

**OVERSIGHT OF THE FOOD SAFETY AND
INSPECTION SERVICE**

HEARING
BEFORE THE
**COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY**
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION

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MARCH 22, 2001
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OVERSIGHT OF THE FOOD SAFETY AND INSPECTION SERVICE

THURSDAY, FEBRUARY 28, 2001

U.S. SENATE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY
Washington, DC.

The Committee met, pursuant to notice, at 9:00 a.m. in room 328, Senate Russell Building, Hon. Richard Lugar (Chairman of the Committee) presiding.

Present: Senators Lugar, Harkin, Allard, and Nelson.

OPENING STATEMENT OF HON. RICHARD G. LUGAR, A U.S. SENATOR FROM INDIANA, CHAIRMAN, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The CHAIRMAN. This session of the Senate Agriculture Committee will come to order.

The Chair would mention at the outset, we've begun promptly because we'll have a Senate vote at 9:30, it's a single vote, and so we'll take a recess at or about that time. I've informed both of the witnesses of that.

My procedure will be to start with the opening statement that I'll make. If other members, especially our Ranking Member, Senator Harkin, appears, of course we'll recognize those Senators and then proceed with Mr. Viadero and Mr. Billy.

The Senate Agriculture Committee meets today on oversight of the Food Safety Inspection Service [FSIS] of the United States Department of Agriculture. For several months, the Committee has been receiving and investigating a wide range of allegations from present and former USDA employees in the New York metropolitan area. These allegations have also been forwarded to the Office of the Inspector General of USDA for appropriate action.

Among other matters, the Committee is concerned by reports of retaliation against Federal employees who reported or pursued allegations of mismanagement or corruption that may have led to widespread abuse of the meat inspection system. We will hear from Mr. Roger Viadero, Inspector General of USDA, and Mr. Thomas Billy, the FSIS Administrator. Mr. Viadero will comment on the status of the review by his office, and Mr. Billy will then have an opportunity to respond.

It's important to note that some of the matters at hand are the subject of an ongoing legal investigation. If either witness believes his testimony or response to a question from any Senator might enter into an area of sensitivity that precludes the ability of the witness to respond, please advise the Chair.

USDA officials have repeatedly testified to this Committee that the United States has the safest food supply in the world, and I do not doubt that. But I am deeply troubled by these reports from New York.

If charges are accurate, mismanagement and alleged illegal activity may have increased food poisoning risks. The USDA must fix these problems before food safety confidence is lost.

Today's hearing is not a conclusion on the part of the Senate Agriculture, Nutrition and Forestry Committee, but rather an important component of a continuing, vigorous, ongoing oversight on behalf of consumers. We want answers quickly. We will be anticipating to your testimony today. We will anticipate awaiting your progress reports.

[The prepared statement of Chairman Lugar can be found in the appendix on page 24.]

Senator LUGAR. I'd like to call now upon Mr. Roger Viadero for his testimony.

**STATEMENT OF ROGER C. VIADERO, INSPECTOR GENERAL,
U. S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY:
GREGORY SEYBOLD, ASSISTANT INSPECTOR GENERAL FOR
INVESTIGATIONS, JAMES EBBIT, ASSISTANT INSPECTOR
GENERAL FOR AUDIT**

Mr. VIADERO. Thank you, Mr. Chairman. And good morning to you and members of the Committee.

As requested, I am here today to update you on the activities of the Office of Inspector General regarding allegations of widespread corruption in the meat inspection program in the New York City metropolitan area. Before I begin though, I'd like to introduce the members of my staff who are with me today. Mr. Gregory Seybold, Assistant Inspector General for Investigations, and Mr. James Ebbit, Assistant Inspector General for audit.

As you are well aware, on August 22, 2000, you requested that our office conduct an investigation of possible widespread corruption in the meat inspection program in the New York City area, based on broad allegations raised by several sources to the Committee. We added those allegations to one of our many ongoing investigations into alleged criminal activity in the meat inspection program in the New York City area.

Also about that time, our office received other similar allegations of inadequacies in the Food Safety Inspection Service Federal meat inspection program in New York City and New Jersey. Members of my staff or I personally met with each of the complainants who were willing to talk with us in order to obtain more specific information regarding the allegations they were raising.

After careful analysis of their statements to us, we added those allegations of criminality to our ongoing investigative inquiry into the meat inspection program. Since receipt of the initial allegations, we have completed numerous interviews, record reviews and physical surveillances of FSIS inspectors. Our investigation of the criminal aspects is continuing and ongoing, and therefore, I cannot provide details to the Committee without jeopardizing our efforts to date. As soon as our inquiry is complete, though, we can provide the Committee with a report of our investigative activities.

As the law enforcement arm for the U.S. Department of Agriculture, our principal focus as always is on those allegations that are criminal in nature. However, as the second set of eyes and ears for the Department and the Congress, we did not disregard those allegations brought to us which were of a non-criminal nature and required a vigorous regulatory program response by the Food Safety and Inspection Service of USDA.

Therefore, we coordinated with senior FSIS management officials to ensure that a thorough and independent intensive administrative review of the inspection program in the New York City metropolitan area is conducted promptly. In fact, Sir, intensive review began on Tuesday, March 20, 2001, and is ongoing as I am testifying before you today.

This review is being conducted by the FSIS Technical Services Review Staff from Omaha, Nebraska. The review includes physical visits to meat plants, record reviews and interviews with meat plant personnel. Our office has numerous special agents from New York and from other parts of the country in place assisting the FSIS review teams. My agents are prepared to respond immediately to any criminal activity uncovered during the review process and to insure the FSIS review teams can complete their mission safely. Any details regarding this regulatory review can best be addressed by FSIS.

In addition to our investigation of the issues brought to the attention of this Committee, we currently have many other investigations regarding the meat inspection program ongoing in the New York metropolitan area. These cases encompass FSIS employee misconduct, assaults against FSIS inspection staff, and criminal allegations against meat processors. We received the allegations for these cases from FSIS, our own hotline as well as other sources.

In June 2000, OIG completed a series of audits to determine if FSIS had successfully implemented the science-based Hazard Analysis and Critical Control Point, or HACCP system, for inspection of meat and poultry. This series of audits included the implementation of HACCP, laboratory analyses, foreign imports and FSIS' compliance program that carried over from the previous inspection system. We made a series of recommendations to FSIS in each of these areas to strengthen FSIS' oversight of the meat supply.

To meet its responsibility of ensuring that meat and poultry entering consumer channels is wholesome, FSIS performs compliance reviews of non-Federally inspected firms, such as warehouses, processors, distributors, transporters and retailers. FSIS may initiate a compliance review to respond to a consumer complaint, to carry out its random reviews of forms, or to follow up its review of previous violators. Our review looked at 5 of 17 FSIS districts then in operation. Generally we found compliance needs to: assure that all firms subject to compliance reviews are identified; target its resources to metropolitan and geographic areas or at firms regarded as high risk; and act more aggressively against repeat violators, including obtaining authority to impose civil penalties where violations do not warrant criminal prosecution.

The FSIS Albany, New York district was one of five districts included in my office's review of FSIS' compliance program. The results of the Office of Inspector General's work in the Albany dis-

tract was considered in formulating conclusions about FSIS' compliance operations and whether weaknesses and problems existed that FSIS needed to address across the board.

