

Field Officer (PFO) to review outstanding vouchers and /or authorizations every 60 days.

When a Procedural Deficiency Report (PDR) is issued, it is basically issued to the PFO by the Regional Internal Affairs office. When the PFO is the subject of the PDR, the PDR is issued to the PFO's supervisor. In this case, the original PDR was sent to Internal Affairs, Assistant Commissioner Heavey to issue to the individual having authority over the Regional Commissioner, North Central Region. After receiving the PDR sent to Internal Affairs Headquarters for issuance, Internal Affairs headquarters telephoned and advised this office to change the transmittal letter so that the PDR would be sent to Deputy Commissioner Lane for action.

Kenneth J. Wagner

APPENDIX 16.—SEPTEMBER 8, 1992, LETTER TO SUBCOMMITTEE CHAIRMAN BARNARD FROM CUSTOMS COMMISSIONER HALLETT, WITH ATTACHMENTS



THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

September 8, 1992

The Honorable Doug Barnard, Jr.
Chairman
Subcommittee on Commerce, Consumer
and Monetary Affairs
House of Representatives
Washington, D.C. 20515

RECEIVED

SEP. 8 1992

COMMERCE, CONSUMER AND
MONETARY AFFAIRS SUBCOMMITTEE

Dear Mr. Chairman:

This is in response to your letters dated August 7 and 11, 1992, in which you request information on a number of subjects.

In your first and second requests, you ask for specific information on investigations of and administrative actions against certain Customs officers. As you know, it is contrary to our policy to comment on any alleged consideration of any case by the Department of Justice or a United States Attorney. Moreover, as we have expressed in the past, we are very concerned about the personal privacy interests of our employees, the potential for damage to the reputation of innocent individuals and the potential for exposing information about open investigations.

Nevertheless, in order to accommodate your oversight responsibilities, as well as address the concerns of the agency, we are prepared to provide you with a briefing that is fully responsive to these two requests. I have asked Mr. Robert Warren, Associate Commissioner, Office of Organizational Effectiveness, to provide the briefing directly to you or your staff at your earliest convenience.

We believe that this approach will satisfy your interests in these matters. The briefing will summarize the investigations conducted and any related administrative actions, as requested in your letter. In addition, I have checked with concerned officials to respond to your question regarding attempts to influence action from outside the Customs Service. They are not aware, nor am I aware, of any such efforts to influence action.

In your third request, you ask for a copy of the Memorandum of Understanding (MOU) signed between Customs Office of Enforcement, the Federal Bureau of Investigation, and the Drug Enforcement Administration in Arizona in or around January 1991, concerning their enforcement responsibilities. To our knowledge, no such memorandum exists; this has been confirmed through a search of our files.

Your fourth request relates to the transfer of Mr. John Juhasz, an employee of the Customs Office of Internal Affairs, from Tucson, Arizona, to San Diego, California. Although there may be a question only of terminology, we would like to clarify the fact that Mr. Juhasz was not "removed" from his position. His reassignment was on a lateral basis (i.e., a transfer) from one position to another without a break in service. The enclosed letter in which Mr. Juhasz was notified of this reassignment explains the basis for this decision.

As you will note in review of the letter, the decision to reassign Mr. Juhasz was made by (then) Assistant Commissioner for Internal Affairs, Mr. George Heavey. Mr. Heavey made this decision in accordance with the authority delegated to him. As the Assistant Commissioner for Internal Affairs, Mr. Heavey was responsible for allocating resources, shifting resources as he considered appropriate and necessary, and for making selection decisions through the GM-14 level. The Office of Enforcement has no authority or voice in actions taken outside of their organization.

We would also like to point out that during the first nine months of calendar year 1991, Mr. Heavey initiated numerous actions similar to the reassignment of Mr. Juhasz in order to realign and strengthen the staffing of Internal Affairs. During this time period, eight reassignments of GM-13 and GM-14 employees were initiated; two reassignments of GM-15 employees were recommended to me by the Assistant Commissioner.

