



The decade-long increase in Customs and Border Protection staff has coincided with more frequent corruption cases involving federal agency's law enforcement personnel

By Greg Moran

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This past week, a scene that has become all too familiar in federal courts along the southwestern border unfolded in the courtroom of San Diego federal Judge Marilyn Huff when the trial of Lorne Leslie Jones got under way. n Jones is accused of taking bribes for nearly a decade in exchange for allowing drugs and unauthorized immigrants to enter the country. Federal prosecutors say he netted more than \$500,000. n Jones, nicknamed "Hammer," is a veteran Customs and Border Protection officer, one of thousands of law enforcement officers and agents tasked with securing the nation's border. He's also the latest to go on trial for betraying that trust.

In less than a decade, Customs and Border Protection has become the largest federal law enforcement agency in the nation, with some 60,000 workers stationed on land, sea and air.

The rapid growth has had an unintended consequence — one that is getting more attention as Congress weighs new border security measures that may call for another hiring binge.

Since 2004, almost 160 border officers and agents have been arrested or indicted on corruption-related charges in federal courts. They've been charged with bribery, smuggling, transporting drugs, selling agency equipment and other offenses. Examples:

- Former Border Patrol Agent Rodolfo Zuniga was sentenced in January to 37 months in prison for stealing agency night-vision goggles and possessing child pornography. Zuniga, hired amid a staffing ramp-up in 2003, had been quoted by a local radio station in 2011 saying he was "shocked" at the arrest of another agent on corruption charges.
- Customs and Border Protection Officer Hector Rodriguez was sentenced in September to six years in prison for accepting bribes for his role in a human smuggling ring. On more than three dozen occasions, he waved cars with illegal immigrants through his inspection lane at the San Ysidro Port of Entry.

- Former Customs and Border Protection Officer Luis Francisco Alarid was sentenced to seven years in prison in 2009 for, among other things, allowing a minivan with 260 pounds of marijuana and four illegal immigrants to pass through the Otay Mesa Port of Entry. He was ordered to forfeit \$175,000 in bribes.

Also, since 2005, a far greater number of border law enforcement members have been arrested on misconduct-related charges. These typically involve off-duty behavior such as drunken driving, assault or domestic violence charges. There have been 2,170 of those kinds of arrests, far exceeding the number of corruption-related arrests.

Whether the problem is worse now than before the spike in hiring can't be determined because the agency does no comprehensive tracking of corruption and misconduct cases.

But Tim Lynch, a scholar at the libertarian Cato Institute who oversees the National Police Misconduct Reporting project there, said another hiring boom will undoubtedly lead to more corruption and misconduct cases.

"One of the troubling things with (CBP) is how Congress goes on a hiring binge with that agency," he said. "You're asking for trouble when you hire so many agents in such a short period of time. History tells us when there is that rush, just as night follows day, there's going to be corruption and misconduct problems."

A Customs and Border Protection spokesman noted that the number of its employees engaged in misconduct represents less than 1 percent of the total workforce. The agency has told Congress and auditors that it's getting a handle on the problem.

It has staffed up its internal affairs unit and bolstered pre-employment investigations and checks — a step Congress ordered in 2010. It has created "integrity officers" in field offices across the nation and a high-level internal committee in the Border Patrol to study "strategic analysis of vulnerabilities to corruption."

Ethics and integrity training for agents and officers have also been increased, said spokesman Mike Friel.

"It is critical that our employees conduct themselves with the highest standards of integrity as they carry out the critical mission of protecting America's borders," he said.

Corruption persists

Even so, congressional hearings, government reports, news stories and a steady stream of court cases show that corruption problems persist.

In a 2012 Government Accountability Office report, for example, auditors noted that Customs and Border Protection was supposed to develop a comprehensive "integrity strategy" called for in a strategic plan for the agency in 2009. Not even a draft has been done, and no schedule for completing the overall strategy has been set.

The main reason: infighting and resistance to the plan, the auditors said. An unidentified assistant commissioner for the agency's internal affairs unit — the one that was staffed up several years ago to

address corruption — told the auditors that there was “significant cultural resistance” to integrity oversight.

When reports of corruption grew in 2007, Customs and Border Protection officials instructed managers to analyze reports on every employee convicted of corruption. Border Patrol ordered the same thing in 2011.

The idea was to review how the corruption occurred and recommend how agency policies could be improved to prevent similar cases in the future, according to congressional testimony in 2011 by then-Customs and Border Protection Commissioner Alan Bersin, a former U.S. attorney in San Diego.

