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# **Agricultural Inspections on the California-Mexico Border: The Impacts of Public Policy**

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## **Abstract**

*This paper uses qualitative, first-person experience from the field, to show how the impetus for homeland security, arising in the United States, after September 11, 2001, has changed organizational culture, and the design and meaning of work, on the California-Mexico Border. How this change has impacted individual employees is given from the perspective of a veteran Agricultural Officer at the Port of Calexico, using participant observation, hermeneutical and phenomenology techniques.*

## **I. INTRODUCTION**

Modern societies use law, among other things, as democratically-determined policy instruments to protect the people and the environment, to control crimes (Sutton, 133, 2001) and to enforce their normative values. Sometimes new laws overlap previous ones, and go so far as to change the primary missions, goals and objectives of established bureaucracies. They thus place additional challenges and constraints on administrative agencies, as well as on their agents—those many street-level bureaucrats (Lipsky, 1980) who must with caution and vigilance, often interpret the law, and even go so far as to “make law” via subtle interpretations of its meaning. Additionally, law promulgated in the 21<sup>st</sup> century seeks to protect people against a very specific threat to persons and the environment—the threat of terrorism, for example, which was made evident in the wake of the bombings of September 11, 2001.

This paper addresses two relevant statutes that impact organizational behavior within the United States Department of Agriculture Plant Protection and Quarantine (USDA/PPQ) Agency—the unit that is the administering arm of the

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Plant Protection Act, Public Law #106-224, signed into law on June 20, 2000, as well as the Homeland Security Act, Public Law #107-296, signed on November 23, 2002. These statutory laws have broad and deep impacts upon the above agency, as well as the many administrative agencies operating in U.S. border regions. In fact, in 2003 the USDA/PPQ became part of the Department of Homeland Security Customs and Border Protection (DHS/CBP).

The newer the policy, the more the statutory guidelines (which are broad in scope) need to be narrowed for interpretation in specific cases. This paper addresses how both the above statutory laws place the matter of interpretation and decisionmaking that arise on a daily basis on the border, particularly in the vigilance against terrorism, in a central fashion into the duties of the agricultural officers who manage the border agricultural inspections in their new designation as DHS/CBP employees. As a result of the policy change the level of complexity of organizational management and outcomes has occurred (Keil, 1994; Comfort, 1986, 1993, 1994). The policy changes have changed not only duties of the Agricultural Officers, but the design and meaning of work, and changes in the traditional organizational culture of the institution.

This paper derives from empirical research, using participant observational methodology, and hermeneutical techniques at the Calexico-Mexicali Border. These interpretations and implications, however, are generalizable to other border ports in the United States.

## **II. IMPACTS OF THE USDA/PPQ 2000:**

### **2.1. Agriculture and Plant Protection:**

The main purpose of the U.S. Department of Agriculture, Plant Protection & Quarantine (USDA/PPQ) is to protect the “American Agriculture”. Specifically, the Act:

- 1) Streamlines, modernizes and enhances the authority of the Secretary of Agriculture relating to plant protection and quarantine.
- 2) Prohibits the import, export, and movement in interstate commerce, or mailing of any plant pest unless authorized by the Secretary of Agriculture.

- 3) Authorizes the Secretary to prohibit or restrict the import, export, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, or means of conveyance to prevent the introduction or dissemination of a plant pest of noxious weed.
- 4) Combines all, or a portion of, eleven acts or resolutions into one act.

This Act impacts many agencies involved in agriculture and agricultural inspection. Specific to this paper, the Act has significant impacts on the work of the Agricultural Officers at United States Border between California and Mexico--at the border Port of Calexico. There is very high volume of traffic at Calexico (and other U.S. borders) in recent years primarily due to the impact of the North American Free Trade Agreement (NAFTA) and its progressive elimination of tariffs and quota barriers.

## **2.2. Pests & Disease Infections :**

Agricultural Officers work at international airports, seaports, and land border ports. Part of their duties is to inspect baggage, cars, buses, ships, airplanes, and people. This is done in order to stop the introduction of harmful agricultural pests into the U.S. from prohibited agricultural products. Examples of prohibited agricultural products are oranges, apples, or poultry meat--all of which can harbor harmful pests and diseases. Despite vigilance at the borders, the US agricultural industry is continuously being infected with foreign pests and diseases. The State of California, alone recently has implemented three recent quarantines to eradicate agricultural pests. The pests involved in the quarantines are believed to have been carried over to the U.S. by foreigners bringing in prohibited agricultural products.

