA Giuliano categorized apprehending those not dissuaded by the OBP's deterrent posture as a secondary mission. With the events of September 11, 2001, and subsequent creation of both DHS and CBP, the overriding deployment strategy at every station within the Blaine Sector has been to assume the maximum visibility possible. The Patrol Agents in Charge (PAICs) of each station within the Blaine Sector were responsible for accomplishing daily operation goals within parameters set by the CPA Blaine who provided broad oversight ensuring each station acted in collaboration with the other.

The Blaine Sector consists of 18 enforcement zones, with 2 expansive zones (BLW-1 and BLW-2) located in the Port Angeles Station Area of Responsibility (AOR). The Port Angeles AOR also includes zones BLW-21 and BLW-22 described as interior and open coastline areas that are not actively patrolled by OBP personnel.

DCPA Giuliano stated that establishing enforcement zones within the Port Angeles AOR was not a random process and significant planning preceded the implementation of the enforcement zones. The rugged nature of the terrain making up the northern face of the Olympic Peninsula was considered when determining the number and size of the zones created as well as the fact there were only two routes of egress from the peninsula. This environment allowed a smaller mobile force to effect a high-visibility, high-profile deterrent posture.

DCPA Giuliano contrasts the expanse of the Port Angeles enforcement zones with other more narrow zones created on the mainland within the Blaine Sector, some of which are described as three-quarters of a mile wide and a few blocks deep. DCPA Giuliano explained the justification for creating these narrow zones given a person's ability to cross the border and almost immediately be on a private individual's property. These mainland enforcement zones were created to allow a BPA in any part of the zone to respond to an incursion in any other part of the zone in time to take some positive action relative to the situation.

In determining zone boundaries and staffing levels, DCPA Giuliano compared the Port Angeles Station's enforcement history with that of the other Blaine Sector Stations. Taking into consideration factors such as the number of border drive-throughs, significant drug seizures and the number of apprehensions of persons attempting illegal entry into the United States between the ports of entry, it was determined that the threat, vulnerability and exploitation on the mainland far exceeded that evidenced on the Olympic Peninsula. Based on this assessment, a decision was made to keep the Port Angeles Station at its present staffing level (three BPAs and one supervisor) and focus the remaining assets where the need was greatest.

The enforcement zones in the Port Angeles AOR were created to use the assets available to the Blaine Sector in the most efficient manner. OBP management believes border vulnerability is limited by the geography of the Port Angeles AOR and that attempted crossing there would be further exacerbated by the logistics of attempting an undetected crossing in light of the substantial U.S. Coast Guard presence in the Strait of Juan de Fuca. OBP management believes personnel in place at the Port Angeles Station could achieve a satisfactory level of deterrence by using other DHS assets such as agents from U.S. Immigration and Customs Enforcement (ICE), the U.S. Coast Guard and others.

Annex 4 of OBP, Blaine Sector, Operational Requirements Based Budget Process contains the Port Angeles Station Annual Operations and Budget Plan (AOBP). The AOBP for fiscal years (FYs) 2006 and 2007, provides a detailed assessment of OBP strategy in maintaining border security within the Port Angeles AOR. Two primary assumptions in the document are:

1. Port Angeles Station will be staffed at current levels, and
2. Port Angeles Station's budget will be sufficient to support operations.

The AOBP for FY 2007 describes the mission of Port Angeles Station as:

- Supporting the objectives of the National Border Patrol Strategy through high-visibility deterrence-based patrols as the foundation of the station's efforts;
- Upgrading border control status from "Low-level Monitored" to "Managed" through the deployment of manpower, marine assets, technology and air assets; and
- Maintaining a working relationship and information sharing with other law enforcement agencies.

AOBPs for FYs 2006 and 2007 are consistent regarding the levels of border security in Port Angeles enforcement zones 1 and 2 (gauged as undetermined or low-level monitored), staffing levels, which have remained consistent since 1988, and the recognition that current staffing levels are not sufficient to meet end-state operational goals. AOBPs reflect that the Port Angeles Station does not have sufficient personnel or resources to fully monitor its maritime border and

relies on other agencies such as the U.S. Coast Guard and local law enforcement agencies as force multipliers to enhance its capabilities. The FY 2006 AOBP listed 23 other law enforcement agencies, both foreign and domestic, upon which OBP relies to enhance their border security capabilities. The FY 2007 AOBP states that to achieve its level V end-state goal of operational control over zones 1 and 2, an additional 36 BPAs are required.