FSIS had not implemented operating instructions to establish documentation requirements for compliance random reviews. For example, at the Albany district we reviewed 1,022 random reviews conducted by two compliance officers during the 6 month period September 1998 through February 1999. We were unable to identify the review steps performed by the two compliance officers, including meat and/or poultry inventory observations and record reviews. The compliance officers did not document whether assessments were made of controls on product storage and handling, pest management or housekeeping. Without such documentation, there was no record that key components of the review were indeed performed.

We also noted inconsistencies in how reviews were conducted among the districts visited and what were reported as random reviews. For example, a random review in the Albany district at a sandwich retail shop was counted as a review even though the owner did not allow the officer to perform the review. Until we brought it to the district's attention, one compliance officer had counted visits to a police station as a random review. In this case, the compliance officer was following up on a call that the police department was looking for someone with a badge who was going into restaurants.

OIG found that FSIS should target its resources to major metropolitan areas and to those firms judged to be at high risk. For example, 2 of 5 compliance officers located in Albany made 1,167 random reviews during that same 6 month period and found 20 firms with violations, or about 2 percent. In contrast, 2 of 6 compliance officers in the Jamaica, New York FSIS office which has the responsibility for the New York City metropolitan area, performed 89 random reviews during the same period and found violations at 22 firms, or 25 percent.

New York City has a high concentration of custom exempt slaughter facilities, and the evidence suggests that resources need to be shifted to the New York City metropolitan area where more problems are being identified.

FSIS did not have an effective system to monitor consumer complaints so that the number, status and disposition could be tracked. This was also the case in the Albany district. FSIS' Office of Public Health and Science referred 11 complaints to the Albany district, but the office had a record of 2. Albany had recorded 143 consumer complaints, but the documentation indicated these were only the number where actual followup was performed. My office could not determine how many initial complaints were made, or how many where no followup was undertaken at all.

We reported that FSIS' enforcement actions were not sufficient to deter repeat violators where the violations did not lend themselves to criminal prosecution. For example, a firm in Atlantic City, part of the Albany district, was cited by FSIS for five separate violations between October, 1997 and September 1999, but FSIS could only issue letters of warning to the company. Another firm had 5 violations, and 6 other firms had 5 violations, each within a 24

month period. But again, letters of warning were the only option, since criminal prosecution did not appear warranted.

We believe these examples support the Department's effort to seek legislative authority to assess civil monetary penalties against firms that commit repeated violations.

I would point out that what we found and observed at the Albany district was not the only support for our conclusions and recommendations. Similar conditions were found at the other four districts we visited.

In conclusion, I will continue to endeavor to respond as my office's first priority to insure the health and safety of the citizens of this great country against unscrupulous criminal meat processing businesses and malfeasant employees.

This concludes my statement, Mr. Chairman. I do appreciate the opportunity to appear before you today and would be pleased to respond to any questions you or the Committee may have.

[The prepared statement of Mr. Viadero can be found in the appendix on page 26.]

The CHAIRMAN. Thank you very much, Mr. Viadero.

As I mentioned at the beginning of the hearing, I want to recognize the distinguished Ranking Member for his opening comment, and I do so at this time.

Senator HARKIN. Thank you, Mr. Chairman.

STATEMENT OF HON. TOM HARKIN, A U.S. SENATOR FROM IOWA, RANKING MEMBER, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

I would just ask that my comment be put in the record. I thank you for holding this hearing. As Mr. Viadero just said, I caught most of his statement when I came in, we just can't afford to lose the confidence in this system. Once lost, it's hard to get back. So if things are happening out there that are starting to nibble away at that confidence, it's better we get at it right now than to wait until it really gets terrible.

So I congratulate you on your investigation. I have some questions I'd like to ask a little bit later, Mr. Chairman.

[The prepared statement of Senator Harkin can be found in the appendix on page 25.]

The CHAIRMAN. Very good. We'll have in just a moment Mr. Billy's response. We have a vote at 9:30, and my intent would be to recess the Committee at that point, so we could all be here for the questions and to hear both of these gentlemen.

Senator Allard, do you have any opening comment or statement?

STATEMENT OF HON. WAYNE ALLARD, A U.S. SENATOR FROM COLORADO

Senator ALLARD. Mr. Chairman, no, I'm new to the Committee and new to this issue. I understand the Committee's been following it since August. So I'm interested in hearing what the testimony is.

I can't say how important it is to make sure that we maintain integrity in the Food Service Inspection Service. As a veterinarian, I appreciate the value of a healthy food supply.

The CHAIRMAN. Thank you very much, Senator.

Now we will hear from Mr. Thomas Billy, Administrator of the Food Safety and Inspection Service, U. S. Department of Agriculture.

Mr. Billy.

STATEMENT OF THOMAS J. BILLY, ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY: MARGARET GLAVIN, ASSOCIATE ADMINISTRATOR, DONALD MUSACCHIO, ASSISTANT DEPUTY ADMINISTRATOR FOR MANAGEMENT

Mr. BILLY. Thank you, Mr. Chairman, and members of the Committee. I thank you for the invitation to appear before you to discuss information from the Office of the Inspector General regarding the Food Safety and Inspection Service, and in particular our operations in the Albany district, New York City metropolitan area.

I have not been informed of the specific allegations made by the OIG in this area, so I'm going to address this matter in a general way. But obviously, I'm prepared to answer your questions.

With me today is FSIS Associate Administrator Margaret Glavin and FSIS Assistant Deputy Administrator for Management, Don Musacchio.

FSIS is a public health regulatory agency. And as the Administrator, I am proud to say that over the past 7 years, FSIS has taken bold and dramatic steps to modernize its food safety programs. And it's done so with great success. The prevalence of salmonella has declined for all categories of meat and poultry products. Even more significant, the incidence of food-borne illness has declined each year since 1996. The Centers for Disease Control and Prevention have attributed a portion of this decline to improvements made by FSIS. The latest data for 2000 are expected to be released soon.

This success has occurred despite numerous challenges facing us, including emerging pathogens, new products in the marketplace that pose unique food safety concerns, and a growing segment of the population that is particularly susceptible to food-borne illness. There is still room for improvement, and I am optimistic that FSIS is well positioned to meet these challenges as well.

I believe this is the case because the changes we have made are not superficial, but deeply rooted. For example, all Federal and State inspected meat and poultry plants are now operating under both sanitation standard operating procedures and hazard analysis and critical control point (HACCP) systems, a massive task indeed, but one well worth the effort. The pathogen reduction and HACCP rule is not simply a new regulation, but a new way of doing business that enables FSIS to focus its attention on the most significant food safety hazards.

It serves to prevent food safety hazards, rather than catching them after the fact. And HACCP never goes out of date, because it can be adapted as new scientific information comes along.

Thus HACCP serves as the foundation for continual improvement. Despite concerns that it might jeopardize some small businesses, new data are emerging showing that businesses of all sizes are benefiting financially from HACCP.

These changes and many others have been carried out in a transparent manner with numerous opportunities for public input. FSIS has held countless public meetings to receive input from the public on its planned and ongoing food safety improvements. We have provided more information to the public on problems we have encountered during day to day activities as well. This openness has been extremely important to the success of our food safety initiatives.

Now that initial HACCP implementation is complete, it is time to take the next steps to improve its effectiveness. To prepare for these next steps, our agency is reviewing information from a variety of sources, including reports from GAO, from the Office of the Inspector General, and input from internal working groups and our two advisory committees. One major area for improvement is to strengthen the FSIS infrastructure and resources to better support HACCP.

