

UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
WASHINGTON, D.C. 20424

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DEPARTMENT OF JUSTICE  
UNITED STATES IMMIGRATION  
AND NATURALIZATION SERVICE  
UNITED STATES BORDER PATROL  
EL PASO, TEXAS

Respondent

and

Case No. 6-CA-80173

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES,  
AFL-CIO, NATIONAL BORDER  
PATROL COUNCIL

Charging Party  
.....

Sherry M. Cardenas, Esq.  
For the Respondent

Christopher J. Ivits, Esq.  
For the General Counsel

Robert J. Marren  
For the Charging Party

Before: WILLIAM NAIMARK  
Administrative Law Judge

DECISION

Statement of the Case

Pursuant to a Complaint and Notice of Hearing issued on May 25, 1988 by the Regional Director, Federal Labor Relations Authority, Region VI, a hearing was held before the undersigned on October 19, 1988 and January 18, 1989 at El Paso, Texas.

This case arises under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq. (herein

called the Statute). It is based on a charge filed on January 15, 1988 by American Federation of Government Employees, AFL-CIO, National Border Patrol Council, (herein called the Union) against United States Immigration and Naturalization Service, United States Border Patrol, El Paso, Texas (herein called the Respondent).

The Complaint alleged, in substance, that on or about December 7, 1987 the Union requested necessary and relevant information relating to the Officer Corps Rating of employee Robert J. Marren.<sup>1/</sup> Further, that Respondent since December 28, 1987 has refused to furnish the information and to comply with section 7114(b)(4) of the Statute - all in violation of sections 7116(a)(1), (5) and (8) of the Statute.

Respondent's Answer, while admitting the request and a reply thereto, denied that the data requested was normally maintained in the regular course of business and denied that it was reasonably available as well as necessary for full and proper discussion, understanding and negotiations of collective bargaining subjects. It also denied the commission of any unfair labor practices as alleged in the Complaint.

All parties were represented at the hearing. Each was afforded full opportunity to be heard, to adduce evidence, and to examine as well as cross-examine witnesses. Thereafter, briefs were filed by the Respondent and General Counsel with the undersigned which have been duly considered.

On May 11, 1989 the Charging Party filed a Motion To Reject Respondent's Post-Hearing Brief as untimely filed.<sup>2/</sup> It was contended that the briefs were due May 1, 1989; that Respondent's brief was received by the Union's Counsel on May 5, 1989; that the postage tape "U.S. Official Mail" was dated May 3 and not May 1 as certified by Respondent.

In a response to the Motion the Respondent's Counsel stated that the brief was signed and sealed by her on May 1

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<sup>1/</sup> The particular data requested by the Union, as set forth in the Complaint, will be recited in the Statement of Facts, infra.

<sup>2/</sup> No brief was filed by the Charging Party. The General Counsel filed no objection to the untimeliness of Respondent's brief.

and forwarded to its mail room on that date; that mail is picked up by a mail clerk and delivered to another building for distribution where thousands of pieces of mail are handled. Respondent requested that untimeliness be waived and its brief accepted.

In accord with section 2429.21(b) of the Authority's Rules and Regulations, the date of filing the briefs is determined by the date of mailing as indicated by the postmark date. In this instance Respondent's brief should have been postmarked no later than May 1, 1989. Thus, it was marked two days later than required. Section 2429.33(b) of the Rules and Regulations provides that, in extraordinary circumstances, the expired time limit for filing papers may be waived. Upon due consideration I conclude that the circumstances warrant waiving the time limit for filing Respondent's brief. It appears that Respondent made an honest effort to have it mailed and postmarked on May 1. Apart from the fact that the delay was inconsequential, note is taken that the opposing party filed no brief and was not prejudiced, and the General Counsel did not object to the late filing of Respondent's brief. Accordingly, the Motion of the Charging Party to reject Respondent's brief is denied.