In your fifth request you have raised questions about a meeting which I held with Mr. Juhasz to discuss the contents of his letter dated May 5, 1991. I met with Mr. Juhasz on May 22, 1991. My executive assistant also attended this meeting. As Mr. Juhasz' letter contained several serious allegations, I wanted to fully understand the situation from Mr. Juhasz' perspective.

During this meeting, at Mr. Juhasz' request, a call was placed to Assistant U.S. Attorney Milan Tesanovich, an official mentioned in Mr. Juhasz' letter, to allow the AUSA to participate by speakerphone in the discussion. The ensuing conversation did not generate any additional information or specific allegations with regard to Customs employees. Nevertheless, in view of the serious nature of Mr. Juhasz' letter, I felt it imperative to forward it to the Treasury Inspector General for appropriate action. A copy of that referral is enclosed for your information.

Mr. Juhasz' letter was transmitted to me on a personal and confidential basis. As you may know, I have traditionally offered employees the opportunity to correspond directly with me on matters of concern to them. Since Mr. Juhasz' correspondence raised particularly serious and sensitive issues, I treated it in a confidential manner and only my immediate staff had access to the contents. Accordingly, I discussed Mr. Juhasz' letter only in very general terms with Assistant Commissioner Heavey, and advised him that I intended to forward the letter to the Inspector General. This was a course of action with which Mr. Heavey fully agreed.

In summary, the source of my information about Mr. Juhasz' allegations was Mr. Juhasz and AUSA Tesanovich. I did not reach any conclusions about these allegations, but instead referred them to the proper organization, the Treasury Inspector General. To date, we have not been advised as to their findings or the disposition of the letter.

With respect to Mr. Juhasz' transfer, as indicated earlier, such actions are within the authority of the Assistant Commissioner. Any concerns about this action would have been appropriately discussed between the employee and the responsible manager. In fact, I recall suggesting to Mr. Juhasz that he discuss any concerns about his transfer with Mr. Heavey.

The sixth area of inquiry in your letter relates to a recent interagency HIDTA conference. We welcome the opportunity to provide you with information about this conference, as it appears that the information which you received is completely incorrect.

The major issue in your inquiry is HIDTA funding requested and received for Customs Internal Affairs initiatives. Contrary to the information you may have been provided, there was very strong support within Customs and from the Treasury Department for this funding. The Customs Service representative, Mr. Tom McDermott, was an extremely effective and articulate advocate for all of the Customs proposals, including the Internal Affairs request. In fact, Mr. McDermott was instrumental in convincing the voting members of the need for not only the Customs Internal Affairs initiatives, but also of the merits of the FBI's integrity proposal.

You may not be fully aware of the ground rules and procedures for HIDTA conferences such as this one. This meeting was an interagency forum to discuss various agencies' HIDTA proposals and to select those proposals which best met the objectives of our nation's drug strategy. Each agency, as opposed to various sub-components within an agency, is allowed to have one voting representative. (In keeping with the ground rules, other organizations were allowed to send non-voting observers.) During the meeting, the representatives receive briefings and decide, as a group, how to best distribute the limited resources appropriated to the Office of National Drug Control Policy (ONDCP) for the HIDTA program.

As indicated above, Mr. McDermott, a senior manager from the Office of Enforcement, represented the Customs Service at this conference. For the past two years, Mr. McDermott has served as the sole Customs member on the Joint Command Group for Operation Alliance. As such, he is the Customs voting member on all HIDTA issues involving the Southwest Border. Therefore, Mr. McDermott represented all of the Customs Service's interests, including Enforcement, Inspection and Control, and Internal Affairs.

As you can imagine, the process for obtaining funding in such meetings is highly competitive and it would be most unusual for agency requests to be granted in full. Although the Internal Affairs proposal was reduced, the Customs proposals for Enforcement and Inspection and Control were also reduced in similar proportions.