As you know, FSIS is a large agency with approximately 10,000 employees. This includes more than 7,600 inspection personnel stationed in meat and poultry plants nationwide who inspect more than 8.5 billion birds and 133 million head of livestock annually. It includes a staff of 167 compliance officers who address situations where unsafe, unwholesome or inaccurately labeled products have been produced and marketed.

Last year, these compliance officers conducted nearly 50,000 compliance reviews nationwide, an 11 percent increase over fiscal 1999. And FSIS includes a host of veterinarians, microbiologists, chemists, physicians and others who provide valuable scientific and technical expertise and support.

Many changes are underway. For example, FSIS is redesigning the system it uses to assign field personnel to make these field personnel assignments more risk based, as recommended by the Office of the Inspector General. We have implemented revised job descriptions and performance standards to make field supervisors and managers more accountable for oversight of FSIS regulatory activities within their jurisdiction.

FSIS also has underway its work force of the future initiative, which involves upgrading the education, expertise and skills of our employees. This is necessary to ensure that the Agency's work force can support an increasingly complex food safety system. And we're committed to improving the work place environment for our employees as well.

Having said that, we also recognize that there's room for improvement. For example, as mentioned by Mr. Viadero in his testimony, in June 2000, they released a series of audit reports on FSIS activities.

One of these reports focused on District Enforcement Operations and that office's compliance activities in non-Federally inspected establishments. In the report, the OIG cited deficiencies in FSIS' ability to meet its compliance obligations in over 1 million establishments in this category. The release of that report coincided with our plans to consider the next steps under the HACCP framework. We are looking at ways to strengthen our coverage of distribution channels and to assure timely and appropriate action in response to violations. The OIG report offered useful advice for meeting our goals and objectives. We agreed with every one of the key rec-

ommendations and the eight specific recommendations the OIG presented in this report, and we have made good progress in addressing them.

In addition, in cooperation with the OIG, FSIS has begun reviews of several Federally inspected establishments in the New York–New Jersey area to support an ongoing investigation by the Office of the Inspector General. The reviews will involve an examination of HACCP systems for safety and SSOPs for sanitation, to determine that each facility has an effective system in place to ensure the production of safe, wholesome food for consumers.

Modernizing an inspection program that is almost 100 years old is a challenge. Because of the importance of protecting the public's health, we have worked hard to accomplish quite a bit in recent years. But it remains a work in progress. We are committed to working with Congress, with industry and the public to make further progress in the next several years.

Mr. Chairman, this concludes my prepared statement. Thank you again for the Committee's continued support in helping FSIS meet its responsibilities to improve the safety of meat and poultry and egg products. Thank you.

[The prepared statement of Mr. Billy can be found in the appendix on page 33.]

The CHAIRMAN. Thank you very much, Mr. Billy.

Let me commence the questions by asking you, Mr. Viadero, in the testimony that Mr. Billy just gave, he states he has not been informed of specific allegations made by OIG related to FSIS operations in the Albany district. Did you not meet with Mr. Billy on or about March 7 and provide some specifics, including reference to the 14th Street Market situation? Please elaborate on that if you will.

Mr. VIADERO. In answer to your immediate question, Senator, yes, we met with Mr. Billy in my office on the 7th of this month and informed him of the violations and the nature of the violations that we had. So far as specifics go, we mentioned no names of the inspectors that we had the surveillances on, other than to give him the broad details of what we found. The purpose of that is, again, we have two issues here. Number one, the ongoing criminal investigation and the second part, and this does not apply to Ms. Glavin or Mr. Billy, their trustworthiness or their credulity in this matter, but of other ranking management people within FSIS as to how much we could trust them. We didn't know how far up the ladder this was going to go.

But we were most concerned, the special agent in charge of the North Atlantic Region, the New York area, she requested that the refrigeration units which apparently went out on or about the 7th of July, servicing some 39 plants, we requested a report from the area supervisor. We didn't receive a copy of the report, she had called several times asking him where the report was.

That sort of lent itself to us somewhat scratching our heads and saying, this is just a report on 39 plants, where is it. Then we find out that other organizations, as well as OIG, requested a report. We didn't get a copy of a report until Mr. Billy provided it, I believe it was dated March 14th. So we have about a 9 month break from when the refrigeration units went down.

We'd be happy at another time to go over the time line with you, if you wish.

The CHAIRMAN. Mr. Billy, you provided a written response to a Committee inquiry on the 14th Street Market situation last July. Please provide the Committee now with a summary of this matter. It would be helpful if you could clarify this timing issue.

I would just say for reference in your report you stated that nine Federally inspected facilities were affected by the refrigeration outages at the start of their business operations on Monday, July 10. Did the outages not occur earlier, for instance, on July 6th or 7th?

Mr. BILLY. Mr. Chairman, once it was brought to my attention by Mr. Viadero that they wanted a report on this incident that occurred last July, we proceeded to have a review done of all of our records and information related to this incident and to provide that report.

What it indicated was that one of three refrigeration companies that supply refrigeration to a series of markets in the 14th Street area decided to shut down its refrigeration system on or about the 7th of July, and that was a Friday. We were not informed of their decision. The plants where we provide inspection don't operate over the weekend.

On Monday morning when our inspectors arrived, a couple of them immediately noticed that there were problems with refrigeration. They notified their Circuit Supervisor. He organized a meeting of all the inspectors. They first determined that, as you indicated, nine plants were affected by this. The supervisor then established a procedure for closely monitoring each of these nine plants to make sure that no adulterated product was shipped from the plants.

As a result of that effort, we issued 6 Non-compliance Reports [NRs] related to the refrigeration problem or product that we found that should not go out to consumers. Most of the plants either shut down temporarily until they could identify a source for alternative refrigeration or, in a couple of cases, shut down permanently and relocated. We were able to conclude from our records that no adulterated product had been shipped from those 9 plants.

On the 12th of July, which was the date we were contacted by the Office of the Inspector General in New York, our Compliance Officer proceeded to carry out reviews of 10 non-Federally inspected plants in the area. Our compliance officer also notified the State Department of Agriculture and Marketing, because they also have jurisdiction over non-Federally inspected plants. They were actively involved as well, during the refrigeration problems.

So our bottom line is that our inspectors detected the refrigeration problem, they took appropriate action and they documented deficiencies. The plants responded appropriately and no adulterated product, based on our record review, was shipped into commerce.

The CHAIRMAN. Mr. Viadero, you received a copy of the FSIS response to the 14th Street Market situation we've just been discussing. What is your perspective on this matter, related to timing and FSIS followup action?

Mr. VIADERO. We have a different time lines that we have documented on our side. Let me start by saying that we think there

was no notification of management here. None. I mean, if we're talking 39 plants that were without refrigeration, 9 Federally inspected plants, and we have inspectors in this market, it's a very small area, Mr. Chairman, it's about 3 square blocks we're talking about. And we have a good number of inspectors there.

Why nobody knew about this, we have received documentation both independently as well as supplied by Mr. Billy that the Gainesvoort Market Refrigeration Company gave notice on June 26th last year that they had problems in paying the bills and repairing the system. They wanted the equivalent of 4-months rent from each user in order to maintain the system. It's a very old system. And if they were not going to be given that, they were going to terminate the refrigeration to these plants on July 6th. July 6th was a Thursday.