Upon the entire record hereto, from my observation of the witnesses and their demeanor, and from all of the testimony and evidence adduced at the hearing, I make the following findings and conclusions:

#### Findings of Fact

1. At all times material herein the Union has been, and still is, the exclusive bargaining representative of all nonprofessional employees at Respondent's Border Patrol Sectors excluding those employees excluded by Section 10(b) of the Executive Order 11491, as amended.
2. At all times material herein the Union and the Respondent have been parties to a written collective bargaining agreement establishing terms and conditions of employment of employees in the unit heretofore described.
3. Respondent's Central Office is located at Washington, D.C. As part of its entity are the Regional and District Sectors, as well as substations. One of the Sector Offices is in El Paso, Texas.
4. Under the El Paso Sector is the Fabens Station where eleven border patrol agents are employed. One of these

agents, Robert J. Marren, has been so employed thereat since September 1984, and has been executive vice-president of the Union since February 1987. Border patrol agents detect, deter and apprehend aliens who have entered the United States illegally.

5. Every calendar year each agent at the Fabens Station receives an Officer Corps Rating from his first and second line supervisors. This rating includes an appraisal of the agent as being either "very good", "good", "fair" or "don't know" as to the following:<sup>3/</sup>

- (a) Degree Of Technical Knowledge
- (b) Productivity Of Employee
- (c) Capacity For Self Expression
- (d) Extent Of Interest And Motivation
- (e) Service Of Responsibility
- (f) Ability To Innovate
- (g) Appearance
- (h) Analytical Ability
- (i) Adaptability
- (j) Relationship With Others

The cover sheet of this rating or appraisal provides for a recommendation by the supervisor in respect to promotion of the patrol agent. The supervisor checks either "A", which recites that he highly recommends such promotion, "B", which recites that he recommends the employee for promotion, or "C", that he does not recommend the employee for promotion.<sup>4/</sup>

6. On or about December 1, 1987, Patrol Agent Marren received his Officer Corps Rating for 1988 from his first-line supervisor Sterling Smith and his second-line supervisor Ernesto Martinez.<sup>5/</sup> While both supervisors

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<sup>3/</sup> Under each of the ten factors are listed several criteria for determining compliance with these factors. (See Joint Exhibit 3.)

<sup>4/</sup> There is a promotion roster for the agents. Each employee is ranked thereon dependent upon the points he received as to each factor. Thus, a rating of "very good" results in the highest number of points with lesser points for "good" and "fair" successively.

<sup>5/</sup> Martinez left the Fabens Station in July 1988.

highly recommended Marren for promotion neither rated him "very good" for all ten factors. Smith rated the employee as "good" for Productivity, Extent of Interest and Motivation and Adaptability. As to the remaining seven factors, Smith rated Marren as "very good". Martinez rated the employee as "good" for Productivity, Appearance and Relationship With Others. As to the remainder, Martinez rated Marren as "very good."<sup>6/</sup>

7. Record facts show that Marren was concerned about receiving a "good" for Productivity rather than "very good" in both supervisors' appraisals. Having felt that he had been treated differently than other agents, Marren sent a letter as Union representative to Respondent's Chief Patrol Agent on December 7, 1987. In said letter Marren stated he was contemplating filing a grievance and the Union was investigating the possibility that he was disparately treated. Accordingly, it was requested that Respondent provide, as to all journeymen bargaining unit employees of the Fabens Station, from November 1986 through November 1987,<sup>7/</sup> the following unsanitized data:

- (a) officer corps ratings;
- (b) all documents contained in the performance work folders or whatever other source of data management maintains with respect to there ratings (including Mr. Marren's);
- (c) copies of any and all documents and reports completed during the period covered by the 1988 officer corps rating i.e.:

- I-213 (Record of Deportable Alien)
- I-274 (Notice & Request for Disposition)
- I-50 (Daily Activity Report)

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<sup>6/</sup> The Officer Corps Rating also contains a narrative by each supervisor concerning the employee which is set forth in the form (G-610A) under "Comments."

