



Commission Sensitive

**MEMORANDUM FOR THE RECORD
COMMISSIONER PART I**

Event: Interview of Customs and Border Protection Commissioner Robert Bonner
Customs Commissioner (September 20, 2001 – March 1, 2003)

Date: Thursday, December 18, 2003

Special Access Issues: None

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Team Number: 5 (Border Security)

Location: Commissioner Bonner's Office, CBP, Ronald Reagan Building,
Washington, DC

Participants - Non-Commission: Robert Bonner, CBP Commissioner
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Participants - Commission: Janice Kephart-Roberts, counsel
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Note: no classification required

Documents provided or requested. none

Recording: yes

NOTES:

Background at Customs and September 11.

How Bonner came on board at Customs. In June 2001, I had my hearing before the Senate Finance Committee. During the summer of 2001 I was waiting to be confirmed and was periodically going back to Treasury Dept and getting briefings on host of issues as at any agency, and all stakeholders and a broad array of briefings, and mostly on interdiction, law enforcement, trade policy regs, personnel matters, and in any event, I did come back to D.C. as a consultant to Treasury and had a set of briefings set up for week of Sept 10 and to see where we were on confirmation process. I had substantially wound up my private practice and that point was on hold from Sen. Jessie Helms due to Customs initiative he didn't like.

September 11. So, I was back here, for briefings so to take over helm of Customs and in the Treasury Dept. when attacks occurred. and evacuated Treasury at that time with other Treasury employees and I happened to see the Acting Secretary, **Ken Dam**. Ken motioned to me to get in car and go to USSS Command Center and got there by 10 am. There I initiated a call to the US Customs situation room and spoke to **John Varrone**,

who happened to be here and in as sense assumed my duties at that time. Varrone advised that he had all of the assistant commissioners in the situation room and had issued a level one security alert. We had been on level 4 alert. I asked what that meant, and John advised what that was: in essence, highest level at POEs w/o shutting down, and a significant increase in number of cargo that gets handled. I believe this conversation was at 10:05 am. Role of US Customs pre 9/11 was to help inspect every vehicle, person and thing through a POE designated by Customs Commissioner. At land borders, ½ Customs and ½ INS. Two different agencies with reporting requirements at every POE. But the authority of looking at everyone, was a shared responsibility at land. At Customs, threat level one meant posing additional questions, and determining whether that person poses a threat. This was coordinated with INS. I believe, as I was told, Customs made determination, INS was contacted and concurred. If you examine 100%, passenger vehicles and commercial trucks, you have to, via reality, a certain number are reviewed for compliance and for drugs. Increase in questioning of people and goods and vehicles and general aviation aircraft. There was no quantification of it and not 100%. There was an increase in number and know that b/c on Sept 12, the next issue was that we had virtually shut down the border. Know that b/c the wait times (Ambassador Bridge) went to a 12 hour wait from a 20 minute wait. We had significant increase on wait times on south side as well and didn't have staff or tech to handle the flow.

I was at the USSS Command Center all day and dealing mainly through Varrone every hour or so getting updates. Next day, I was back at Treasury Dept and increasing security and private industry that were on just in time inventories and working to get more staff at the northern border and by third day got people in, mostly from LA. Took everyone at Detroit airport and placed them on the land border. At the smaller ports of entry on the north, 3-5 person POEs, and usually not open 24/7, and open typically with two armed inspectors, and mostly putting orange cone in middle of road, and so of course we had to get people 24/7 armed and by shifting people and National Guard support in Michigan to open trucks and do more vehicle inspections. Ultimately could harden with technology.

Chuck Winwood got back by about Thursday by car from Canada, Assistant Secretary for Treasury. He's now with Sadler & Travis.

I was coordinating on security on northern border with _____,

Communication with WH. I was basically briefing **O'Neil** when he got back. I didn't talk to anyone in White House that I recall. Everyone knew about the back ups.