On July 7th, FSIS, as of the date right now, we can't determine a status of plant operations on July 7th. We see nothing in there for the 7th of July, and again, it's rather critical, because we're thinking of July, it's a hot time in New York City. It's always a hot time, but temperature wise, it seems to be warm, it's seasonal.

On July 8th and July 9th, the best we can determine is that the plants were not in operation. That was a Saturday and Sunday. On the 10th, we have information provided by FSIS that indicates a USDA inspector, compliance officer, assigned to an affected plant, was shown a copy of the Gainesvoort notice from the refrigeration company that the refrigeration was terminated at close of business July 6th, the prior Thursday.

So right now, we have a 4 day lapse here, actually a 5 day lapse from the beginning of the 6th, or from the end of the 6th when the service was terminated, to now the 10th. Then all was listed, a non-compliance report was issued to one company, in fact, that company was issued three non-compliance reports for refrigeration issues.

Now, here's the key. July 12th, which is a Tuesday, my office received a call from a source that called one of my agents and said, "There's no refrigeration down here. You guys got to get down here and find out what happened."

We responded. We had to call some time after noon. We responded there between about 2:30 and 3:00. We found no inspectors, other than one apparently drunk inspector. And by then, my special agent in charge reported that to the area supervisor, the district supervisor, who was in the State of Maine at that time on business. She requested that he respond. He drove all night back to New York City to meet with OIG. That's now the 13th. And that's the first he's hearing about it, is the afternoon of the 12th.

That's just—see, and I know everybody's going to say, well, if the temperatures are right, why notify anybody? This is a major metropolitan area without proper refrigeration at a very crucial time of the year. Perhaps if it had been last week with the ice storm, it may not have been noticed.

But we have evidence from the logs that Mr. Billy provided that product on certain dates was brought into the plant, when the product was received, it was received at 41 degrees, some product at 42 degrees, yet the cooling room was at 61 degrees. And there was evidence of condensation. As we learned from our Sara Lee in-

vestigation, the condensation was the carrier of the listeria monocytogenes.

So we're finding it a bit incredible and a little hard to believe that FSIS management did not know about this at the district level until we told them. We have no evidence to the contrary, based upon our system of records at this time.

The CHAIRMAN. Mr. Billy, do you have a response to that?

Mr. BILLY. Perhaps I could add a little bit in terms of the nature of this refrigeration that would help. It is a very old refrigeration system, it's brine based. There are long coils in these refrigeration units and there's ice buildup on them. So even if the refrigeration was shut off on the 6th, the evening of the 6th or the 7th, whenever that occurred, you would maintain temperature for some time. In fact, what we found when our inspectors discovered the situation Monday, was that a number of the plants in fact had maintained proper temperatures up to that time.

But we closely monitored it, and our local inspection personnel continued to deal with the situation as I described earlier.

The CHAIRMAN. What about the 61 degrees?

Mr. BILLY. When that occurred, that kind of situation, that's when we would issue an NR documenting it. Most of the plants stopped processing or shifted their processing to another facility when those kinds of situations occurred. So we stayed on top of it, we monitored both the temperature in the processing area and the temperature of the product. There are several instances where we did not allow product to be used because of the temperature abuse.

Our full report is available, and it lays what I have described out in a day by day sequence so you can see the situation as it unfolded.

The CHAIRMAN. I'll have additional questions, but I would like now to call upon Senator Harkin for his questions.

Senator HARKIN. Thank you, Mr. Chairman.

I think I should probably continue to yield to you, you're on a good line of questioning here. The only thing I would say is, it seems to me in all my reading of this, that we have in the Albany district something going back 20 some years of complaints and things happening. What I don't know is, is this unusual in the United States? It seems like this is going back a long way.

I don't know how many districts we're talking about.

Mr. VIADERO. Seventeen.

The CHAIRMAN. Well, I've been here 20 some years, and I think I've paid fairly decent attention to FSIS and food inspection services. I was involved in the development of the HACCP program here, in both the House and the Senate. I can't remember hearing in any testimony, at least I can't recall, of this many complaints coming from a district over that length of time.

So I guess I'm just wondering aloud whether or not FSIS has acted even before your time, Mr. Billy, to do something about the Albany district. It just seems like there are some real problems there that need to be addressed.

Mr. BILLY. This has become an area of concern to us now, once we had the meeting with Mr. Viadero. We are cooperating with Mr. Viadero in his open investigation. In addition FSIS will look at that

aspect as well as a number of other aspects in terms of the management of that district.

But one thing I can share with you is I did have folks look at these kinds of complaints and see how this district compared to others. I can't go back 20 years, but I have data back to March 1, 1999. In terms of the Albany district from March 1st to the present, nine districts had more inspector complaints, seven had fewer. In terms of complaints related to compliance officers, 10 districts had more, 6 had fewer.

My point being that just from looking at the nature of our business and the kinds of complaints that come in, measured in that way, the Albany district didn't stick out in terms of having an unusual number. I will acknowledge that what Mr. Viadero has shared generally with us is of great concern. I agree with both of your statements earlier that nothing is more important than the integrity of our inspection system. We will vigorously follow up with Mr. Viadero and take appropriate action as warranted.

Senator HARKIN. I'm glad to hear that. Of course, again, the number of complaints, I mean, you have to look at what kind of complaints, too, and how serious they are. It seems to me the ones from Albany are pretty serious. I don't know about the other ones, whether they're serious or not.

Mr. Viadero, I don't know whether you can answer this question, but it seems like there's enough allegations of criminal activity here. Do you have other Federal law enforcement agencies assisting you in this endeavor?

Mr. VIADERO. Yes, Sir, we have one investigation we're working jointly with my former employee, the FBI. If we go back to your question you just gave Mr. Billy, when we review our hotline, and again, people don't call us to tell us what a great job is going on out there, by nature of the work, the type of complaints we get on the Albany district are about 180 degrees from the complaints we get from the rest of the country.

I'll give you an example. The vast majority of the country, we get complaints on over-zealous inspection. The inspector is being too hard, the inspector, he cuts me no slack, and it's a terrible thing to be a processor and have these inspectors here, and he's working with me, he's giving me an NR on my HACCP plan or my SSOP that he finds, and I don't think I deserve it.

As opposed to the New York district, where the vast majority of the complaints come in from FSIS employees about the management of the district. We don't get that type of complaint in other districts. So we don't get the complaints from the processors in the Albany district, in fact, we get no complaints from the processors in the Albany district about over-zealous enforcement, as we do in the rest of the country. So there's something missing there, regardless of what the true numbers just say on complaints. It's the type complaint we're getting.

Senator HARKIN. Very good, Mr. Viadero.

Thank you very much, Mr. Chairman. I'll leave most of the questions up to you.

The CHAIRMAN. Well, I have some more, but we will recess now, and Senator Harkin and I will vote. We will be back promptly and look forward to continuing our dialogue.

[Recess.]

The Committee is called to order again.

Let me continue exploration, just for a few more moments, of the New York and Albany situation. In your testimony, Mr. Viadero, you pointed out that three of the five compliance officers located in Albany made 1,167 random reviews from September 1998 through February 1999, found 20 firms in violations, 2-percent, as you pointed out. In contrast, 2 of 6 compliance officers in Jamaica, New York, FSIS officers that have responsibility for the New York City metropolitan area, performed only 89 random reviews during the same period, with violations at 22 firms.