The typical reasons that people give for bringing prohibited agricultural products into the U.S. are: 1) they *"forgot"* that they had them; 2) they *"did not know the regulations"*; 3) *"someone else put them in the luggage"*; or, 4) they *"thought that these products were permitted to cross over into the U.S."* (Leimgruber, 2003). Whatever the reason (or excuse) might be, it comes down

to the fact that agricultural products with harmful pests are being smuggled into the country. These agricultural products might carry pests or diseases that can cause infections to the U.S. agricultural industry. In turn, they curtail the ability the United States to export its agricultural commodities. In order for the agricultural agency at the border to combat this, and to discourage foreigners from smuggling prohibited agricultural products into the US, the implementation of the Plant Protection Act of 2000, gave the agency broader delegated authorities. They include imposition of higher civil penalties to those who try to introduce prohibited agricultural products into the U.S. The problem arises when such regulations are not followed.

As will also be shown later in this document, the Homeland Security Act, promulgated in 2002, for national security purposes, has superceded in many significant ways, the PPQ focus, and changed how it conducts its business on the border.

### **2.3. Inspection Regulatory Procedures:**

Under the old system the primary duties of the Agriculture Officers were as follows (<http://www.USA.jobs.com>):

- 1) To enforce federal law and regulations designed to prevent the introduction of foreign plant and animal pests into the United States.
- 2) To conduct and coordinate surveys to support the domestic agricultural programs.
- 3) To contact and advise trade representatives, brokers and other related officials about trade compliance.

A typical practice in the past was to provide all the incoming Inspectors (now known as CPB Officers, but formerly called the Immigration and Naturalization Service (INS) and US Customs (USC) personnel with an intensive 8-hour training course on the USDA procedures and regulations. In addition, they also had to pass a written test to fulfill the USDA Requirements. In order for the USDA Officers to impose a civil penalty to smugglers two criteria had been established:

- 1) The person legally entering the US must have made a negative declaration (oral or written) to the primary inspector.
- 2) If the primary declaration was negative, then the person had to be given the opportunity to amend his/her declaration.

Under the original format, all individuals coming from abroad at the Calexico Port of Entry, were approached by either an INS or USC inspectors at the port's primary lanes. This is where the first criterion took place. The primary inspector would obtain an oral declaration from the incoming people. Once the initial oral declaration was taken, if the primary inspector identified or suspected that the people were carrying agricultural commodities, then the inspector had to refer the people back to the secondary area for further inspection by an Agriculture Officer (now known as a CBP Officer). In many cases the primary inspector failed to comply with the first criteria. This might have occurred for several reasons such as: 1) a language barrier between the inspector and the incoming people; 2) the inspector failed to pose the necessary or appropriate questions; or, 3) the primary inspector simply failed to ask for a declaration. Once the person was been referred to the secondary area, the Agricultural Officer (CPB Officer) had to assess the situation and give the person the opportunity to amend his/her verbal declaration. Usually when an Agriculture Officer performed this secondary inspection there was more specificity involved.

Here is when the second criterion came into effect. This means is that once the people have been given a "No" to the first declaration, then the Agriculture Officer had to follow up with an additional oral declaration prior to performing an inspection. If at that point the person did not amend the first negative declaration and a prohibited agricultural product was discovered, then the person was now subject to a civil penalty. As stated before, if the primary inspector failed to comply with the first criteria, the Agriculture Officer, of course, could not impose a civil penalty. Thus, it is suspected that many foreigners entering the U.S. may not have been given a civil penalty, even though they were bringing prohibited agricultural products into the country.

### **III. IMPACTS OF THE HOMELAND SECURITY ACT, 2002:**

**3.1. Core Mission Change at U.S. Border Ports:** The Homeland Security Act of 2002, created the Department of Homeland Security (DHS), whose core value is to provide needed coordination to government anti-terrorism

efforts. The DHS consolidated 22 separate agencies into a new Cabinet-level Department with 170,000 employees, under Secretary Tom Ridge. In creating this bureau, the Act, granted it momentous responsibilities and powers. Many organizations like the Center for Democracy and Technology worry about challenges to individual privacy rights that may be circumvented by this legislation and have urged the Executive Branch and Congress to set out mechanisms to ensure data mining be “focused, controlled and accountable” (CDT, 2003).

The new department is structured around 4 directorates, all of which impact the target area of this paper—the Border Port of Calexico:

- 1) Information Analysis and Infrastructure (Title II)
- 2) Science and Technology (Title III)
- 3) Border and Transportation Security (Title IV)
- 4) Emergency Preparedness and Response (Title V).

**3.2. Implications of the New Policy:** This policy has had wide and deep implications for the men and women that work in the Port of Calexico that once were situated under different agencies, each with their own organizational cultures, regulations, work design, etc. Because the primary mission of DHS is security—specifically against terrorism, the policy has impacted the central mission under which the CBP Agricultural Officers operated at border crossings.

