



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

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The Special Counsel

November 1, 2011

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

Re: OSC File No. DI-10-2335

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), please find enclosed reports received from James F. Tomshek, Assistant Commissioner, Office of Internal Affairs, U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS), in response to disclosures made by Dr. Megan Keyes, a veterinarian at CBP's Veterinary Clinic at its Canine Center Front Royal (CCFR), Virginia. Dr. Keyes, who consented to the release of her name, alleged that the CBP training program for detector dogs<sup>1</sup> included a practice of prolonged choking, referred to as "choke-off," that was inhumane, caused physical injuries and behavioral problems in the dogs, and was contrary to agency policy. She alleged that the continued use of the choke-off constituted gross mismanagement and a substantial and specific danger to public safety.

Dr. Keyes' allegations were referred to the Honorable Janet Napolitano, DHS Secretary, with a request for an investigation pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary delegated authority to Asst. Commissioner Tomshek to review and sign the report for the agency. The CBP Office of Internal Affairs conducted the investigation and provided the reports in this case. The Office of Special Counsel (OSC) received the agency report on November 9, 2010, and supplemental reports on December 21, 2010, February 18, and April 7, 2011. I am now transmitting the reports and Dr. Keyes' comments to you as required by 5 U.S.C. § 1213(e)(3).

The CCFR houses 81 dogs, with approximately 47 dogs in training. The training course is 13 weeks in length and classes are comprised of 5-8 dogs. After the CBP Office of Training and Development has completed the training, the detector dogs are transferred to assignments with the CBP Office of Field Operations. CBP has a second training facility, the Canine Center El Paso (CCEP), located in Texas.

Dr. Keyes explained that the dogs are given reward toys when they respond properly or alert to the substance or individuals being sought. The rationale for using the choke-off was that

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<sup>1</sup>Detector dogs are trained by CBP to detect narcotics, explosives, currency, some non-explosive hazardous substances, and human trafficking.

choking the dog to release the reward toy increased the dog's prey drive by increasing its aggressive behavior. However, Dr. Keyes contended that repeated choking of dogs in training has been documented to cause serious injury including laryngeal, tracheal, esophageal, and cervical spine damage, and is known to adversely affect canine thyroid function. Dr. Keyes witnessed the choking method when she participated in training sessions at CCFR in January 2010 and, as the facility veterinarian, has treated dogs in training who presented with neck injuries consistent with prolonged choking.

Additionally, Dr. Keyes disclosed that the danger the choke-off posed for canine handlers and the public was raised by Thomas Winkowski, Assistant Commissioner of the Office of Field Operations. On February 8, 2008, Asst. Commissioner Winkowski issued a memorandum to all the Directors of Field Operations noting the increase in reported incidents of detector dogs biting canine handlers and members of the traveling public and stating that the choking method was neither acceptable nor permitted by the Office of Field Operations. The memorandum was widely distributed and posted on the CBP website as notice to all employees. Despite this prohibition, the Office of Training and Development continued to include the choke-off in its training curriculum. Finally, Dr. Keyes contended that the training appeared to disregard the potential for serious injuries to the canines that could render them incapable of carrying out the CBP missions for which they have been trained.

*The Report of U.S. Customs and Border Protection*

The report explains that CBP's canine training program was created through the consolidation of the canine programs of several former agencies—U.S. Customs Service, U.S. Border Patrol, U.S. Immigration and Naturalization Service and the Animal Plant Health Inspection Service of the Department of Agriculture—under the auspices of a new DHS agency, the U.S. Customs and Border Protection. In October 2009, the canine training programs of CBP's Office of Field Operations and Office of Border Patrol were merged to establish one integrated training curriculum.