On the face of it, this is an extraordinary statistic in terms of allocation of resources. Have you inquired, as a part of your work, as to why this was so? I'll ask the same question of Mr. Billy in a moment, because I'm simply curious as to the administration of this office. I'll start with you, because you've cited this in your testimony, you've found it significant. Have you followed up further, or do you know any more than simply the recitation of the figures?

Mr. VIADERO. Mr. Chairman, we recently received a response back from FSIS. This goes back to our four part audit that was issued in June. Again, if we look at that whole audit, all 474 pages of it, there's one underlying issue—management. Actually, lack of management, particularly at the district levels. That's a glaring deficiency, and as I understand, it's up to the district manager to move people around or assign people.

I'd also like to add that on certain of those cases, if the individuals that were working in Albany, the compliance officers that went to the sandwich shop and police station also listed a commercial laundry as a compliance visit. People scratch their head and say, why a commercial laundry. Well, before it was a commercial laundry, it was an establishment subject to compliance review. Which leads me to believe, they're not even going out and looking at these things. That's the issue. Nobody's watching them. It's sort of who watches the hens in the henhouse.

For instance, in Manhattan alone, there are more than 500 establishments subject to inspection and compliance. You don't have that many plants throughout the rest of New York State, so why would you just have such a few number of compliance officers in a major metropolitan area? That's what we're referring to so far as allocation of resources.

Also, we'd like to stress that for the recidivist violators that FSIS work with the Committee and get it legislatively done or however we can do this, maybe through regulation, and allow them to levy fines, monetary fines where we don't have criminal activity, but where we have repeat offenders on significant health issues.

The CHAIRMAN. Mr. Billy, how do you explain this situation, that is, the extraordinary surveillance of the agents in Albany as opposed to New York City? And this occurred over a period of time, in your reporting system, granted you would not be personally involved with all of these situations, but surely somebody reports how many inspections are occurring or some abnormality that might have been noticed.

Do you have a comment about this?

Mr. BILLY. I think that the audit that was done by the Inspector General's office did in fact identify some weaknesses in terms of how we set priorities for the non-Federal plant oversight. We agreed with that audit observation. In response, we've designed a new priority setting system that is based on risk. And that has been completed and implemented.

In addition, the OIG recommended and we agreed that we put a greater priority to the large metropolitan areas. So that factor is built into our policy criteria and our strategy of setting priorities. We think these changes we've made will solve the problem.

As I indicated in my testimony, we agree with all eight of the OIG recommendations in the District Enforcement Operations Report. We are well along implementing changes regarding all eight. We'll complete that work this summer. So there's good progress there.

One other thing I'd like to point out is that, these establishment reviews that are done by our Compliance Officers are driven by consumer complaints and other information that comes from a variety of sources. So to some degree, the number performed can be influenced by the type of information coming into us. That could well impact those District numbers somewhat. However, I agree with you that they seem to be out of balance. The changes we made, I believe, will correct that for the future across the country.

The CHAIRMAN. So you have two new criteria, metropolitan areas, specifically, would receive a great deal more attention. And then this risk factor, now, how would the New York City situation rank in the risk business, as you look at that criteria?

Mr. BILLY. Well, it would result in a much higher ranking in terms of targeting our reviews by our compliance officers, based on our new system.

The CHAIRMAN. So on both criteria, New York City would anticipate, because it's a very large metropolitan area and because there is risk evaluation—

Mr. BILLY. That's right.

The CHAIRMAN.—a great deal more attention would be paid, you'd have a lot more inspections.

Mr. BILLY. As I indicated in my testimony, when you're talking about non-Federal establishments, you're talking about well over one million such establishments that are involved in the distribution of meat and poultry products. It's not possible for 167 compliance officers spread throughout the country to significantly impact over one million establishments.

It is incumbent on us to leverage those resources. We have initiated several new approaches to do so. We've been working with the Food Protection Conference, which is an organization of the State officials responsible for the retail area. We are now an active participant in that. We've made changes in what's called the Model Food Code to improve regulatory requirements that the State and local authorities are enforcing. Also, we're entering into new types of cooperative agreements with States, so that they do a better job in distribution as well.

I think this approach, plus the changes I indicated earlier, based on the recommendations from the OIG, will make a big difference as we look to the future.

The CHAIRMAN. Mr. Billy, a New York Times story this morning states that Mr. George J. Puchta, the inspection services northeast district manager, has been temporarily reassigned as the Nebraska group comes out to take a look at this situation. The story goes on to indicate that, in his managerial role, he may have been responsible for either as many inspections or as few as were involved.

Do you have any comment about that situation?

[The information referred to can be found in the appendix on page 40.]

Mr. BILLY. Given the information that the Office of Inspector General was able to share with us, we decided that it was in the Agency's best interest to temporarily reassign Mr. Puchta from his job as district manager to other duties while we continue to work cooperatively with the Office of Inspector General, and looking into this matter further. Depending on what is found, we will take appropriate action regarding the district manager or any other employee that may be found not to be carrying out their responsibilities as appropriate.

The CHAIRMAN. Have any other administrative actions been taken thus far in addition to this reassignment?

Mr. BILLY. We have moved another District Manager into Albany to manage that district while the investigation is continuing.

The CHAIRMAN. As a result of the audit, let me just follow up, have any facilities been shut down?

Mr. BILLY. We started the reviews this Tuesday. It is my understanding that we have withheld the marks of inspection in three out of 15 facilities that have been reviewed to date. That status could change any time, depending on the completion of our work there.

It's really a little early to say much about the results. We've conducting reviews of, a statistically based sample of plants. We're focusing on completing that work as quickly as possible and sharing the results with Mr. Viadero. We will act immediately if we find any kind of a situation that's unacceptable.

The CHAIRMAN. You say maybe early, but you have temporarily reassigned the chief management officer?

Mr. BILLY. That's correct.

The CHAIRMAN. There's somebody else there?

Mr. BILLY. Yes.

The CHAIRMAN. So in any event, you are in touch with the investigation, and it is working.

Mr. BILLY. Yes. Our part of it is moving forward. In other words, we're reviewing the targeted plants now. We will make sure that the plants are functioning properly, are sanitary, and have effective HACCP plans. We're doing that in cooperation with the Office of Inspector General, and we're sharing the information. And we will take immediate action as necessary if we find any unacceptable situation in any of the plants we review.

Depending on the results of the overall review, we'll take follow-up management action. To be perfectly honest, I'm outraged that this has even occurred. We will do whatever is necessary to correct the situation and ensure that plants in this area of New York City are operating appropriately under our laws and regulations.

The CHAIRMAN. I appreciate that comment, that you're outraged at what has occurred. Because that's the purpose of this hearing, it is an oversight responsibility of this Committee to make sure that all of us are in touch with something that's very serious.

Let me just ask, because mention has been made by Mr. Viadero and by yourself of sources of information that have become available. One of the sources are so-called whistle blowers. I simply want to know, what are the provisions in FSIS for whistle blower protection? Explain the procedure by which you deal with these comments and/or comments from consumers who are not employees and not whistle blowers.

Mr. BILLY. The starting point for a whistle blower complaint is the whistle blower hotline managed by the Office of the Inspector General. As they receive those complaints, they make a determination whether it involves a matter that warrants an investigation on their part or alternatively, it's something that ought to be referred to the Agency.

If it's referred to the Agency, we then have an internal review staff in headquarters that manages our process to look at these kinds of complaints. Over 90 percent of the complaints that come in through the OIG hotline are anonymous complaints. Nonetheless, we follow through and investigate those referred to us. If it involves personnel matters, our personnel office looks into it. If it involves a matter of impropriety regarding an inspector or whatever, we'll follow through as appropriate.