I couldn't get a reliable info on wait times from anyone at N border. We measured time of license plate number at 8 am and 4 pm to see how long it took to get through. First day 1 hr, 2nd day on 10 days. So Customs posted wait times thru a POE on web site, and still do it, and first time doing that.

Gov. Engler and national guard. We have a need for national guard support and needed more people to have us do screening under supervision of Customs. How did it come about? **Kevin Weeks** was our director of field operations and **Bonnie Tischler** and

Bonnie and me initiated a contact, and the next day we had a deployment and additional manpower and local law enforcement in Wayne County so as not to compromise security in process. Mainly in Michigan. And Detroit PD. Support for a couple of months.

Helms took hold off, but another **Senator Inhofe** put another hold on and lasted another week. Confirmed on the 19th. Sworn in on the 24th.

Diana Dean, Customs official, arrested **Ressam**. So CT on the Customs' plate already.

CT becomes the priority. Clear to me we had to refocus on new priority mission, a CT mission, and using resources technology, targeting capabilities and keep terrorists from entering US, and refocus agency on that reality. For variety reasons, Customs has adapted to different situations in its 200 year history and it was a group of people capable of adapting quickly. Big ticket issues were:

1. taking methodology on risk management on drug smuggling and use it on CT on people and cargo by Office Field Operations. This office became the Office of Border Security that became the Targeting Center. We needed to have way to collect info to risk manage people, goods in way that adds to security.
2. implementing Presidential mandate to attack terrorist financing. Aspects have to deal with OFAC and Financial Task Force, and seemed to me that US Customs agents should be with a task force at sources of terrorist financing in Oct 2001 and Operation GreenQuest. By and large, there was no investigation under way at that time. I went over to FBI to see what they were doing; they were tracking funding of 19 hijackers, but no effort to determine "how does AL Q get their money to finance terror" and that became Operation Green Quest. The CIA had had significant info already and treasury was using that money. The problem that info was exhausted in about 2 to 3 months, and question was how to use investigative muscle to work with agency. I proposed and cleared thru **Jim Gurule**, and got approval from DOJ, and I wanted the FBI to participate. The FBI didn't really, but a hdqtrs driven initiative. IRS/CID/USSS all in task force to disrupt terrorist financing.
3. One of the issues was security of cargo containers due to vulnerability of ships being used as a missile with WMD loaded on to it. (1) container security on arrival=cargo security. Target high risk containers and require a minimum CT screen=run thru xray machine and for radiation and put that into place and (2) container security initiative, with WMD, and do targeting at foreign ports prior to loading and proposed in Jan 2002 and by June 2002 have int'l agreements in place. Rotterdam was first to sign up and now have 17 foreign ports most recent S. Africa and to expand top 20 ports and two major ports in Malaysia.
4. In Nov 2001, Customs had a trade symposium (its second) we in first week of Sept were sworn in, and we were equally divided about having it again. Needed to partner with private sector to move goods into US and then proposed CTPAT, and that's become very success private-public program. 7 major US importers, and now have 4,600 importers as part of partnership and security of goods to foreign loading docks. The key is using the authority of US Customs and willingness to adopt Customs security standards in exchange for expedited

processing at border and material and important security from the CTPAT supply chain.

5. Made it mandatory that APIS info being given to Customs. So we can actually have info on arriving aliens.

INS and Coast Guard cooperation post 9/11

What I found out about INS, what I learned was that, it was very difficult to coordinate with INS at a national level, and not because **Jim Ziglar**. Ziglar is a good guy and we did lot on *Smart Borders*, but structure of borders made it difficult to coordinate at a national level, and absolutely necessary in CT times. Customs had gotten rid of regional commissioners, and we could move resources, but INS couldn't do that, and Border Patrol couldn't move people the way they needed to. We did do shared border accord to expand *Nexus* program, program to allow fully vetted persons to get a smart card. I worked closely with **Rob Wright**, Canadian Customs. We used NAFTA to develop smart border initiatives and FAST program (free and secure program with Canada for vetted trucking company, truck, and driver, and NEXUS for passengers with small fee—run thru criminal / smuggling indices in Canada and US) that permits expedited entry. Four partners in this program:- US Customs, INS, Canada Immigration Services, and Canadian Customs. At national level, difficult from my perspective for **Ziglar** to make things happen at INS level the dysfunctional way INS set up.