Yet the 2012 GAO report said that one-third of the cases involving customs officers have not been analyzed. And the Border Patrol has reviewed just 4 percent of its corruption cases since 2004. The agency told auditors it would work to complete the analyses this year.

Clues to corruption

What drives the corruption?

“Your guess is as good as mine,” said Edward Weiner, a retired federal prosecutor in San Diego who worked on numerous corruption cases in his career. Much of the time the agents or officers are in the midst of what Weiner called a personal crisis — a divorce, a financial setback— and that makes them vulnerable to temptation.

“I don’t know how you guard against those things happening,” he said. “Strict supervision is one way.”

In the case of Jones, prosecutors said he initially conspired with an ex-wife (he has had five) back in 2000 to smuggle drug loads. Through her, he met smugglers in Tijuana who organized the drug shipments, court papers said.

In another high-profile corruption case involving brothers and former Border Patrol agents Fidel and Raul Villarreal, the motivations were different. They were convicted of running a human smuggling ring in San Diego. Fidel Villarreal set up the ring after he had been demoted from a public affairs job to patrol work — a demotion that came after a drunken off-duty incident with Chula Vista police.

The agency has changed some of its procedures in response to the wave of corruption. A computerized system, dubbed “red flag,” alerts supervisors at ports of entry when customs officers in the inspection lanes don’t follow standard procedures.

Because cellphones often were used to coordinate smuggling runs with criminals, customs officers now aren’t allowed to use personal cellphones while on duty at the ports of entry. Border Patrol agents have limited use of theirs.

Newly hired Border Patrol agents also aren’t allowed to work within a 100-mile radius of their hometowns after Customs and Border Protection realized 75 percent of those arrested for corruption were working close to home.

Hammered for shortcuts

Customs and Border Protection has been widely criticized for taking shortcuts when it began doubling the size of its staff in 2004.

A congressional report three years ago said not all new hires were getting polygraph examinations or background checks, among other issues.

The 2010 Anti-Border Corruption Act passed by Congress mandated that all new hires take polygraphs and directed the agency to begin cutting the huge backlog of periodic re-investigations of officers and agents — checks that were supposed to be done every five years.

As of October 2012, the agency was giving polygraphs to job applicants and had resumed the re-investigations.

Another proposal to use polygraphs for current employees is under consideration but faces several roadblocks such as the frequency of the exams and that the possibility of doing them agencywide would require negotiations with labor unions.

A GAO report in December also cited agency officials' concerns about the cost. Each test costs about \$800, the report said, but that doesn't include the expense of hiring more examiners and supervisors. The report said it could cost up to \$250,000 to train a single examiner.

That number surprised Carolyn Martin, an investigator who does background checks on a contract basis and is the president of the American Federal Contract Investigators Association.

"That sounds extremely high to me," she said of the \$250,000 estimate. "And why would they want to bring in and train brand new polygraph examiners when there are thousands out there who already work for the government?"

Repeat applicant

As an example of what went wrong over the past decade, look no further than Imperial County and Oscar Ortiz Martinez.

After serving in the Marine Corps for four years, Ortiz returned home to El Centro with a single goal in mind: a career in federal law enforcement.

The closest he got was working as a security guard for a private company that staffed an immigration detention facility in El Centro. For six years, Ortiz worked at the jail.

At one point, he applied to be a customs officer. Court documents say he couldn't pass a background check because a restraining order taken out by an ex-wife disqualified him.

Undeterred, he applied again in 2008, when the agency was in the middle of the hiring spree. This time, Ortiz was hired and assigned to the Calexico border entry. Within months, he was in trouble.

A girlfriend took out a restraining order against him saying he was stalking her after they broke up, according to records in Imperial County Superior Court. That landed him on administrative duty.

About the same time, a former colleague at the immigration jail approached Ortiz, and eventually enticed him into allowing loads of drugs through his inspection lane.

Ortiz was eventually nabbed in a sting operation and convicted this year of bribery and other offenses. His lawyer, Jeremy Warren, said Ortiz should have never been hired given his background.

“He was at best a marginal candidate,” Warren said. “So at a time when CBP was ramping up the number of officers at the border because of the mandates of Congress, they broadened their base of candidates to the point where they may have been more interested in filling the ranks than in getting the best possible candidates.”

In July, like so many border law enforcement authorities before him, Ortiz sat at a courtroom table dressed in jail clothes, and waited to hear his sentence from U.S. District Judge Barry Ted Moskowitz.

His law enforcement career, so long sought for, had lasted less than two years. His time in prison, Moskowitz decided, would last far longer.

The judge sentenced him to 12 years.