We then collect the information from our follow-up and provide a report back to the Office of the Inspector General. My view is that not only is the Office of the Inspector General important to an agency like ours, but whistle blowers are as well. They provide an important check and balance in terms of making sure that our inspection system is working the way it should.

Having said that, it is also important for us to ensure that our employees are not involved in misconduct. And when they are, we take appropriate action. So we are always trying to strike an appropriate balance. That's what we try to do. And I think we do a pretty good job at that.

The CHAIRMAN. Mr. Viadero, on the same question, how do you handle whistleblowers? That is, as these calls come in or inquiries Mr. Billy says most are anonymous, some are not. What sort of protection is given to these employees who are making these reports, or do you have any other general comments about this area?

Mr. VIADERO. Yes, Sir. First of all, we comply with every respect of the WhistleBlower Protection Act. As you know, at my confirmation hearing, you and I went into great detail as to how this inspector general would handle whistleblowers. There is no mention, there is no divulging of the whistleblower's identity outside my office.

The issue here is on the anonymous ones, and a large majority are anonymous. This is one of the incongruities that we find, particularly with FSIS as opposed to many of the other 29 agencies of USDA.

The CHAIRMAN. In other words, you're receiving these calls with all of these agencies?

Mr. VIADERO. Yes, Sir.

The CHAIRMAN. And you have a responsibility to listen to all 29 or what have you?

Mr. VIADERO. As a general rule, we get them at intake, people call in or they write in. The complaint is analyzed to see where it belongs, to see if it is basically of substantive nature, because some people will call in and complain that today is Thursday, for instance. Those are the happy calls, if you will.

But let's say we get a call, and let's say it's on Richard Lugar, district manager of the Albany district. We then forward the complaint to FSIS. And this is what we find, in order for that complaint to be answered, it's not answered by FSIS management. Richard Lugar is sent the complaint to answer, and Richard Lugar now prepares the response on his complaint.

That one just blows my mind. So not only does Richard Lugar know about the complaint, he knows the substance of the complaint and he even gets to couch his response to that complaint. That's what we're finding as we went into FSIS.

Again, these things, we handle several hundred calls a month on the hotline, both complaints, questions, answers, whatever. So for me to sit here and say I review every single one, I don't. But when we take a look at it, once you see a pattern arising or once something comes up which causes us to go in and do the analysis, that one just rang like a bell.

The CHAIRMAN. How do the other agencies handle this? You described how you believe FSIS does this. But how do they handle these complaints?

Mr. VIADERO. The other agencies get it, by the way, we always put due caution on there, do not divulge the identity and the name of the whistleblower, if it is a person. Not anonymous. We always redact from the report. So in other words, the complaint is rewritten so as to protect the identity of the whistleblower or complainant.

Most of the other agencies have a process in place where they receive the complaint, they investigate the complaint through their own offices, and they report back to my office with the disposition of it. This is the only office that we've found so far where the complaint is responded by the person who's being complained about.

The CHAIRMAN. Mr. Billy, why have you adopted that procedure?

Mr. BILLY. First off, I don't agree with what the Inspector General just said. As I said earlier, we have a separate staff in Washington that receives all these types of complaints and manages the process of reviewing it. The information available to me indicates that the type of practice just described does not occur.

Now, can I sit here and say it's never occurred? No. But what I'm told is, we do in fact have a procedure where we use people appropriate to the situation to review the complaint and take action as appropriate, regarding the problem that's been identified. So in this instance, I have to disagree with the Inspector General. We have a separate office and staff that handles these whistleblower complaints. It's managed by that office and I will look in to this further to see if there's any validity to what the Inspector General just stated.

The CHAIRMAN. That would be well to do.

Let me just ask about a comment the Inspector General made a while back, that was this extraordinary situation in which most of the complaints, in at least the Albany, New York situation, seemed to be coming from people who felt it was not a sufficient inspection, whereas the bulk of complaints frequently come, I gather from other areas, that the inspectors have been too arduous in their work. Did that pattern ever rise to your attention, or is this news that this is the trend of this particular situation?

Mr. BILLY. Since we don't see all of the complaints that come in through the OIG hotline, I was not aware of this pattern until we met with the Inspector General a couple of weeks ago. Since I was made aware of it, we're now looking into it to see if in fact that's the case and, if it is the case, why we weren't picking up on this pattern earlier. We could have reacted sooner if it is true.

We'll take appropriate action depending on what we find.

The CHAIRMAN. Please do that. It seems to me, as an organizational principle, that would be important to know. In our Senate office, we have no pretense of it, in any more sophistication than you would. But we log in every complaint on whatever the subject is. I know every day what people are interested in and geographically where they are. That's a very important part of my business and yours. So this, I think, should be a part of your management situation.

We've been joined by Senator Nelson. I want to recognize the Senator for either comments or questions. We appreciate your coming to the hearing.

**STATEMENT OF HON. BENJAMIN E. NELSON, A U.S. SENATOR
FROM NEBRASKA**

Senator NELSON. Thank you very much, Mr. Chairman. It's a pleasure to be here with you today, and I too have scanned the New York Times article. There was one bright note about it, and that was that a team of Nebraskans was dispatched to New York to assist in this difficult situation.

Obviously, the meat inspection process in food safety is one of the most important elements of our economy and certainly in terms of public health. As we think about that, and we see that the process may not be functioning as we would prefer in every instance, I guess my question of you is, Mr. Billy, do you have confidence in the HACCP overall and do you think that not only can it work, but do you think will it work when fully implemented?

Mr. BILLY. I have total confidence in the HACCP system. I think it is the most important change we've made since the initiation of inspection back at the turn of the 20th century. It not only focuses the industry's and the Agency's attention on food safety, but it does so on the basis of science. And that change that now is in place in all Federal and State plants throughout the country is the single most significant positive change we have made for decades.

Is it working perfectly? No. Is there room for improvement? Absolutely. That's why the Agency has identified a strategy which we refer to as FSIS, The Next Steps. We have two objectives. One is to ensure that the plants have the best possible HACCP controls in place, and second, our other objective is to ensure that we're doing our job as affectively as we can.

We are going to be making further changes and improvements to accomplish both of those objectives. People, our employees all over this country, are dedicated to food safety and they do a good job. Every day they go to work and they care about what they do. So obviously, I'm concerned, in fact, as I said earlier, I'm outraged at what appears to be going on in New York, and we'll deal with that appropriately.

But I don't think in any way that should denigrate the hard work of dedicated people throughout this country.

Senator NELSON. Thank you. It is encouraging to see the food safety standards moved from something that seems to have been more subjective to something that's clearly more objective. I commend your Agency for working toward that.

Mr. Viadero, do you have a similar confidence, as the Inspector General, looking at complaints and whistle blowing information, that the system can and will work?

Mr. VIADERO. Senator, I'm not a scientist. So I'm not going to get into the science of this.

Senator NELSON. I'm thinking of it mostly in terms of the process of the information that will come to you so that you can critically evaluate the process, not the science.

Mr. VIADERO. Well, based upon our HACCP review that we did, and also reported in that same report last June, we have a high degree of confidence in HACCP. Our only issue at this juncture, and Mr. Billy mentioned it, that we have inspectors there and based upon our response to hotline complaints and all, we have no reason to believe that in all other districts that the inspectors are not there, that they are there, they are doing their job, they are dedicated, loyal civil servants.

