



**National Border Patrol Council Local 1613**  
**Affiliated with AFGE, AFL-CIO & PORAC**

Terence L. Shigg • Lead Station Representative



**"Protecting Those Who Protect Our Borders"**

April 19, 2007

Darryl E. Griffen  
Chief Patrol Agent  
U.S. Border Patrol  
2411 Boswell Road  
Chula Vista, CA 91914

**UNION-INITIATED GRIEVANCE**

Dear Mr. Griffen,

San Clemente Station Patrol Agent in Charge Alfaro Gonzales' order to remove the no confidence notice from the union bulletin board was in violation of the contract and based solely on his personal opinion that the notice was embarrassing and unprofessional.

The following constitutes a Union-initiated grievance pursuant to Article 33F of the 1995 *Agreement between U.S. Immigration and Naturalization Service and National Border Patrol Council*, hereafter referred to only as "Agreement". In accordance with Article 33 F (2), I have been designated by T.J. Bonner, President of the National Border Patrol Council, to file this grievance on behalf of the bargaining unit.

Due to the fact that the violations complained of herein occurred as a result of actions initiated by San Diego Sector (SDC), San Clemente Border Patrol Station (SCM BPS) Patrol Agent In Charge (PAIC) Alfaro Gonzales, the Union determined that the action in question was initiated within the SDC. In accordance with Article 33 J of the *Agreement*, if management deems this to be an inappropriate level for this grievance, the grievance will be considered timely and management will forward the grievance to the level that it designates as being responsible for the action being grieved.

On March 20, 2007, National Border Patrol Council, Local 1613 Lead Union Representative Terence L. Shigg was ordered by PAIC A. Gonzales to remove an 8 ½ X 11 Union notice (exhibit A) from the Union Bulletin board located in the briefing room of the SCM BPS.

The Union notice had a picture of the Chief of the Border Patrol (Chief) David Aguilar. The heading above his picture said "NO CONFIDENCE" in bold red letters. Under the picture of Chief Aguilar was a statement. The statement explained that a vote of no

confidence was unanimously passed by the union delegates at the National Border Patrol Convention in Corpus Christi, Texas on February 28, 2007

PAIC A. Gonzales said this "flyer" was "unprofessional" and asked why the Union posted the flyer. PAIC Gonzales also asked who placed the flyer on the union bulletin board, and he was informed by the Union that the notice was posted by Lead Union Representative T. Shigg. PAIC A. Gonzales further stated that he did not believe it was appropriate for this flyer to be posted in a place where high ranking officials or members of other agencies could view it.

#### ALLEGED VIOLATION

PAIC A. Gonzales blatantly violated Article 8 B when he ordered the Lead Union Representative to remove the Union notice from the Union bulletin board located at the SCM BPS. Article 8, Section B, states the following:

*Each Immigration and Naturalization Service installation will provide bulletin board space in a place of prominence for posting material published by the local AFGE Local, by the National Headquarters of the AFGE, and the National Border Patrol Council. In each Sector Headquarters the Service will provide one locked bulletin board of a size approximately 3' by 3' for posting of material. The bulletin boards will be permanently attached to the walls where building management regulations permit such permanent installations. Arrangements for space and installation of bulletin boards shall be made with the appropriate Chief Patrol Agent.*

*In addition, miscellaneous items such as notices of items for sale, etc., may be posted upon approval of the Union. The Union shall be responsible for all matters on the bulletin board and each item placed thereon shall be initialed and dated by a Union official. The Union agrees to keep its bulletin board space in a neat and acceptable manner.*

*Literature or notices posted will neither violate any law nor contain libelous material.*

The Union asserts that this Union notice did not violate any law nor was it libelous. PAIC A. Gonzales' only reason for ordering the Union to remove this Union notice was his belief that it was unprofessional. He never made any mention of it violating a law or containing libelous statements. This particular Union bulletin board has been regularly maintained by Union representatives assigned to the SCM BPS since 1995 without any member of management ever directing the Union to remove Union publications from the board or questioning the content of the material contained on any notices in the board. PAIC A. Gonzales blatant disregard for the Agreement and abuse of authority in this matter causes significant concern to the Union.

The Union feels that the poster was appropriate and professional for the following reasons:

Although these are fictional examples, each of the following stories is based on actual incidents that can be easily verified. Each story identifies reasons Border Patrol Agents have no confidence in the leadership of the Border Patrol up to and including Chief Aguilar.

An agent is working at a checkpoint. He approaches a vehicle with four occupants, identifies himself and begins to question the driver. The driver is nervous and the three other occupants refuse to make eye contact. The agent refers the vehicle to the secondary inspection area. In secondary another agent questions the occupants of the vehicle and discovers the driver is a United States Citizen (USC) but the three other occupants are illegal aliens from Mexico. All four individuals are placed under arrest and brought into the Border Patrol Station for processing. The agent spends several hours completing the paperwork. The agent fingerprints and processes all of the individuals. Record checks reveal the USC driver has been arrested on three other occasions for alien smuggling. The USC driver was not prosecuted for any of the previous apprehensions. After all of the paperwork is complete the USC driver is released without any charges being brought against him because their case does not meet prosecutions guidelines.