<sup>7/</sup> At the hearing, and in accord with a subpoena duces tecum issued at its request, the General Counsel modified the period for which it requested information to: November 28, 1986 through April 1987.

DJ-296 (Bi-Weekly Time & Attendance  
Report)  
I-44 (Report of Apprehension & Seizure)  
G-166  
G-170 (Smuggling Report)  
G-205 (Vehicle Maintenance Report)  
All documents related to WA/OSC and  
criminal prosecution.

8. In respect to Productivity, the main factor which caused concern to Marren re his rating, the three items or criteria which comprise a rating for this factor are:

- (a) Quantity and quality of work compare favorably with that of others who have similar production opportunity.
- (b) Finished product is technically satisfactory.
- (c) Diligently pursues tasks to completion without unnecessary delay.

9. Under date of December 28, 1987 James A. Brown, Respondent's Assistant Regional Commissioner, replied to Marren's request for data re the Officer Corps Ratings for 1988. In request to the ratings, Marren was advised they are not due at the Central Office till January 8, 1988, and that his request should be made to that Office. Re the performance work folders, Brown stated they are not maintained by the supervisor and no relevant or necessary material is available. As to the specific documents sought by Marren, Respondent's official recited the request was too broad; that every piece of work product of the employee is not reviewed by the supervisor, and errors which are noted may be corrected by either one so that the incorrect product would not be maintained. Further, a supervisor may use "refresher notes" for use in rating an employee.

10. Marren testified that when he received his 1986 Officer Corps Rating he was told by supervisors Smith and Martinez that performance work folders were maintained for employees. Supervisor Martinez testified that no performance work folders existed at the time he prepared the Officer Corps Ratings on December 1, 1987, nor did they exist subsequent thereto. Further, Martinez stated he did not have the work products or documents prepared by the agents

at hand when he rated them. He used refresher notes and referred to the station log which is completed daily.<sup>8/</sup>

11. At the time that Marren received his 1986 Officer Corps Rating, on or about December 8, 1986, Supervisor Martinez showed the employee a document (G.C. Exhibit 3) to support the rating. This occurred after Marren challenged his not being rated "very good" re several factors. This document, dated December 8, 1986, includes comments concerning Marren's productivity and other factors comprising the Officer Corps Rating. Marren testified that Martinez stated he had documents or a written file or report on all the employees.<sup>9/</sup>

12. Each patrol agent is required to submit daily various forms which constitute the work product of the employee. These forms indicate the work or tasks performed by the agent in connection with his duties concerning detection, apprehension, and arrest of aliens as well as seizure of vehicles. Marren testified that these reports or forms would show the completeness, accuracy, neatness and timeliness of the agent's work under the heading "Productivity".

13. In addition to the work forms or products turned in by the agents, as set forth in paragraph 7 above, other documents or reports turned in by each agent are:

- (a) Standard Preventive Maintenance Schedules
- (b) I-217 Information For Travel Document or Passport
- (c) I-221S Order To Show Cause, Notice of Hearing - Warrent For Arrest Of Alien

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<sup>8/</sup> The station log, which is a summarization of an agent's actions, contains the arrest or apprehension of every alien. It included his name, date of birth, country or origin, status of alien, activity engaged in, mode of travel, and officer who apprehended the alien. It does not show the quality of an officer's work nor who logged in the report.

<sup>9/</sup> Although Martinez testified there were no work performance files or folders kept for employees, he did not explain the circumstances of this document or controvert Marren's testimony in regard thereto.

- (d) I-214 Aviso De Derechos
- (e) I-265 Application For Order To Show Cause and Bond/Custody Processing Sheet
- (f) I-620 Record Of Seized Vehicle, Vessel or Aircraft

14. Supervisor Martinez testified that the work forms requested by the Union for the eleven patrol agents would probably be about 10,000 in number. While he didn't know how long it might take to accumulate them for a one year period, it would be too much work and the agency's mission could not be accomplished.<sup>10/</sup>

15. Record facts show, and Martinez testified, that the supervisor is required to take into account the daily forms or reports (I-213, I-50, et al.) when preparing an agent's Officer Corps Rating. Further, he stated that, in making out that rating, he does not rely upon or consider certain reports of the agents, viz: I-50, G-205, DJ-296, G-264, I-217, I-221S, I-214, I-265, I-620 and I-274.