The only problem we have in New York is, we have evidence where people don't show up to work at all. Now, what kind of an inspection system is that, which is one of the causative factors, I would assume, based upon my understanding in this morning's briefing I received on why the three plants in New York, the mark of inspection was withdrawn. If it was working there, they wouldn't be withdrawn.

That's the problem. It's a personnel problem. It's an FSIS personnel problem we're faced with, primarily, in this district.

Senator NELSON. The process will work if the people and personnel involved in it follow through with the processes that are in place?

Mr. VIADERO. Absolutely. And just as part of our review, and in support of the statement that HACCP is working, we notice that recalls, for instance, are up about four times what they were pre-HACCP. So HACCP is indeed working. And the vast majority of the plants, whether it be stable to table, slaughter to process or just the local delicatessen, if you will, they are taking it seriously and it is working. It is working.

Again, with the number of plants that we have and the number of employees, I'd be very grateful if it's just limited here.

Senator NELSON. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Nelson.

Let me just ask, you mentioned inadequacies in the meat inspection system in the New York City area, and numerous investiga-

tions underway by OIG. Have these been consolidated, or when you say numerous, are they headed on different tracks, or how would you describe the course of the work that you're doing there?

Mr. VIADERO. Well, Senator, some are exclusively employees, Department employees, some involve alleged corruption between employees and plant owners, yet others involve exclusively the meat processors or transportation providers for that industry.

The CHAIRMAN. So how many of these might be going on? Do you have a figure? Are we talking about less than 10 or a couple of dozen or do you have any—

Mr. VIADERO. In the area of 10.

The CHAIRMAN. Separate investigations?

Mr. VIADERO. Yes, Sir. And that's a lot of investigations, because I don't have that many agents up there.

The CHAIRMAN. Yes. I was just going to ask about the allocation of your own personnel. This is quite a concentration.

Mr. VIADERO. And this is quite a week, because we have quite a few agents moving sheep today across the country, and more agents moving sheep tomorrow again from Vermont, they're going out to Ames, as well as this investigation. For instance, when we did our surveillances, we had up to 40 agents working these surveillances. We had to bring them in from other parts of the country, because we had reason to believe, and we were told that the FSIS people knew who my agents were in New York. They had the tag numbers on their cars, they had their photographs. So we had to bring in a whole fresh crew.

But Senator, in the last 5-years, I've lost approximately 24-percent of my resources due to reduced budgets. I just can't sustain an operation much longer. We do need people. Perhaps that's why myself and Mr. Seybold, the Assistant Inspector General for Investigations, went out and did these interviews ourselves, with some of these whistleblowers and sources of information that came in.

The CHAIRMAN. On this particular case?

Mr. VIADERO. On this particular case, yes, Sir.

The CHAIRMAN. You have been involved, and Mr. Seybold?

Mr. VIADERO. Yes, Sir. We went out, Mr. Seybold and I, and talked to at least two of these people ourselves. And Mr. Seybold went out and conducted interviews on the rest of them.

The CHAIRMAN. Well, it indicates, of course, shortage of personnel, but likewise, the priority that you and Mr. Seybold place on it.

Mr. VIADERO. Well, this is a health and safety issue. That above all else, as you know, the bulk of our work comes to food stamps and for instance, crop insurance, things like that. This is A number one, health and safety issues for the American people. So the sheep are, sheep is or sheep are—

[Laughter.]

Mr. VIADERO.—a priority issue for us, as is the safety of the meat supply.

The CHAIRMAN. What are you doing with regard to the sheep?

Mr. VIADERO. Well, basically we're providing escort for the sheep, and again, the safety, the safety of APHIS personnel that are there. We don't want anybody—they're sheep. We don't want any-

body getting hurt over sheep. The individual State police have been most cooperative with us. They're providing escort to us as well.

But when we get back to focusing exclusively on New York, we're looking at the integrity of the inspection system. And again, if we compare, Senator Nelson, if we compare the integrity of the system in a New York district to what we might find in a district that covers Nebraska, it's the difference between night and day.

The CHAIRMAN. Mr. Billy, with the work that you're doing cooperatively with these inspectors, essentially is it a fair statement that people are showing up for work now? In other words, if there is an allegation that people have not been showing up, that they are now? There's quite a bit of management intensity upon performance of the inspectors. And as you say, you've already taken some administrative action, may take some more, have taken away the marks from three plants, but that may be preliminary also.

In other words, if you were a New Yorker looking in on this, even while the investigation is going on, what reassurance could you offer that this is getting up to standards, as a matter of fact, receiving the same sort of priority attention that Inspector Viadero is going with regard to even his personal interviews of the people?

Mr. BILLY. Since the briefing a couple of weeks ago by the Inspector General, I have spent most of each day addressing this area, and will continue to do so until we have a clear picture and we've taken the appropriate actions in terms of any misconduct by any of our people. We will continue these plant reviews and as we take action, will make sure that if there's any question about product, we'll deal with the product appropriately, even if it might involve a recall or something like that.

So we're going to make sure that our system is working properly.

I might add that my understanding is to date, as our teams have visited the 15 plants I mentioned, in each instance, the inspector was there and involved in that process. So I agree with you that's a good sign.

The CHAIRMAN. It's reassuring in itself.

Mr. BILLY. Yes.

The CHAIRMAN. Somebody on the job.

Well, let me just repeat some of my thoughts at the beginning, and that is that the Committee is holding the hearing because we want answers, as you do, very promptly. This is a situation of food safety for the people we're talking about now, in this particular case, New York City, but it could be anywhere else. The importance of FSIS doing the job in all the other areas is evident to all of us.

I've indicated, we were attentive to your testimony today, but we anticipate getting answers on things that you both are inquiring about. So we want to continue to be in touch with you.

I hope that as you have material, either of you, that you will make our staffs in a bipartisan way appraised of this, and then the Committee will determine, at least, whether we will have further meetings or whether we can make some kind of report that offers proper reassurance that in fact the situation has changed.

Let me just ask, Senator Nelson, do you have any further questions or comments?

Senator NELSON. Other than to say that I appreciate the fact that you have moved on this and with disclosure not only made us

aware but made the consuming public aware of it as well, because food safety is a prime consideration for the future of agriculture, certainly the food part of agriculture. And I commend you for that, and want to support in every way possible your efforts to do that.

I think combined with the fear today of hoof and mouth disease and other considerations, the last thing we need to have is the food safety part of our process collapse on us. I think it's important that we give public confidence to it. I appreciate the opportunity to help participate in that as you move forward.

The CHAIRMAN. I'll express on behalf of the Committee, Senator, our appreciation to Nebraskans for the contribution they're making to this particular instance of food safety in New York, and perhaps they'll help out elsewhere.

Senator NELSON. If you'll permit me to say it, we certainly have a "steak" in it.

[Laughter.]

The CHAIRMAN. On that note, the hearing is adjourned.

[Whereupon, at 10:37 p.m., the Committee was adjourned, to reconvene at the call of the Chair.]

A P P E N D I X

MARCH 22, 20001

Statement by Dick Lugar

U.S. Senator for Indiana

Opening Statement by Sen. Dick Lugar

THE SENATE AGRICULTURE COMMITTEE MEETS TODAY ON OVERSIGHT OF THE FOOD SAFETY AND INSPECTION SERVICE OF THE U.S. DEPARTMENT OF AGRICULTURE.