The FYs 2006 and 2007 AOBPs state the Port Angeles Station presently uses night vision/infrared devices and IAFIS fingerprint identification technology to enhance enforcement activities and it is anticipated additional requested technology will become available as part of the overall sector technology deployment plan. The AOBPs established a baseline requirement and outlines additional technological resource requirements to achieve each of five graduated levels of control.

Intrusion-sensing technology is primarily deployed on the mainland at the land border from the coastline at Blaine, Washington, eastward. DCPA Giuliano stated when he left the Blaine Sector (to assume duties as Acting Chief, New Orleans) there were no sensing devices deployed in the Port Angeles Station AOR. Based on the results of a feasibility study conducted by DCPA Giuliano, it was determined that the limited number of sensing devices available to the Blaine Sector were more effectively deployed in areas other than Port Angeles Station. An assessment of the terrain and enforcement history of the Port Angeles Station, in conjunction with analysis of the methodologies used by those attempting illegal entry into the Port Angeles AOR, resulted in Port Angeles being considered a low-priority area for deployment of available sensing equipment. DCPA Giuliano opined that unless sufficient equipment was received allowing for other higher priorities within the Blaine Sector to be met satisfactorily, there would likely be no sensors deployed in the Port Angeles AOR.

With the opening of the ICE office in Port Angeles, enforcement activities/responsibilities were redirected allowing OBP to re-focus on its primary mission of securing the border between the ports of entry. This shift in enforcement staffing profiles allowed OBP to assume a high-profile deterrent enforcement posture. In a Memorandum of Understanding (MOU), dated November 16, 2004, the Commissioner for CBP and the Assistant Secretary for ICE implemented guidelines between OBP and ICE which clearly outlined each agency's functions and the manner in which the two agencies were to cooperate. The MOU governed interaction between ICE and OBP to maximize the collective contributions of each agency in support of the overall defense-in-depth strategy while at the same time removing any conflicts relative to inter-agency investigative and interdiction activities.

BPAs assigned to the Port Angeles Station believe that enforcement at the Port Angeles Station demands low-visibility tactics. However, low-visibility tactics (investigations) are primarily the jurisdiction of ICE, Port Angeles. ICE's investigative activities are an integral part of OBP's defense-in-depth strategy and relied upon by OBP to enhance its mission of controlling the border. Allowing OBP personnel to perform as ICE special agents would be contrary to the established MOU regarding interagency cooperation and inconsistent with OBP management's determination that OBP should focus on its core mission of patrolling and securing the border.

Blaine Sector management does not discourage its BPAs from working with the investigative component (ICE); however, management believes this should be accomplished within established parameters and not detract from OBP's primary mission. Blaine Sector management believes requests for assistance received by OBP, which overlap into another entity's primary jurisdiction, should be referred to that entity. DCPA Giuliano said the suggestion that BPAs would no longer be allowed to participate in enforcement activities with other agencies is misleading; rather OBP management's efforts to establish a protocol under which interagency cooperation would take place was not designed to eliminate cooperation. DCPA Giuliano opined that notwithstanding the MOU, BPAs assigned to the Port Angeles Station appear to want to become one and the same with the investigative component (ICE).

The OBP National Strategy recognized that control of the borders cannot be achieved by merely enforcing at the line and that there must also be a defense-in-depth component for which OBP

relies upon other component agencies such as ICE. To accomplish OBP's mission, CBP relies on its 21-sector CPAs to direct all OBP activity within their sectors. Insofar as practical, field operations are standardized on a national scale, but variations from sector to sector are authorized depending upon the density of population, terrain, routes and methods of transportation from the border area, and location and nature of available employment. As employees of a CBP uniformed component office, BPAs know the vast majority of their duty time will be in uniform in marked patrol vehicles performing tasks as described in the BPA 1896 position description.

OBP management believes a high-profile deterrent strategy is effective and consistently uses the strategy at its stations including the Port Angeles Station. Though the effectiveness of alternative deployment strategies may be debated, OBP management reserves authority to make a final determination regarding which strategy OBP will employ to accomplish its mission. Consistent with OBP confidence in the effectiveness of a high-profile deterrence strategy, OBP maintains a uniform OBP presence within its AORs by requiring BPAs to work in uniform and use marked OBP vehicles.

OBP would be supportive of any effort on the part of ICE to increase staffing levels within the Port Angeles AOR; however, OBP would reserve the right to use its personnel as they deem appropriate. Allowing BPAs assigned to the Port Angeles Station to operate predominantly in a low-visibility profile (i.e., plain clothes, unmarked vehicles,) would equate to adding three agents to the ranks of the ICE investigators. Though the addition of three ICE agents to the Port Angeles AOR would create the exact enforcement structure argued for by the Port Angeles BPAs, it is unlikely the OBP Blaine Sector would re-assign Port Angeles BPAs in that investigative capacity since doing so would effectively eliminate any uniformed OBP presence on the Olympic Peninsula.