Other problems too at INS. **Ziglar** hired to split CIS and enforcement altogether. I started advocated law enforcement merger with Customs in fall 2001. We needed to organize better and that meant sum total of bringing agencies together. That's what I thought. Congress was even a bigger obstacle. So it took a new bit of gov't to effect that change and one face at the border and that's what we've done and that's overlooked as to the larger DHS merger. But CBP is 43,000 people and ¼ of DHS.

Ziglar/Loy interagency cooperation memo of December 2001. Did you support the document? When did you sign on to it? Customs staff participated, maybe, with the preparation of that document. I remember a meeting at INS offices. I'd have to look at document. The issue was, if we are not doing a merger, can we coordinate better, b/c Coast Guard has responsibility for shore lines, and Customs there at every sea port and screen, and examine with CG. I don't know if there ever hasn't been good coordination. So issue was how to better organize to determine whether people or goods are security risks at that time. **Ziglar** was given task of breaking up INS. So he proposed restructure but not break it up. I thought we should look at merger of Customs and INS. We did discuss better integration and better collaboration. The problem wasn't Ziglar, but structuralization of INS. I supported better coordination.

Threat level today. Question not answered.

Intelligence, with example of recent Border Patrol intel alert stating that the FARC and Al Qaida have been meeting abroad and discussing use of Mexicans to infiltrate on behalf of Al Qaida. I'm not sure I've seen this particular alert. No current info on the

FARC in recent months. There's been a little bit of reporting there that may have amounted to an alert.

Do you and did you during the post 9/11 period receive regular briefings? I got daily briefings from CIA until March 1 when we became DHS. Since March 1, more infrequent; probably only ½ dozen over last eight months. Our office of intel provides a briefing every day, and a personal briefing once a week with intel related to border security eg AL Q is experimenting with anthrax from Roy Surret. I'm not getting CIA since March 1. CBP does seek and acquire a lot of strategic intelligence, but not much specific or real time, as that is difficult to come by. It is one thing to have a Customs inspector to use their training, like Ressay, but another to have info up front, so we need specific tactical intel, very little, and virtually all negative. We thrive on strategic intel to use for targeting. Al Q in Canada for ex.; or Al Q in Kenya. We also look for someone we need to get watchlisted or lookout into IBIS. Advance info is what we are doing targeting. We get about 1000 cables a day and looking through these via a skif. Put out advisories to all POEs and take operational action where necessary. (Have done so on the northern border.) And we do intel driven special operations.

Border Patrol strategy and "prevention through deterrence". We have integrated BP wholly, but "prevention through deterrence" is not a strategy at all. In 1994, BP strategy was deterrence. I've asked the BP, to propose a new strategy and talked about what that might entail. For example, they must take into account the N border, which to date they really haven't. There were only 580 BP agents on the northern border when we merged into DHS. That's totally unsatisfactory and I was astonished that was all that was done considering known Al Q in Canada and none known in south, but now the need is clear to border patrol. I want 1000 BP on the northern border by end of this year.

Strategy preview:

1. South still important and vulnerable to Al Q information. We need strategy that gives us a higher level of protection b/w POEs. We turn people away regularly at border, we don't let them in if we believe they are a terrorist. Turned away one guy at Peace Bridge in Buffalo, and refused entry. Refused entry at same port again. Then tries at Massena NY and refused entry. I figure at this point he, and others like him, will try the border, and it will be up to the BP to catch such persons. That means we need a credible presence on BP. There's a ground sensing, personnel, and especially through Great Lakes, and the 49th parallel and air assets and arial surveillance and rapidly respond penetrations. I still haven't got complete strategy to me yet. Object can't be a guarantee that there will be no crossing of a terrorist, but we do need to detect crossings. I will brief it by the end of year to DHS.
2. In south, need to remove "Clutter of illegal aliens". BP apprehended for N and S 800 high interest aliens. Removal of people actually taken care of by ICE detention and removal.