16. The record also reflects that when an alien is going to be retained for a deportation hearing or for a reason other than being returned voluntarily to Mexico, an "A" (alien) file is created. Particular documents or reports of the agent, as the I-265, I-213, I-214, G-205, I-294 and I-221S, are grouped together to comprise the "A" (WA/OSC) files.<sup>11/</sup>

17. Except for the Officer Corps Ratings of the remaining ten patrol agents,<sup>12/</sup> Respondent has refused to

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<sup>10/</sup> There is no evidence as to the amount of work forms that would be involved for the period in question, viz: November 28, 1986 thru April 1987. General Counsel did state on the record that a lesser number of forms filled out by each agent would be acceptable.

<sup>11/</sup> It appears from the record that Respondent has identified nine "A" files as existent during the period November 28, 1986 through April 1987. However, it has located just five of them, and four are missing.

<sup>12/</sup> In March 1989 Respondent provided unsanitized copies of the 1988 Officer Corps Ratings for the border patrol agents at Fabens Station. (General Counsel Exhibit 22).



turn over unsanitized copies of all other data requested by the Union.<sup>13/</sup>

18. On January 11, 1988 Marren filed an EEO Complaint of discrimination against Respondent based on his receiving less than "very good" in several categories comprising his Officer Corps Rating on or about December 1, 1987.

### Conclusions

As set forth in section 7114(b)(4) of the Statute, the duty of an agency to negotiate in good faith includes the obligation to furnish the exclusive representative data (a) which is normally maintained by the agency in the regular course of business; (b) which is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining; and (c) which does not constitute guidance, advise, counsel or training for management officials or supervisors, relating to collective bargaining.<sup>14/</sup>

It is also clear that the data sought by a union must be necessary to enable it to fulfill its representational functions. This encompasses a need for information when a union is contemplating the filing of a grievance. In such

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<sup>13/</sup> Supervisor Martinez testified that, in preparing Officer Corps Ratings, he relied upon certain reports of the agents: I-44, G-166, I-213, G-170. The undersigned ordered Respondent to turn these over to General Counsel under a protective order. These documents were subsequently sent to General Counsel and sanitized in accord with such order. Thereafter General Counsel sent them to the undersigned marked as Joint Exhibit 23 for examination and submission under seal to the Authority.

Certain other agents' reports were, as testified, not relied upon by Martinez in preparing his ratings. These were I-50, G-205, DJ-296, G-284, I-217, I-221, I-214, I-265, I-620 and I-274. In respect to their production at the hearing pursuant to the subpoena duces tecum addressed to Respondent, the undersigned granted a petition to revoke based on said testimony.

<sup>14/</sup> Respondent's Answer admits that the information requested by the Union herein does not constitute guidance, advice, counsel or training for management officials.

an instance the data may be required before a grievance is filed so that the union may determine and evaluate whether there may be merit to an employee's complaint. Immigration and Naturalization Service et al., 23 FLRA 239.

The issue presented in this case concerns whether Respondent failed to comply with section 7114(b)(4) when it refused to furnish the data requested by the Union. Respondent has taken the position that most of the information was neither reasonably available nor necessary for collective bargaining. Further, that to provide certain data would impose an undue burden upon it and interfere with the normal functions of the agency.

Contrariwise, the General Counsel argues that the data sought herein is necessary for the Union to evaluate and decide whether a grievance should be filed on behalf of Border Patrol Agent Marren. Since the latter insists he should have been rated as "very good" for Productivity in particular on his 1988 Officer Corps Rating, the data is sought to determine whether Marren was treated disparately. Such an objective in requesting data is an integral part of the Union's representational functions. See U.S. Equal Employment Opportunity Commission, Washington, D.C., 20 FLRA 357.