We consider the results of the HIDTA conference to be very successful for Customs, due in large measure to Mr. McDermott's role. The Internal Affairs observers at the conference were very complimentary of his efforts, as were representatives of other agencies.

You should also be aware that in view of the mandate of ONDCP and intended purpose of HIDTA, concerted efforts are required to convince the voting members that internal affairs integrity programs warrant in-depth consideration. While the need for corruption initiatives is recognized as critical, the many competing priorities limit availability of funding.

The working paper which you attached to your inquiry actually reflected some of the problems and perceptions associated with HIDTA funding of internal affairs proposals. These were not statements made by Treasury Department officials or Enforcement managers. These were informal comments of various members of the interagency committee which reflected common misconceptions

about the relationship between Internal Affairs activities and the use of HIDTA funds. Through the efforts of Mr. McDermott and the Internal Affairs observers during the course of the conference, these misconceptions were in large part corrected. The results of the conference demonstrate an understanding on the part of the participants of the critical role which integrity initiatives can play in the national drug strategy.

The working paper was part of a package sent to two Internal Affairs field offices to assist them in addressing these issues and to enable them to prepare more informed submissions for HIDTA funding in the future. It must be emphasized that this paper was never intended to and did not reflect official policy. I regret that this material was taken out of context and therefore was very misleading.

In your seventh and final request, with respect to the Los Angeles inspection report, you indicate that in your May 20, 1992, letter, you had requested the "results of the Service's January 1992 inspection, in particular the draft report of this inspection". You further indicate that our June 19 response stated that "the Service would provide the final report as soon as it was completed."

Unfortunately, this does not reflect the agreement as we had understood it about transmitting the results of the inspection. In your letter of May 20, you asked the Customs Service to "please describe all of the problems and deficiencies uncovered by the Internal Affairs teams during the early 1992 "test" inspection in the Los Angeles District and SAC OE offices." We believed this reflected your understanding of and sensitivity to our position that inspection reports themselves are internal deliberative documents which cannot be provided without chilling the process by which the agency's management becomes informed so as to make the best decisions possible regarding the operation of the agency.

In that vein, we responded to you on June 19 that while "... it would be too early to provide you with a complete picture of the issues in the Los Angeles District and SAC office. As soon as we have finalized our results, we will provide you with the requested information."

As we have indicated in previous correspondence, we must decline to provide inspection reports. These reports are part of the internal deliberative process which provides information to Customs senior managers for use in making organizational decisions. The inspection reports are also a part of the internal oversight of Customs for the

purpose of ensuring effectiveness, efficiency and economy of operation. In order to preserve the free flow of information and opinion, as well as, promote discussion and debate during the inspectional process, it is necessary to limit the disclosure of inspectional reports. It is concluded that these reports cannot be disclosed because they are protected by the deliberative process.

However, as we have previously agreed, we are furnishing you with a description of the problems uncovered during the test inspection. We believe that the enclosed documentation is responsive to your original request. In addition, we would be pleased to provide you or your staff with a briefing on the inspection findings and recommendations, should you have further questions.

I very much hope that the above information is responsive to your requests. Please do not hesitate to contact me if you have any additional requests or areas of concern.

Sincerely,

Carol Hallett

Carol Hallett
Commissioner

Enclosures

CC: Hon. J. Dennis Hastart
Ranking Republican



THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

JUN 18 1991

MEMORANDUM FOR: Donald E. Kirkendall
Inspector General
Department of the Treasury

FROM: Commissioner of Customs *Carol Hallett*

SUBJECT: Integrity Issues in Tucson

I have received the attached letter concerning integrity issues in Tucson, Arizona. The author of the letter has requested that I forward it directly to you and that it not be referred to Customs Internal Affairs. ✓

I am therefore forwarding this letter to you with a request that you take appropriate action.

Attachment