Alien smuggling units now in ICE. All former INS and Customs special agents had been separated from CBP and 1811s are in ICE. Uniformed law enforcement people, CBP people, those charged with capturing smugglers and intercepting drugs, and investigators

are ICE. We have two main touch points that our critical: law enforcement officers on (1) detention and removal and (2) law enforcement. We've set up a bilateral CBP/ICE working group to identify issues and resolve issues and we're working on these and personnel issues and a trilateral working group that ICE/CBP and CIS.

Bifurcation of ICE and CBP. Good idea? A work in progress. We are trying to do everything to make this work. I'm a great proponent of moving forward to manage the border in one entity. I have my hands full.

Relationship of migration enforcement to terrorist enforcement. Don't move away assets of BP from S border. We need to have a strong presence here. In 1994 or 95 began to increase BP personnel and help. The BP has as a result a significantly improved border with Mexico. There is a credible deterrence down there. There are still some spots that aren't in control-Tucson is one area like that right now. If we reduce number of people coming across the south border, and if we are more effective in apprehending, the more crossing the border will become an exercise in futility, and we hope less people will try to enter. If not driving down the flood of illegal immigration, no way can protect US from terrorists. My point is that to do terrorist prevention, need a strong presence and reduce volume of illegal migration for economic reasons. I can't tell you the budget impact that will have now, until we complete BP strategy, in all probability, will require increase staffing of BP. Increase technology on south AND north and low tech infrastructure, and increased fencing and lighting. Also involves astute uses of interior checkpoints. BP does do some defense in depth at major highways leading from BP crossing points.

Role of DOD in support of CBP mission. Not speaking for administration, b/c not fleshed out. This is a civilian law enforcement function. Policy matter not prudent to militarize our borders. If that's the direction we should go, then should adequately resource civilian help. It is conceivable that there could be events based on threat analysis where we would need to call upon national guard to facilitate our needs. We oughta have a system that is tactical, operational or strategic value to CBP so we get it and evaluate it in long term or short term. The whole idea of terrorist threat at N border, we did *threat assessment in Oct 2001*, and I proposed at meeting in scif in **Ziglar** and **Loy** about how to do a threat evaluation on the border. We were talking about a whole number of things for rapid response teams from both agencies, and it never really went anyplace. In first week of Nov, **Ziglar** proposed restructure, and I thought we should merge, and we ultimately signed off on it and submitted to **Tom Ridge**.

Emergence of DHS and merging of INS and Customs. In Dec 2001 there was a straw man proposal that was a merger of Customs with INS enforcement. That was shot down immediately by Justice and Treasury; there was a coalescing of interest against that idea. Process then got revived through March, and there was tremendous resistance. After a lot of thought, the President suggested creation of DHS. There was an evolution of things occurring here. The proposal would permit one face at the border. Learned about proposed change from somebody in admin the day before, maybe **Andy Card**, shortly before announcement. There had been a lot of discussion pre DHS., then there wasn't, and then there it was.

DOD has significantly drawn back on drug effort. My belief is that if you are going to give functions and missions to an agency, you need to provide the resources to get the job done. One area that they can do is penetration of civil air defense, which we can't deal with either commercial or general aviation.

Customs did not look at passenger info for drug smugglers pre 9/11, but not terrorists.

JKR, Ginsburg and Bonner then discussed the upcoming hearing on Jan. 26, 2003, and reviewed the topics Bonner's testimony should cover, mainly focusing on immigration element of CBP. Bonner resisted this, stating that nobody understands that Customs and former INS work in tandem, and Customs work is extremely important. JKR responded that at int'l airports, which is the means the hijackers used, the immigration inspectors and Customs did not work in tandem, but sequentially, and our focus was whether the immigration inspectors should've or could've prevented any of the hijackers from their manifold entries. SG asked Bonner whether we should also look at Customs further, and whether they should have been able to stop any of the hijackers? Bonner did not respond to this, but instead we continued to discuss that we needed to hear about what happened at the borders from the Customs perspective on 9/11, his view of the post 9/11 border change proposals, and the current status of border security, with a focus on US VISIT and other techniques being used at the border.