#### Officer Corps Ratings

In respect to the Union's request for the 1988 Officer Corps Ratings of the other patrol agents, Respondent stresses the fact that Commissioner Brown advised Marren on December 28, 1987 that the Union should seek this data from the Central Office. Since said office is the custodian of these ratings, the Union, it is asserted, was obliged to request the ratings from it. Thus the failure to do so excused Respondent from not providing them. Further, it is contended that subsequent to the hearing the Union was provided with unsanitized copies of the ratings, and thus compliance with this request has been established.

The Officer Corps Ratings were sought by the Union to determine whether the failure to rate Marren as "very good" on Productivity in the 1988 rating was cause for filing a grievance. This employee raised concerns re disparate treatment. Decisional law in the public sector makes it clear that a request for data of this nature - appraisals of other employees - is necessary within the meaning of section 7114(b)(4). Such information enables the exclusive representative to discharge its statutory obligation, which

includes the investigation and processing of a grievance, Rolla Research Center, Bureau of Mines, 29 FLRA 107.

While it is true that Respondent did ultimately furnish the ratings of the agents to the Union, it did not do so until after the hearing herein. Such belated compliance with a union's request for data does not fulfill an agency's obligation under section 7114(b)(4). As the Authority has declared, a union may not be denied the opportunity to obtain requested information in a timely manner and without burden or delay. A two month delay in providing such information was not deemed timely. Department of Defense Dependents Schools, Washington, D.C., Department of Defense Dependents Schools, Germany Region, 19 FLRA 790.

In the instant case I find no merit to the claim that the Union's failure to obtain the data was due to its not requesting it from the Respondent's Central Office. The record supports the conclusion that Respondent made no good faith effort to furnish the Officer Corps Ratings to the Union upon its request. At the hearing Respondent initially contended that the data was not necessary under section 7114(b)(4), and resisted any obligation to furnish it. Although an employer may reasonably suggest that the bargaining representative should turn to the proper source for the information, its later conduct belies any willingness to comply with the mandate of the Statute. Accordingly, I conclude that the failure by Respondent to timely provide the Officer Corps Ratings, as requested by the Union, was violative of section 7116(a)(1), (5) and (8) of the Statute.

#### Documents In Performance Work Folder Or Other Sources

In its December 7, 1987 request the Union sought documents pertaining to the work performance of the patrol agents in connection with Marren's possible grievance. The request referred to "performance work folders" which prompted a reply from Respondent that supervisors did not keep such folders for employees.

The record reflects conflicting testimony as to the existence of such performance work folders. Supervisor Martinez testified there are none. Marren testified that both Martinez and Supervisor Smith stated otherwise. Apart from the question as to whether such performance folders are

maintained,<sup>15/</sup> the record reflects that Supervisor Martinez did keep a memorandum of an employee's performance. Thus a memo to the file dated December 8, 1986, re Marren's annual Officer Corps Rating has comments by Martinez as to this employee's productivity as well as other factors considered in the annual rating. Further, Martinez testified he kept administrative files while he was at the Fabens Station. Comments in these files about employees' work performance, such as Martinez wrote concerning Marren, would have a bearing on the factors which comprise the rating evaluation. As such, any documents re the work performance or agents, which are written by management, would be relevant and necessary in assessing whether the rating given Marren as to his production constituted disparate treatment. Thus, I conclude that the Union is entitled to any such documents to fulfill its representational function.

It is also true that Respondent may not be held accountable for data it no longer possesses. U.S. Naval Supply Center, San Diego, California, 26 FLRA 324. In line with the Authority's decision in Department of Justice, United States Immigration and Naturalization Service, United States Border Patrol, 23 FLRA 239, the availability of the data involved can best be determined during the compliance stage of this proceeding. Respondent will however be directed to supply whatever such documents or memos it has in its possession.