The agency investigation included interviews with 33 CCFR employees and with 5 contractor veterinarians and employees at CCEP as well as a review of CBP canine detector training curricula and lesson plans. The report notes that a majority of CCFR training and support staff regard the choke-off technique as abusive. CBP Canine Program Director Clark Larson disagreed with that assessment and stated he has used the technique in training since 1986. The veterinarians and animal health technician at CCEP reported that they had not treated any dogs for injuries caused by abuse or abusive training techniques.

Investigators contacted seven other law enforcement agencies to review the use of the choke-off technique in their canine programs. Of the agencies contacted, four (the Bureau of Alcohol, Tobacco, Firearms and Explosives; Montgomery County Maryland Police Department; New York City Police Department; and the Transportation Security Administration) reported that they did not use the choke-off in training and three (the Los Angeles Police Department, Chicago Police Department, and the U.S. Secret Service) use it as a technique of last resort. The

Chicago Police Department noted, however, that its program is transitioning from the use of choking, or compulsion, to a reward-based training curriculum.

The investigation substantiated Dr. Keyes' allegation that the choke-off training technique utilized in the CBP Canine Program was not in compliance with Office of Field Operations policies. According to the report, Asst. Commissioner Winkowski confirmed that he issued the February 8, 2008, memorandum to all Office of Field Operations personnel prohibiting the use of the choke-off after he discovered that it was being taught to Field Operations officers as a method of first choice. He noted that he did not intend to remove the choking technique from the training curriculum, but emphasized that it should be used in a progression of training methods as a last resort. He also stated that he was not aware that the choke-off was being used to increase the canines' prey drive. Similarly, Patricia Duffy, Asst. Commissioner, Office of Training and Development, told investigators that she was not aware that the choke-off was being taught to instructors and students as a standard method of training until she received OSC's referral letter in July 2010. However, Director Larson told investigators that the Office of Border Patrol has always approved of the use of the choke-off in training as a means of increasing the canine's prey drive and regularly used it at CCEP. He disagreed that the choke-off technique is abusive to canines and caused physical and behavioral problems.

On September 22, 2010, Asst. Commissioner Duffy issued a cease and desist letter to Director Larson to immediately stop teaching all choke-off techniques, other than the "5 & 7" technique that was demonstrated to her.<sup>2</sup> The report notes that the curriculum uses the choke-off technique to mold behavior and teach reward release. However, because the use of the choke-off as a training tool was prohibited by the Office of Field Operations, there is a discrepancy between the training and what is authorized by the Office of Field Operations. According to the report, the discrepancy between the Office of Border Patrol and the Office of Field Operations canines compromises the CBP Canine Program's goal of fungible canine teams. The canines from the Offices of Field Operations and Border Patrol should be trained in the same manner.

The report sets forth a number of actions planned by the agency to address the program deficiencies identified by the investigation. Asst. Commissioner Duffy noted that the Office of Training and Development will issue a joint Office of Field Operations and Office of Border Patrol memorandum on the roles and responsibilities of CBP's Canine program addressing the integrated training. In addition, the Office of Training and Development's Training Production and Standards Division will review the training curriculum, including all lesson plans, to identify where the choke-off appears in the curriculum, how instructors teach it and what they teach. OTD will also review the canine medical records where a neck injury was reported. The agency will establish an Executive Steering Committee (ESC) responsible for analyzing current Office of Field Operations and Office of Border Patrol canine training programs to ensure a successful integration of the programs. The agency will create a Working Group within the ESC to review all discrepancies between the unified training curriculum and Office of Field Operations and

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<sup>2</sup>Described in the report as a pressure technique where the handler straddles the canine, grabs the collar at the 5 and 7 o'clock positions, and applies pressure until the canine releases the reward object.

Office of Border Patrol operational policies. The Working Group will recommend revisions to the curriculum and policies to eliminate any discrepancies that might undermine CBP's ability to use its canine assets to its advantage in all operational environments.