The mission of the newly-consolidated agency has changed how agricultural inspections are carried out and has, in effect, given them secondary importance to the main goal of terrorism deterrence. As a result, what could be happening in the immediate present, is that agricultural pests are slipping into the United States in contraband items, to the detriment of the agricultural industry of the Imperial Valley and beyond into the agricultural areas of the State of California, and beyond to the entire United States.

**3.3. Agricultural Inspection Loopholes Under the New DHS Policy:** Agricultural inspection being secondary to security objectives, inconsistencies in organizational behavior and procedures have arisen. Under the new guidelines, the INS or USC Inspector asks the driver of the vehicle in *general terms* about what is being carried into the United States. If the answer is in the negative, it is up to the primary inspector’s discretion, to get a second declaration, and to do a more thorough inspection of the vehicle. This is where the loophole in the procedure occurs. Some primary inspectors release a vehicle without further inspection by a CBP Agricultural Officer, based on solely on that first inspector’s

intuition. Today, as the rules currently stand, most smugglers of agricultural commodities know that they have a better chance of coming through the port without further inspection. Organizational behavior and individual behavior of inspectors have been impacted by the public policy change. Agriculture is no longer the primary focus (USDA/APHIS/PPQ, 2,4,9, Table 2.4.4, 2003).

**3.3. Organizational Uncertainty in Transition:** As with any complex newly-introduced system, there exists considerable uncertainty about futures in its early lifetime. This is an organizational condition that inevitably gives rise to a flood of dysfunctional communication in any agency. There are no fixed job descriptions during this transition period, since the former descriptions are being reviewed and revised. This leads to a very active grapevine of speculation and innuendo concerning what might occur in the future to job descriptions. The organizational rumor-mill has suggested that the CBP Agricultural Officers might be placed into the primary lanes; they may have to wear security gear, such as guns. These and other things lead to further speculation about training for these new tasks, and the question of expansion, or speed-ups, of labor. It also encourages an uncertain climate concerning change in the centrality, meaning (England/Harpaz, 1990), expectancies, motivations (Herzberg, 1959, 1966; Maslow, 1943), equities (Adams, 1965; Huseman, et.al., 1987) and general design of work.

Transition teams, set into place by top management, are in the process of analyzing all aspects of worklife, including standardization of uniforms, training and the use of a common computer system for all agencies. Deadlines for these changes have been established. Some changes have been accomplished. One such implementation has been a change in uniforms. Now all CBP Officers wear the same uniform and the same law enforcement patch. This change in dress significantly alters cultural norms and the way officers view their roles on the border.

#### **IV. POLICY ISSUES FOR CONSIDERATION:**

**4.1. Policy Considerations for the Port of Calexico:** Several local solutions for the Calexico Border have been introduced, and some solutions have been successfully implemented, to address the enforcement of the regulations to sister agencies personnel and the agricultural inspection personnel. They are to:

- 1) Provide continual training to our officers and sister agency inspectors.

- 2) Offer continual Education to our officers and sister agency inspectors of the consequences and impacts if our regulations are not enforced.
- 3) Reward employees by the use of yearly award performances and better employee evaluations.
- 4) Reprimand employees by giving lower yearly evaluations for not performing their delegated duties.

**4.2. General Policy Considerations:** Some general solutions have emerged through discourse among individuals and agencies over the past year. Suggestions are to:

- 1) **Educate** foreigners coming into the U.S. about prohibited items by advertising in foreign news media.
- 2) **Provide** on-going training to update personnel in new regulations.
- 3) **Continue** to educate existing personnel about the consequences that foreign agricultural pests have on the U.S. agriculture and our economy.
- 4) **Evaluate** the effects of the policy change on the various unions that have now been brought under the umbrella of the Homeland Security Act.
- 5) **Increase** civil-penalty amounts to deter or discourage foreigners from bringing prohibited agricultural products into the country.
- 6) **Deny** any foreigner entry into the U.S., if he/she has been caught with contraband.
- 7) **Clarify** what the core objectives of each DHS Border Unit should be.

Finally it must be mentioned that when missions and goals change, the greatest challenge in any organization is the correlative cultural change that has to occur. It is hardest to adjust to change in organizational culture, as culture is a slow-changing organizational variable. Yet culture is one of the most significant of organizational constructs. The transition and the concurrent uncertainties and inconsistencies will continue until all parties are acclimated to the new integrated mission of security versus individual agency goals. Then and only then, will a new culture develop specific to the DHS mission.

In conclusion, it is hoped that in the changes that have taken place, the earlier mission of preventing pests from entering into the United States will not be sidestepped so as to meet both the important national goals of human security and that of agricultural security as well.

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