#### Documents And Reports By Patrol Agents

The sharpest dispute between the parties concerns the Respondent's obligation to furnish the Union the work reports turned in daily by the patrol agents for the period covering the 1988 rating. Respondent insists that these were not before the supervisor when he considered the rating on each factor. Further, that he did not rely upon certain forms or reports when rating the individual agents. Thus, it is argued they are not necessary under section 7114(b)(4)(B) of the Statute for the Union to fulfill its function as bargaining representative. Moreover, it is insisted that these forms number at least 10,000, are not easily located,

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<sup>15/</sup> While Respondent contends these folders do not exist, the Union's request went beyond one for just the performance folders. It sought all documents in either the folders or any other source maintained with respect to the ratings.

and the whereabouts of many are unknown. Respondent contends the task is burdensome.

The crux of Patrol Agent Marren's complaint centers on the rating factor of his productivity. It is his lowered rating in this factor which caused him to maintain that his production record is comparable to the other agents at the Fabens Station and to consider the filing of a grievance. In regard to the production of an agent, the rating official's criteria involve: (a) quantity and quality comparable to others; (b) technical correctness; (c) diligence in completing tasks. The various forms which the patrol agents complete and submit daily reflect the work done by each individual in the course of his duties. They constitute the production record of the patrol agents.

In seeking these forms or work products of the patrol agents at Fabens, the Union attempts to compare the work records of Agent Marren with his co-workers. It seems clear that such documents, as set forth in the Complaint herein, would be necessary to enable the Union to determine whether a grievance on behalf of Marren is warranted. No determination as to disparate treatment by Respondent of Marren could be made without examining the work records of the other agents. These documents would quantify the tasks performed by each employee and enable the Union to contrast Marren's productivity with his fellow workers. Obtaining these documents is therefore essential to the Union performing its representational functions.<sup>16/</sup> Bureau of Alcohol, Tobacco, and Firearms, National Office, Washington, D.C., 18 FLRA 611; Social Security Administration, Baltimore, Maryland, 17 FLRA 837.

Respondent contends that to require it to furnish the work forms submitted by the eleven patrol agents would impose an undue burden upon it. Those documents, the employer avers, would approximate 10,000 - 15,000 in number. Further, that they would be difficult to retrieve and may not be discoverable in any event.

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<sup>16/</sup> While Martinez testified he does not rely upon some of these work products by the agents in assessing their productivity, the record reflects that each form does measure the employee's production. Since these do provide the evidence re this factor, I conclude that a supervisor's failure to examine the work product should not militate against the need of the Union to evaluate such records.

While no unreasonable burden should be imposed upon an agency in complying with section 7114(b)(4) of the Statute, I am not persuaded that furnishing the data herein constitutes such an imposition. Though the request by the Union for the data covered a twelve month period, at the hearing the requested period was shortened to five months - November 28, 1986 through April 1987. Further, General Counsel stated on the record that a lesser number of reports submitted by the agents would be acceptable. These factors, together with the understanding that data which is not retrievable could obviously not be furnished, vitiate any merit to the claims of burdensomeness.

Respondent has argued herein that certain "A" (alien) files should not be furnished since they contain personal data re an alien. Some of the information set forth therein as to the alien might be the basis for criminal prosecution.<sup>17/</sup> In respect to this contention, I am persuaded that sanitization of the names of aliens, who are the subject of the work product by the patrol agents, would be proper. It does not appear that disclosure of such names would significantly aid the Union in processing its grievance. Thus, I conclude that while Respondent should provide the Union with the requested reports and documents comprising the work products for all patrol agents at Fabens Station for the period November 28, 1986 through April 1987, the names of the aliens on each report may be sanitized. See U.S. Equal Employment Opportunity Commission, Washington, D.C., 20 FLRA 357.

