



**U.S. OFFICE OF SPECIAL COUNSEL**

1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

[www.osc.gov](http://www.osc.gov)

The Special Counsel

June 12, 2007

The President  
The White House  
Washington, D.C. 20500

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

Dear Mr. President:

I received disclosures from three Senior Border Patrol Agents (SBPA) at the Department of Homeland Security (DHS), Customs and Border Protection, Border Patrol (BP), Blaine Sector, Port Angeles Station, Port Angeles, Washington. The whistleblowers, Johnathan M. Kohlman, Mark A. Aguirre, and Jonathan B. Russell, alleged that Border Patrol management officials adopted policies that left the border unprotected at critical times, impeded cooperation with other federal and local law enforcement agencies, and rendered the border at greater risk of terrorist infiltration, constituting a substantial and specific danger to public safety. They also alleged that the former Patrol Agent-in-Charge (PAIC) Michael Baker, violated the law, and engaged in gross mismanagement and a gross waste of funds, by taking actions to undermine the enforcement activities of the Port Angeles Station and misusing federal property and funds.

I required the Secretary, DHS, to conduct an investigation into these disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary, DHS, tasked the U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), with conducting the investigation and writing the report. OSC received an initial report dated May 29, 2006, signed by DHS Deputy Secretary Michael Jackson. The agency produced a supplemental report dated November 6, 2006, also from Deputy Secretary Jackson.

As discussed in the attached Analysis of Disclosures, the agency investigation did not substantiate the allegations that agency officials adopted inappropriate new tactics and policies, exposed BPAs to surveillance, impeded cooperation with other agencies, or engaged in a gross waste of agency funds. The investigation did substantiate two allegations against PAIC Baker; inattention to duty and a violation of a DHS Directive regarding facility security.

The agency reports do acknowledge that there are limitations on the ability of the BP to exercise full operational control of many zones within the Blaine Sector, resulting from limited availability of personnel and technical resources. Nevertheless, the agency asserts that assets are used where need is greatest, and in the most efficient manner. SBPAs Kohlman, Russell and Aguirre provided extensive comments on the report. As required by law,

The Special Counsel \*

The President  
Page 2 of 2

5 U.S.C. § 1213(e)(3), I am now transmitting to you the agency reports and the whistleblowers' comments.

I have reviewed the original disclosures and the DHS reports. Based on that review, I have determined that the agency's reports contain all of the information required by statute. The statute also requires that I make a determination whether or not the findings of the agency head appear reasonable. In this case, I conclude that the findings set forth in the reports appear to be reasonable. Notwithstanding my conclusion, I have serious concerns about the agency's decision to adopt national standards for BPAs in a border area geographically unique to the United States. My comments are set forth in the attached Analysis of Disclosures.

As required by law, 5 U.S.C. § 1213(e)(3), I have sent a copy of the reports and the whistleblowers' comments to the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and to the Chairman of the House Committee on Homeland Security. I have also filed copies of the reports and the whistleblowers' comments in our public file and closed the matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Scott J. Bloch', written in a cursive style.

Scott J. Bloch

Enclosures