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The Special Counsel

May 26, 2026

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

Re: OSC File No. DI-25-000591

Dear Mr. President:

I am forwarding to you reports transmitted to the Office of Special Counsel (OSC) by the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP), in response to the OSC's referral of disclosures of wrongdoing at the CBP Progreso Point of Entry (POE), Weslaco, Texas. CBP Officer (CBPO) [REDACTED], consented to the release of his name and commented on the reports.¹ OSC has reviewed the disclosures, the agency reports, and the whistleblower comments, and, in accordance with 5 U.S.C. § 1213(e), I have determined that the reports contain the information required by statute and the findings appear reasonable. The following is a summary of the whistleblower's allegations, CBP's findings, and the whistleblower's comments in response.

[REDACTED] alleged CBP management officials stationed at the CBP Progreso POE immigration checkpoints routinely directed CBPOs to allow U.S. residents crossing the border from Nuevo Progreso, Mexico, to Progreso, Texas, to bring controlled substances into the U.S. without enforcing compliance with federal importation laws and CBP directives.² [REDACTED] disclosures focused on two concerns: first, that CBPOs routinely allowed controlled substances to be imported over the 50-unit personal use limit, and second, that CBPOs disregarded the requirement that the importation be legal under Texas state law.

Federal regulations provide that the importation of controlled substances must not exceed "50 dosage units combined of all such controlled substances in the individual's

¹ OSC referred this matter to then-DHS Secretary Kristi Noem, who delegated authority to review and sign the report to CBP Commissioner Rodney S. Scott. Mr. Scott further delegated authority to review and sign the report to Jonn R. Modlin, CBP Acting Deputy Commissioner. Mr. Modlin tasked CBP's Office of Professional Responsibility with conducting the investigation.

² Federal importation law provides that "[a]ny individual who has in his/her possession a controlled substance listed in schedules II, III, IV, or V [of the Controlled substances Act, 21 U.S.C. § 812] which he/she has lawfully obtained for his/her personal medical use..." may enter or depart the United States with the substance provided the substance is in its original container and provided the individual makes a declaration to the appropriate customs officer that complies with the law.

possession that were obtained abroad for personal medical use.”³ CBP directives implementing these laws caution that individual state laws may be more restrictive than federal laws and that individuals should make themselves aware of state restrictions before bringing controlled substances across the borders. CBP directives also explicitly provide that the importation must comply with state law.⁴

The agency did not substantiate the allegations. The agency acknowledged that compliance with Texas state law, which criminalizes possession of certain controlled substances that individuals may otherwise lawfully import for personal use under federal law, is a required element for adherence to CBP Directive No. 3310-006A. However, the agency interprets the directive in a way that allows moderate flexibility rather than rigid adherence.⁵ In practice, Progreso POE management has adopted a policy of directing CBPOs to assess importations on a case-by-case basis, allowing discretion, provided CBPOs employ an analysis of the totality of the circumstances, document deviations from standard procedure, and use “informed compliance.”⁶ The agency emphasized that although the Progreso POE was not currently understaffed, a decision to routinely refer individuals for secondary inspection, especially individuals who had no history of illegal importation and did not pose a risk to public safety, would be time-consuming and impede staff from performing other higher-priority tasks.

Following OSC’s referral of this matter, CBP’s Laredo Field Office disseminated guidance to all Progreso POE managers re-affirming the elements of compliance with federal importation law and CBP directives. The guidance, which was transmitted in September 2025 to all Progreso POE employees, emphasized the required elements for a lawful importation of controlled substances and referenced relevant CBP directives, FDA regulations, previous guidance, and applicable federal law. The agency also indicated that it has developed an increasingly collaborative relationship with Texas law enforcement officials in recent months. Finally, the agency confirmed that the Progreso POE’s interpretation of federal importation law requirements and implementation of agency directives align with that of Texas prosecutorial entities.

³ These regulations pertain to U.S. residents as defined in 21 C.F.R. § 1301.26(c). The 50-unit personal use limitation does not apply if the U.S. resident obtained the controlled substance pursuant to a prescription from a DEA-registered medical professional.

⁴ CBP Directive No. 3310-006A (July 22, 2003), Section 6.2, “Procedures.” The directive specifically states that “The importation of the controlled substances must also be authorized or permitted under other Federal laws and applicable State law.” However, the directive does not prescribe specific enforcement or seizure requirements for violations.

⁵ See generally CBP Directive No. 3310-006A (allowing CBPOs to apply a “general rule” for personal use quantities and providing that CBP “should report” cases in which an importation violates state law but further notes “...if CBP does not intend to effectuate a seizure,” CBPOs should consult with local law enforcement authorities (emphasis added)).

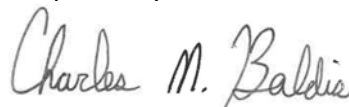
⁶ Informed compliance refers to instructions, often verbal, that CBP provides to importers to advise them of their obligations under the law. For example, when an importation complies with federal law but may violate state law on controlled substances, CBPOs might advise the individual that they may bring the controlled substances over the border but that the local jurisdiction may choose to prosecute.

In his comments, ██████████ emphasized that lawful federal importations must satisfy the five specific criteria set out in the CBP directives, which include compliance with state law as an essential element.⁷ He stated that any declared substance failing to meet all five requirements must be either seized or returned to Mexico. ██████████ also disputed the agency's position that CBP officials may minimize or otherwise disregard Texas controlled substance laws because "CBP does not enforce Texas law." He further asserted that what he viewed as an initial "crackdown" on illegal importations following his disclosures in summer 2025 quickly dissipated, and that the agency continues to apply an overly lenient interpretation of CBP Directive No. 3310-006A that places the public at risk of harm.

I thank ██████████ for bringing these allegations to OSC's attention. While acknowledging the agency's enforcement of federal importation laws is intensely fact-specific, this investigation highlighted significant confusion amongst Progreso POE employees, including agency leadership, regarding key elements of law and policy. Given the dangers of introducing controlled substances to American communities, and in keeping with CBP's mission of ensuring safe and lawful importation of controlled substances, I urge officials at the Progreso POE to provide additional training and develop clearer policies for CBPOs processing these cases. I also urge Progreso POE officials to continue collaborating with Texas state law enforcement to achieve this.

As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency reports, and whistleblower comments to the Chairmen and Ranking Members of the Senate Committee on Homeland Security and Government Affairs and House Committee on Homeland Security. OSC has filed redacted copies of these documents and a copy of the letter referring this matter in our public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,



Charles N. Baldis
Chief Counsel

Enclosures

⁷ CBP Directive 3310-006A provides that the five required elements of legal personal use importation are 1) that the substance is declared to a CBPO; 2) that the substance must be for the individual's personal use; 3) that the substance be in its original container; 4) that possession of the substance is permitted under all federal laws; and 5) that possession of the substance is permitted under applicable (Texas) state law.