Further, the investigation found that the CBP Canine Program curriculum had not been developed or reviewed to ensure that it meets Federal Law Enforcement Training Accreditation standards as required by the Office of Training and Development. The agency will review and certify the unified training curriculum as required by CBP policy and federal law. Finally, the agency found that CBP has no uniform systems or procedures for the collection, assessment, or analysis of canine program and performance statistics and data, including standard reporting and evaluation of all dog bite incidents of CBP staff and the public. Accordingly, the agency intends to create a unified system for the collection, analysis, and assessment of CBP-wide canine-related statistics and data to address this information gap.

On December 21, 2010, Asst. Commissioner Tomshek provided an update on the status of the actions taken by the agency. Upon further inquiry by OSC, Asst. Commissioner Tomshek provided supplemental reports on February 18, 2011, and April 7, 2011. In the February supplemental report, the agency confirmed that the Cease and Desist order applied to both the CCFR and the CCEP training facilities. In addition, due to Dr. Keyes' concern that puppies were subjected to the choke-off technique, CBP reported that there is no established age for using a choking component, however, Canine Management will consult with the veterinary staff to evaluate current practices and modify them if appropriate. Asst. Commissioner Tomshek also wrote that the Canine Program ESC will immediately include veterinarians or others with medical backgrounds in its membership because of the benefit of having such professionals participate in discussions that involve canine health.

In his supplemental report of April 7, 2011, Asst. Commissioner Tomshek identified the veterinarians consulted as experts in this case and explained that future consultations will involve an advisory board under the Canine Program ESC. The membership of the Advisory Board had not yet been finalized, but was to include, at a minimum, veterinarians who support the CBP Canine Centers, including Dr. Keyes. CBP completed its review of canine medical records and reported no neck injuries, other than the ones that had been identified by Dr. Keyes. CBP noted that Director Larson retired in January 2011 and William Molaski, ESC Co-Chair, assumed the position of CBP Canine Program Director on March 28, 2011. Finally, on September 26, 2011, CBP confirmed that Dr. Keyes and Dr. Martin Hoffman, a veterinarian from CCEP, have been appointed as Advisory members of the Canine Program ESC.

Dr. Keyes had the opportunity to review and comment on the agency's report pursuant to 5 U.S.C. § 1213(e). She noted that she was thankful to those involved in the investigative process for conducting the investigation in a thorough and professional manner. She supported the creation of a Working Group within the ESC and noted that a veterinarian should be included in the group. She expressed concern, however, that the agency did not address her central allegation, which was that the choke-off training technique is abusive to canines. Specifically, she stated that the agency report did not expressly accept or refute the allegation that the choke-

off technique is an abusive practice even though several individuals interviewed at CCFR and elsewhere during the agency investigation stated that it was abusive. She noted that the "5 & 7" technique permitted by the agency's cease and desist letter is a type of choke-off technique that psychologically and physically harms canines. Overall, she believes that all choking techniques should be eliminated from the curriculum.

In her comments on the supplemental reports, Dr. Keyes again expressed concern that the name of the method has changed but that the use of choking in training continues. She reiterated that the practice is unsafe and described the negative effects of the technique. Finally, she noted that she provided information from the medical literature that supports her contention and questions the basis upon which the decision was made to use such techniques in training.

I have reviewed the original disclosures, agency reports, and Dr. Keyes' comments. Based on that review, I have determined that the reports contain all of the information required by statute and the findings appear to be reasonable. However, I will follow-up with the agency in approximately six months for an update on the actions planned in response to this investigation, including the curriculum review and certification, the status of the unified data collection system for the canine program, as well as an update on whether any additional canine neck injuries have been reported.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency reports and Dr. Keyes' comments to the Chairmen and Ranking Members of the Senate Committee on Homeland Security and Government Affairs and the House Committee on Homeland Security. I have also filed a copy of the agency reports and Dr. Keyes comments in OSC's public file and closed the file. OSC's public file is now available online at [www.osc.gov](http://www.osc.gov).

Respectfully,



Carolyn N. Lerner  
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Enclosures