QUESTIONS FOR ROBERT C. BONNER

Dec. 18, 2003

National Commission on September 11

FYI: Briefings received from:

- employees at JFK Int'l on the border inspection process today
- National Targeting Center
- Mike Cronin
- intel sharing amongst DHS entities on border information
- CBP organizational structure
- And interviews of the Gus de la Vina and inspector MP

Background at Customs.

- how did you come by your job at Customs ?
- what were you told your job would entail ?
- Was there a CT strategy in place when you came on board? When began, what was the priority assigned CT at Customs?
- I note that you were not sworn in as Commissioner until September 24, 2003. However, for the record, did you receive any briefings pre-9/11 indicating that UBL was threatening the US, and much chatter was in the air?

September 11. (In preview for testimony on Tuesday, Jan. 27)

- You were not yet confirmed. Who was the decision-maker for Customs on that day?
- Tell us about the day. Where were you? What did you do? who did you call? Who did you work with?
- What decisions were made at Customs that day? Were you able to influence any of those decisions?
- Tell us about the Threat Level initiated. How did that play out at the POEs?
- What is the threat level today?
- Tell us the top five key actions you took to better secure the borders and cargo post Sept. 20, 2001, including interagency actions?
- How did Sept. 11 change, if at all, the initial priorities you set out for Customs, which were grounded in developing a private-public partnership in trade?

Restructuring the border pre DHS announcement.

- Who did you work with on an interagency basis to try to better secure the borders? How did those contacts come about?
- Please describe the relationship between yourself and Mr. Ziglar.
- Please describe the relationship between yourself and Mr. Loy.
- On or about December 10, 2001, Jim Ziglar, jointly with Mr. Loy (then Coast Guard), approached you about how to integrate INS, Coast Guard and Customs operations much more effectively and make that presentation up the chain of command. At this time, Ridge wanted a new border security agency. Your counterparts were concerned about the pace of the idea and weren't sure it was

realistic, and sought your help in developing an interagency coordination initiative, completing such a document by early January 2002.

- What was your view, at this time, about the creation of a new border security agency?
- What was your view of the need for better interagency cooperation and integration of operations?
- What contribution did you make to the interagency cooperation document? When did you sign it? (months later)
- Why did you wait so long?
- Do you think that the agreement, if implemented, may have held off the creation of DHS?

Borders in the north and south.

- What remain your biggest challenges on the N border?
- Status of using unmanned aircraft to monitor the border. (understand that technology is at the top of the list for patrolling the northern border)
- Are you considering
- The Border Patrol recently put out a Border Patrol alert that Al Qaida was known to have had meetings with the FARC to plan logistics and networks and that Mexicans may be sought to infiltrate into the US on behalf of Al Qaida. Are there any other threat alerts about Al Qaida which CBP has received or produced? If so, we'd like to have them.
- Please explain what the BP strategy of "prevention through deterrence" is that is being implemented on the southern border and in Blaine in the north west. Please explain how the US can assure that those attempting entry aren't terrorists if all we are doing is chasing them off, with the likelihood for these people to probe the border until they find a soft spot? Why not a tough arrest stance? Isn't that the mission of a law enforcement agency? Is this a cost issue (Congressional staffers state that the cost of returning an EWI is about \$10K? But if most of these attempts at illegal entry are not from Canadians but from third country nationals, won't they just continue to probe the border until they find a soft spot?)
- 1,000 agents by end of this year. Will you reach that goal?

DHS organization.