In view of the foregoing, I conclude the Union was entitled to the available data requested for the period as modified, i.e. November 28, 1986 through April 1987, with the particular sanitization as noted herein; that the refusal and failure to timely provide such information was a refusal to bargain in violation of section 7116(a)(1) and (5) of the Statute. Further, that by such conduct Respondent failed to comply with section 7114(b) of the Statute and violated sections 7116(a)(1) and (8) thereof.

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<sup>17/</sup> Respondent did not raise the Privacy Act, 5 U.S.C. 552(a) (1982) as a defense to providing the work forms submitted by the patrol agents. It has, however, averred that the forms would have to be reviewed to determine if any data should be deleted pursuant to that Act or the Freedom of Information Act.

Accordingly, it is recommended that the Authority issue the following order:

ORDER

Pursuant to section 2423.29 of the Federal Labor Relations Authority's Rules and Regulations and section 7118 of the Statute, it is hereby ordered that Department of Justice, United States Immigration and Naturalization Service, United States Border Patrol, El Paso, Texas, shall:

1. Cease and desist from:

(a) Failing and refusing to furnish to the American Federation of Government Employees, AFL-CIO National Border Patrol Council, the exclusive representative of its employees, the available data requested in a letter dated December 7, 1987, addressed to the Chief Patrol Agent, U.S. Border Patrol, El Paso, Texas by Robert J. Marren, Chief Steward, American Federation of Government Employees, National Border Patrol Council, for the period November 28, 1986 through April 1987 for the purpose of enabling the National Border Patrol Council to perform its representational duties relating to the evaluation and processing of grievances.

(b) In any like or related manner interfering with, restraining or coercing its employees in the exercise of rights assured by the Federal Service Labor-Management Relations Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Furnish to the American Federation of Government Employees, AFL-CIO, National Border Patrol Council, the exclusive representative of its employees, the available data requested in a letter dated December 7, 1987, addressed to the Chief Patrol Agent, U.S. Border Patrol, El Paso, Texas by Robert J. Marren, Chief Steward, American Federation of Government Employees, National Border Patrol Council, for the period November 28, 1986 through April 1987 with the names of the aliens deleted from such data, for the purpose of enabling the National Border Patrol Council to perform its representational duties relating to the evaluation and processing of grievances.

(b) Post at its facilities at El Paso, Texas and Fabens, Texas, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Regional Commissioner, Immigration and Naturalization Service, Southern Regional Office, Dallas, Texas, or a designee and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region VI, Federal Labor Relations Authority, Federal Office Building, 525 Griffin Street, Suite 926, Dallas, TX 75202 in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, D.C., November 22, 1989

A handwritten signature in cursive script, reading "William Naimark", written in dark ink. The signature is fluid and stylized, with a large, sweeping initial "W".

WILLIAM NAIMARK  
Administrative Law Judge



NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT fail and refuse to furnish to the American Federation of Government Employees, AFL-CIO, National Border Patrol Council, the exclusive representative of our employees, the available data requested in a letter dated December 7, 1987, addressed to the Chief Patrol Agent, U.S. Border Patrol, El Paso, Texas by Robert J. Marren, Chief Steward, American Federation of Government Employees, National Border Patrol Council, for the period November 28, 1986 through April 1987 with the names of the aliens deleted from such data, for the purpose of enabling the National Border Patrol Council to perform our representational duties relating to the evaluation and processing of grievances.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

WE WILL furnish to the American Federation of Government Employees, AFL-CIO, National Border Patrol Council, the exclusive representative of our employees, the available data requested in a letter dated December 7, 1987, addressed to the Chief Patrol Agent, U.S. Border Patrol, El Paso, Texas by Robert J. Marren, Chief Steward, American Federation of Government Employees, National Border Patrol Council, for the period November 28, 1986 through April 1987 for the purpose of enabling the National Border Patrol Council to perform our representational duties relating to the evaluation and processing of grievances.

\_\_\_\_\_  
(Activity)

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Region VI, whose address is: Federal Office Building, 525 Griffin Street, Suite 926, Dallas, TX 75202, and whose telephone number is: (214) 767-4996.