Review of the Port Angeles AOBPs for FYs 2006 and 2007 indicates OBP management knows the limitations imposed on their ability to exercise full operational control of many zones within the Blaine Sector AOR resulting from limited availability of personnel and technical resources. AOBPs highlight alternate levels of staffing and equipment aimed at increasing the level of control of the border, which OBP views as its primary mission. (Attachments 1 and 2)

2. The whistleblowers' allege in the third paragraph on page 2 of the OSC Report that "beginning in January 2005, management ordered them to discontinue their successful low-visibility tactics and adopt high-visibility tactics that stand no reasonable chance of deterring illegal cross-border traffic." Apparently, there are statistics that indicate in 2004, 33-35 percent of the seizures in Port Angeles were for narcotics smuggling which the whistleblowers attribute to their low-visibility enforcement tactics. The whistleblowers contend that in 2006 that the number of narcotics seizures are now 0. The DHS report seems to imply that the reduction in seizures could be due to the high visibility tactics now employed. However, what are the enforcement statistics concerning narcotic seizures for Port Angeles since the conversion to high-visibility tactics?

Investigation indicates OBP management did not order the discontinuation of low-visibility tactics in favor of high-visibility tactics in January 2005. According to OBP management, the directive to assume a highly visible posture was issued in or about 2001, but was not enforced at the Port Angeles Station primarily because of misrepresentations made to Blaine Sector managers by Michael Baker, then Port Angeles Station PAIC. Blaine Sector managers indicate PAIC Baker was insubordinate in not ensuring compliance with a high-visibility enforcement strategy as directed in or about 2001. Subsequent efforts on the part of Blaine Sector managers to enforce compliance with previously issued directives relating to high-visibility deployment led to allegations of retaliation against PAIC Baker and other Blaine Sector managers.

The assertion that high-visibility tactics stand no reasonable chance of deterring illegal cross-border traffic in the Port Angeles AOR is a perspective not shared by OBP management.

Current statistics indicate there have been no narcotics seizures in FY 2006 at the Port Angeles Station. By definition, if deterrence is 100% successful then seizures and apprehensions would be zero as they currently are in the Port Angeles AOR. However, it is not reasonable to assume that a high-profile uniform presence in the Port Angeles AOR is deterring 100 percent of those considering illegal entry into the United States just as it is not reasonable to assume that by adopting low-profile tactics, the Port Angeles BPAs would apprehend 100 percent of those attempting to transport narcotics into the United States. It is also not possible to determine what affect the apparent lack of any OBP presence in the Port Angeles AOR had on the number of attempted illegal border crossings. It could be argued that the apparent absence of any OBP presence on the Olympic Peninsula enticed narcotic smugglers to cross the border in the Port Angeles AOR believing the border in that area to be unprotected.

BPAs assigned to the Port Angeles Station state in 2004 they were responsible for 33-35 percent of the total Blaine Sector narcotics seizure. Though commendable, the activity represented by the reported statistics seem an anomaly given that although BPAs assigned to the Port Angeles have for years operated using low-profile tactics, the 2004 seizure statistics stand out far and above seizure statistics recorded prior to and after 2004. The weight of the narcotics seized in the Port Angeles AOR during FY 2004 is recorded as a percentage of only those narcotics actually interdicted and gives no indication as to the total amount of narcotics entering the United States through the Port Angeles AOR. As the correlation between narcotics seized and narcotics entered is unknown, the FY 2004 seizure statistics provide only limited information from which the success of low-profile tactics can be assessed.

Factors which further distort conclusions drawn from enforcement (seizure/apprehension) statistics is the fact that historically, ICE and OBP reported enforcement statistics in separate systems (TECS and Enforce respectively). This, according to the ICE Resident Agent in Charge, Port Angeles, led to some dual reporting of statistics resulting from enforcement actions conducted jointly with the OBP. Additionally, as stated previously, the level of effort put forth by the BPAs assigned to the Port Angeles AOR resulting in the significant narcotics seizures during 2004 is commendable; however, it is not likely the same effort would be expended in support of a deployment strategy the BPAs believe to be misguided as would be toward one they fully supported.

Blaine Sector management believes that the increased distribution of personnel in a high-visibility deployment mode in other sectors within the Blaine Sector AOR initially contributed to increased border crossings activity in the Port Angeles enforcement zones, but that enforcement activity in the Port Angeles AOR has helped push those attempting illegal entry to border areas east of the Blaine Sector.