- What are your biggest challenges with the current structure of DHS?
- Do you find problematic the bifurcation of investigations, detention and removal technically from ICE?
- How are you working with ICE on alien smuggling? Information sharing?
- What work, if any, are you doing with CIS?
- What work, if any, with the Coast Guard?
- SAVE FOR LATER: Is there a clear handoff established in the "federal chain of custody" established between CBP and TSA for air, rail, ship and trucks? (registered traveler program; air cargo security; CAPPs II, Explosives Detection System Installation)
- Are there any other agencies CBP works with on a regular basis we should be aware of?

Intelligence.

- Currently, from whom do you receive intel? How often? On what topics?
- Do you receive general threat information as well as information specific to the CBP mission? For example, is your intelligence unit set up to acquire information that, for example, (this is your example) terrorists using a sea container to conceal a weapon of mass destruction and detonated it on arrival at a port?
- What type of work is your current intel shop under Roy Surrett doing? (warnings to POEs, analysis, producing raw intel)
- Are 40 people enough to support 18,000 employees on our borders?
- How do you intend to help the Border Patrol receive Real Time Intelligence? Is the National Targeting Center providing information on those taken into custody? (They never mentioned BP as a customer when we were briefed.)

Command and Control at the border in case of national emergency.

- Is there a command and control strategy in place for a fully integrated and seamless border and transportation agency response in the event of another national emergency?
- Is this the same as the "readiness campaign"? In not, what is that?
- Please tell us what "critical incidence response" at the POEs means?

Law on the border.

- What changes in law do you see as essential to attaining better control over the borders?
- Is expedited exclusion being used on EWIs? (It was only implemented at POEs under INS.)

Morale and One face at the Border. (18,000 inspectors integrated on March 1, 2003)

- What are you doing to maintain morale?
- What about attrition? Have the unions maintained much of a voice in the new personnel system?
- Uniforms are Customs?
- POE appointments all Customs but _____. INS folks don't even want to apply, because they think they've got no chance.
- Concern about loss of expertise in cross training agricultural, immigration and customs inspectors?

Technology Support. Organizational chart we received at a CBP briefing indicates that the INS Exec Assoc Comm'r for Management was brought to CBP, but none of the supporting functions in technology or administration. Has a determination been made as to where the support resources for the inspectors and Border Patrol will live?

Background at CBP. (40,000 employees)

- how did you come by your job at CBP ?
- what were you told your job would entail ?

- what were the high priorities at the time you became CBP Commissioner?

THE NEXT TIME.

Status of Nexus program and Air-Nexus program.

- How would it work? Is there a criterion developed? A risk assessment model?
- How would the Nexus program jive with US Visit?
- How do you plan to integrate the Charles K program into Nexus/ US Visit?
- How do the Advanced Passenger Lists feed into this program?

Cargo Security Initiative. (\$62 mil requested)

- Please provide a brief update. You have the reg. You have unanimous adoption by the World Customs Organization in Brussels of a resolution supporting CSI. You have the 24 hour advance manifest before foreign port lading for maritime, rail and commercial trucking. Tell us where you are with the bilateral negotiations with foreign countries. (In Canada and the Netherlands; agreements with Belgium, France and Germany).
- With the initiative, what percentage of the 6 million or so cargo containers arriving at US seaports are being searched now? (Has it changed from 1 to 2 percent?)
- What are the criteria and automated targeting tools to determine high risk containers?
- Do we currently have foreign Customs officers working in our ports as part of the reciprocity of CSI? What countries? Where? What screening do these Customs officials go through prior to having access to our ports? (to determine if intel officers or other security risks)
- **Status of Air-CSI.**

Customs-Trade partnership Against Terrorism, C-TPAT. Brief update. (fast lane for shippers at land borders) (\$18 million requested) (3,000 participating companies) (hiring of supply chain security specialists). **Radiation Detectors. Vehicle and Cargo Inspection System** (gamma ray images). **Smart cameras.** (have the people to enforce when unusual movements detected?) (How training people on these?)

International cooperation.

- Describe your relationship with the Canadians.
- Describe your relationship with the Mexicans.
- What other countries provide good models for screening we should be looking at.

Recommendations.

If you were on the 9-11 Commissions, what would be the top three or so recommendations you would want to see put in place.