An agent is working in the desert. The agent discovers multiple sets of footprints coming across the road. The footprints are coming from Mexico and going north into the United States. The agent spends two hours tracking the group. Finally, with the help of fellow agents and a National Guard scope operator they are able to catch most of the group. Two men from the group get away. The aliens' apprehended consists of two women, three children and one male. The individuals are all citizens of Mexico within the US illegally. All of the aliens are placed under arrest and transported to the nearest Border Patrol Station. Upon interviewing the women it is discovered that they were to pay \$1,500 each in order to be smuggled to Santa Ana, California. One of the two men who escaped was their coyote (guide) and he and the other man ran away when they heard the agents getting close. The other man makes it to Santa Ana where he works for awhile. One day the illegal alien gets off work and drives to the bar. The alien is being careful because he was already arrested once for domestic violence and DUI. He was not deported because even though he stated in intake that he was from Mexico, he was never questioned by an Immigration Officer. He completed his classes and paid his fines. The alien has a few too many drinks but feels as though he is alright to drive; after all he only lives 10 minutes away. The alien gets in his car, he was allowed to purchase on credit with a check from his bank account that he established fraudulently with fake identification he purchased from a friend after crossing illegally. The alien drives down the road and makes a left turn onto his street. As he is turning he looks up and realizes a mother pushing her baby in a stroller is crossing the street in front of him. It is too late he hits the Mother and comes to a stop. The alien is subsequently arrested and convicted. The alien is returned to Mexico after he serves his sentence. The alien

returns to the United States less than one month later, obtains identification fraudulently in another name and goes to a different city to begin his life again.

A subject is encountered at the transit center. Agents approach him, identify themselves as Border Patrol Agents and begin to question the subject as to his citizenship. The subject attempts to flee and is taken down by the agents, the subject bites one of the agents in the struggle. A concerned citizen films the incident and goes to the press. The agent is taken to the hospital for his injuries. The alien is taken to the Border Patrol station for processing. The agent is later questioned by his supervisor, the FBI and investigators for the Border Patrol. In addition to this the agent is ordered to explain his action in a written statement to counter the negative publicity created by the concerned citizen. The alien is set up for deportation proceedings and subsequently returned to Mexico. The alien is not tried for the assault, resisting arrest or any other criminal charge.

An alien is convicted of a sex crime in 1994. The alien is a registered sex offender. The alien is arrested in 2002 and set up for deportation proceedings. The alien goes to immigration court and is granted relief by the judge. The alien is allowed to legally remain in the United States.

Every agent in the field has experienced or heard a story identical or similar to the ones above. This cycle is repeated over and over again in cities throughout the nation.

The National Border Patrol Strategy states:

## **Goal**

### **Operational control of the Nation's Border**

#### **Objectives**

- **Apprehend terrorists and terrorist weapons illegally entering the United States**
- **Deter illegal entries through improved enforcement**
- **Detect, apprehend and deter smugglers of humans, drugs and other contraband**
- **Use "Smart Border" technology**
- **Reduce crime in border communities, improving the quality of life**

All agents are given copies of the National Border Patrol Strategy. Agents wonder why they are not allowed to carry out their sworn duties if the goal of the National Border Patrol Strategy is to achieve operational control of the Nation's Borders. Agents are confused because they are restricted by policies and politics from doing their jobs. Agents are confused when the leaders of an agency sworn to enforce immigration laws believe those who have broken these laws should be rewarded. Agents have no clear mission. Agents have no clear direction. Agents have no confidence in the leadership of the Border Patrol. Agents have no confidence in Chief Aguilar.

It should be noted that the posting of this flyer was not done as a means to embarrass or agitate anyone. It was done to inform Border Patrol Agents that their frustration is being heard at the highest levels of the National Border Patrol Council. It was done to show agents that they are not alone in their frustration and confusion

### **REQUESTED REMEDIES**

1. PAIC Gonzales shall immediately rescind the order to remove the Union notice pertaining to "No Confidence" in Chief Aguilar.
2. PAIC Gonzales shall be instructed to abide by the Agreement, specifically Article 8 B of the Agreement, which was violated in the instant matter.

Sincerely,

  
Terence L. Shigg  
Lead Station Representative  
San Clemente Station

# NO CONFIDENCE!



On February 28, 2007 at the 2007 National Border Patrol Council convention in Corpus Christi, Texas, Local 1613 introduced a motion for a vote of "no confidence" in the leadership of Border Patrol Chief David Aguilar. The motion was approved by the delegation, which included representatives from all but two Border Patrol Sectors in the United States, and it passed unanimously.

The disconnect between Chief Aguilar and the frontline agents of the Border Patrol grows daily. Chief Aguilar has shown more concern for his career than for: the well-being of Border Patrol Agents, securing our borders, and protecting the United States from illegal immigration. Instead of showing strong leadership to Border Patrol Agents at this difficult time, Chief Aguilar remains silent on important issues like the prosecution of Border Patrol Agents Ramos and Compean and advances policies which contribute to low morale and high attrition. This vote is unprecedented and reflects the lack of faith that Border Patrol Agents have in their leadership. "It is difficult to get a man to understand something when his salary depends upon his not understanding it" - Upton Sinclair.