A review of available seizure data during the period FYs 2003 through 2006 reflected the following:

Property Seizures

FY 2003 Port Angeles accounted for 7.14 percent of Blaine Sector seizures

FY 2004 Port Angeles accounted for 10.71 percent of Blaine Sector seizures

FY 2005 Port Angeles accounted for 11.76 percent of Blaine Sector seizures

Narcotics Seizures

FY2003 Port Angeles accounted for 2.3 percent of Blaine Sector seizures

FY 2004 Port Angeles accounted for 12.12 percent of Blaine Sector seizures

FY 2005 Port Angeles accounted for 6.6 percent of Blaine Sector seizures

FY 2006 Port Angeles accounted for 0 percent of the Blaine Sector seizures

Blaine Sector Intelligence Summaries indicate the following:

FY 2004 (October 2003–September 2004) Port Angeles accounted for 35 percent of Blaine Sector narcotics (marijuana) seizures by weigh.

FY 2005 (October 2004–September 2005) Port Angeles accounted for 0 percent of Blaine Sector narcotics seizures by weight.

FY 2006 to date (October 2005–August 2006) Port Angeles accounted for 0 percent of Blaine Sector narcotics seizures by weight

A review of ICE Port Angeles Narcotic Seizure by weight revealed the following:

FY 2003 narcotics seizures equaled 25.11 pounds.

FY 2004 narcotics seizures equaled 2,611.61 pounds.

FY 2005 narcotics seizures equaled 55.26 pounds.

FY 2006 narcotics seizures to date equaled 12.48 pounds.

3. In the second paragraph on page 3 of the OSC Report, "[t]he whistleblowers maintain that far from establishing the Port Angeles Station as a "standard border patrol station," management's recent tactical and policy changes are intended to render the Port Angeles Station wholly ineffective and ultimately a pretext for its closure." Please address this allegation.

Investigation by the ICE Office of Professional Responsibility (OPR) revealed no information indicating OBP intended to close the Port Angeles Station. Review of OBP AOBPs for FYs 2006 and 2007 indicates OBP management is fully aware of limitations imposed on its ability to exercise full operational control of many zones within the Blaine Sector AOR, to include Port Angeles, as a result of limited availability of personnel and technical resources. AOBPs highlight alternate levels of staffing and equipment aimed at increasing the level of control of the border. FY 2007 AOBP indicates a requirement of 36 additional BPAs to achieve end-state operational control of the Port Angeles AOR (Attachment 2).

4. The first bullet on page 2 of the OSC Report states that "[a]ll border patrol agents have been ordered to work the same eight-hour shift as PAIC Baker, leaving the border unprotected for at least sixteen hours per day." The DHS response indicates that the border was not left unattended for 16 hours per day because of CBP's work with other agencies. The questions, however, are whether the Port Angeles employees were in fact ordered to work the same 8- hour shift as the supervisor, whether the shifts were ever varied as appears to be within management's discretion, and what is the current shift of the Port Angeles employees?

As a result of Port Angeles PAIC Baker losing confidence in the willingness of BPAs under his command to perform their duties as directed in the absence of direct supervision, PAIC Baker directed that BPAs assigned to the Port Angeles Station work the same day shift hours as the PAIC. The decision to place all Port Angeles BPAs on only one shift was in part due to concerns that assigning BPAs to cover more than one shift would be unsafe from an officer safety perspective.

According to Todd McCool, current Port Angeles PAIC, BPAs assigned to the Port Angeles Station remain scheduled to work day shift hours (8 a.m. to 4 p.m.); however, as a result of intelligence-driven adjustments to daily work schedules, Port Angeles BPAs routinely

work other than day shift hours. Remaining in effect is the requirement that, barring extenuating circumstances, deviation from the assigned work schedule to participate in joint operations requires submission and approval of an operational plan to ensure OBP personnel participate in joint operations in a manner consistent with the OBP's primary mission.

5. The whistleblowers allege that they have not been given the tools to conduct the high-visibility tactics to be successful. They are not provided with canine support, all-terrain vehicles, cameras, or sensors, for example. What is DHS' response to whether Port Angeles employees have the necessary equipment to successfully fulfill their responsibilities?

FYs 2006 and 2007 AOBPs outline Blaine Sector's strategy for allocating available resources to meet fiscal year operational needs. A review indicates Blaine Sector management is fully aware of limitations on its ability to exercise full operational control of many zones within the Blaine Sector AOR as a result of limitations on available personnel and technical resources. AOBPs highlight alternate levels of staffing and equipment aimed at increasing the level of control of Blaine Sector enforcement zones (Attachments 1 and 2).

FY 2006 AOBP describes the general overall situation in the Blaine Sector as follows:

Blaine Sector's enforcement resources have traditionally been focused on the land border in the Coastal Mainland Corridor. Virtually all the technology resource enhancements received since September 11, 2001, as well as the preponderance of personnel resource enhancements have been directed to this corridor, allowing an unprecedented level—yet not optimal—of border security to be achieved. This has caused smugglers to redirect their efforts to the three peripheral corridors as well as to other northern border sectors.

Although the decline in total apprehensions from FY 2004 was somewhat modest, the number of incursions across the land border in Blaine's Sector AOR has continued a trend of dramatic decline. This signals a high level of effectiveness, particularly in the Coastal Mainland Corridor. The disconcerting ancillary result is that the vulnerability of the three peripheral corridors has increased and resources are not available to meaningfully gauge or effectively address this issue without forfeiting at least some measure of control over the historically heavily exploited Coastal Mainland Corridor.

The smuggling of aliens from target countries such as South Korea, China and other Pacific Rim nations has been reduced to an insignificant level in the context of the totality of the northern border. Commensurate increases in similar smuggling in other northern border sectors have been noted, markedly in a pattern evolving eastward from Blaine, through Spokane and continuing to the Great Lakes. Intelligence indicates marijuana smugglers are redirecting a significant share of the British Columbia crop to eastern Canada to avoid enhanced enforcement in the Blaine Sector, notwithstanding record amounts of marijuana having been interdicted in FY 2004 a seeming yet inaccurate indicator that the trans-border movement of marijuana in the Blaine AOR had increased.

Given Vancouver, British Columbia's demographic diversity and the fact that terrorist cells and sympathetic communities are established in Canada, there remains a significant concern that such groups will use established drug or human smuggling enterprises to effect the entry of terrorist and/or instruments of mass effect into the United States. Bi-national intelligence assets work continuously to identify instant threats and vulnerabilities related to those concerns.

The fact that Blaine Sector's agent resources have increased by over 250 percent since September 11, 2001, premises the dangerously illusory conclusion that staffpower is now sufficient to do "two-and-a-half times" the job than was previously accomplished. Realistically, the current staffing level cannot address a significant issue in the three peripheral corridors without compromising the effectiveness of operations in the Coastal Mainland Corridor—the corridor most vulnerable to concerns arising in the Vancouver metroplex. The long-standing shortage of support personnel further complicates this situation.

Currently, Blaine Sector's operational challenges can best be summarized as using the available resources in a highly mobile, dynamic tactical framework that minimizes the adverse impact on historically exploited corridors while focusing discretionary resources on emerging concerns. This plan assumes that resources will remain static for the foreseeable future and normal attrition will reduce the workforce.

6. The whistle-blowers have alleged that high-visibility tactics are not as successful in Port Angeles in part because of the low staffing. Since they are visible and uniformed, smugglers can more easily identify them; thus, there are fewer undetected entries (as the report states) but there are also fewer or no interddictions (according to the whistle-blowers).

OBP management believes a high-profile deterrent strategy is effective and consistently uses the strategy at its stations including the Port Angeles Station. Though the effectiveness of alternative deployment strategies may be debated, OBP management reserves authority to make a final determination regarding which strategy OBP will employ to accomplish its primary mission. Consistent with OBP confidence in the effectiveness of a high-profile deterrence strategy, OBP maintains a uniform OBP presence within its AORs.

Review of the Port Angeles AOBPs for FYs 2006 and 2007 indicates OBP management is aware of the limitations imposed on their ability to exercise full operational control of many zones within the Blaine Sector AOR resulting from limited availability of personnel and technical resources. The AOBPs highlight alternate levels of staffing and equipment aimed at increasing the level of control of the border, which OBP views as its primary mission.

The enforcement zones in the Port Angeles AOR were created to use the assets available to the Blaine Sector in the most efficient manner. In determining zone boundaries and staffing levels, OBP management compared the Port Angeles Station's enforcement history with that of the other Blaine Sector Stations. Taking into consideration factors such as the number of border drive-throughs, significant drug seizures and the number of apprehensions of persons attempting illegal entry into the United States between the ports of entry, it was determined that the threat, vulnerability and exploitation on the mainland far exceeded that evidenced on the Olympic Peninsula. Based on this assessment, a decision was made to keep the Port Angeles Station at its present staffing level (three BPAs and one supervisor) and focus the remaining assets where the need was greatest.