FOR SEVERAL MONTHS, THE COMMITTEE HAS BEEN RECEIVING AND INVESTIGATING A WIDE RANGE OF ALLEGATIONS FROM PRESENT AND FORMER USDA EMPLOYEES IN THE NEW YORK METROPOLITAN AREA. THESE ALLEGATIONS HAVE ALSO BEEN FORWARDED TO THE OFFICE OF INSPECTOR GENERAL OF THE USDA FOR APPROPRIATE REVIEW.

AMONG OTHER MATTERS, THE COMMITTEE IS CONCERNED BY REPORTS OF RETALIATION AGAINST FEDERAL EMPLOYEES WHO REPORTED OR PURSUED ALLEGATIONS OF MISMANAGEMENT OR CORRUPTION, THAT MAY HAVE LED TO WIDESPREAD ABUSE OF THE MEAT INSPECTION SYSTEM.

WE WILL HEAR FROM MR. ROGER VIADERO, INSPECTOR GENERAL OF THE USDA AND MR. THOMAS BILLY, THE FSIS ADMINISTRATOR. MR. VIADERO WILL COMMENT ON THE STATUS OF THE REVIEW BY HIS OFFICE. MR. BILLY WILL THEN HAVE AN OPPORTUNITY TO RESPOND. IT IS IMPORTANT TO NOTE THAT SOME OF THE MATTERS AT HAND ARE THE SUBJECT OF AN ONGOING LEGAL INVESTIGATION. IF EITHER WITNESS BELIEVES HIS TESTIMONY IN RESPONSE TO A QUESTION FROM ANY SENATOR MIGHT ENTER AN AREA OF SENSITIVITY THAT PRECLUDES THE ABILITY OF THE WITNESS TO RESPOND, PLEASE ADVISE.

USDA OFFICIALS HAVE REPEATEDLY TESTIFIED TO THIS COMMITTEE THAT THE UNITED STATES HAS THE SAFEST FOOD SUPPLY IN THE WORLD. I DO NOT DOUBT THAT, BUT I AM DEEPLY TROUBLED BY THESE REPORTS FROM NEW YORK.

IF CHARGES ARE ACCURATE, MISMANAGEMENT AND ALLEGED ILLEGAL ACTIVITY MAY HAVE INCREASED FOOD POISONING RISKS. THE USDA MUST FIX THESE PROBLEMS BEFORE FOOD SAFETY CONFIDENCE IS LOST.

TODAY'S HEARING IS NOT A CONCLUSION ON THE PART OF THE SENATE AGRICULTURE, NUTRITION AND FORESTRY COMMITTEE BUT RATHER AN IMPORTANT COMPONENT OF A CONTINUING, VIGOROUS OVERSIGHT. IN BEHALF OF CONSUMERS, WE WANT ANSWERS QUICKLY. WE WILL BE ATTENTIVE TO YOUR TESTIMONY TODAY AND WILL ANTICIPATE AWAITING YOUR PROGRESS REPORTS.

Opening Statement of Tom Harkin
Ranking Democratic Member
U.S. Senate Committee on Agriculture,
Nutrition, and Forestry

Hearing on Oversight of the Food Safety and Inspection Service

Thank you, Mr. Chairman. I commend you for calling this oversight hearing today. There have been some disturbing questions raised regarding meat and poultry inspection issues that demand investigation. The stamp "Inspected by USDA" on a product should stand as a symbol that inspires confidence in consumers about the safety and wholesomeness of the food they are purchasing and bringing to their homes.

I take any threats to that confidence with the utmost seriousness, as do all members of this committee. Confidence, once lost, can only be bought back, if at all, at a high price. I am very concerned about allegations brought forward by current and former FSIS employees about abuses of the inspection system in the Albany inspection district.

I am very concerned about what these allegations may indicate about food safety, but also what they may tell about USDA's process for protecting whistleblowers. We need to protect federal employees that have the courage to speak out against wrongdoing. I look forward to hearing more about USDA's process for addressing complaints by FSIS employees and consumers about inspection shortfalls.

I know that because of the ongoing investigation we will not be able to get into specifics today. But this Committee will pursue this matter until our questions are answered.

I will ask some questions about the overall implementation of the HACCP and Pathogen Reduction rule. It is now over three years since that regulation became final, and I believe it is time for this Committee to take a harder look at how implementation is going. Thank you.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL

STATEMENT OF ROGER C. VIADERO
INSPECTOR GENERAL

Before the
U.S. SENATE COMMITTEE
ON
AGRICULTURE, NUTRITION, AND FORESTRY

March 22, 2001



STATEMENT OF
ROGER C. VIADERO
INSPECTOR GENERAL
U.S. DEPARTMENT OF AGRICULTURE
BEFORE THE
U.S. SENATE COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY
March 22, 2001

Good morning Mr. Chairman and members of the Committee. As requested I am here today to update you on the activities of the Office of Inspector General in regard to the allegations of widespread corruption in the meat inspection program in the New York City metropolitan area.

Before I begin, I would like to introduce the members of my staff who are here with me today: Gregory Seybold, Assistant Inspector General for Investigations; and James Ebbitt, Assistant Inspector General for Audit.

As you are aware, on August 22, 2000, you requested that our office conduct an investigation of possible widespread corruption in the meat inspection program in the New York City area, based on broad allegations raised by several sources to the Committee. We added those allegations to one of our many ongoing investigations into alleged criminal activity in the meat inspection program in the New York City area. Also, about the time of the August request, our office received other similar allegations of inadequacies in the Food Safety and Inspection Service, federal meat inspection program in New York City and New Jersey. Members of my staff or I personally met with each of the complainants who were willing to talk with us, in order to obtain specific information regarding the allegations they were raising. After careful analysis of their

statements to us, we added those allegations of criminality to our ongoing investigative inquiry into the meat inspection program. Since receipt of the initial allegations, we have completed numerous interviews, record reviews and physical surveillances of FSIS inspectors. Our investigation of the criminal aspects is continuing and, therefore, I cannot provide details to the Committee without jeopardizing our efforts to date. As soon as our inquiry is complete, we can provide the Committee with a report of our investigative activities.

As the Law Enforcement arm of the USDA our principle focus, as always, is on those allegations that are criminal in nature. However, as the second set of "eyes and ears" for the Department and Congress, we did not disregard those allegations brought to us, which were of a non-criminal nature and required a vigorous regulatory program response by the Food Safety and Inspection Service (FSIS) of USDA. Therefore, we coordinated with senior FSIS management officials to ensure that a thorough and independent intensive administrative review of the inspection program in the New York City metropolitan area is conducted promptly. In fact, this intensive review began on Tuesday, March 20, 2001, and is on going as I am testifying before you today. This review is being conducted by the FSIS Technical Services Review Staff from Omaha, Nebraska; the review includes physical visits to meat plants, record reviews and interviews with meat plant personnel. Our office has numerous special agents from New York and from other parts of the country in place assisting the FSIS review teams. My agents are prepared to respond immediately to any criminal activity uncovered during the review process and to insure the FSIS review teams can complete their mission safely. Any details regarding this regulatory review can be better addressed by the FSIS.

In addition to our investigation of the issues brought to the attention of this committee, we currently have many other investigations regarding the meat inspection program on-going in the New York metropolitan area. These cases encompass FSIS employee misconduct, assaults against FSIS inspection staff, and criminal allegations against meat processors. We received the allegations for these cases from FSIS, our own hotline and other sources.

In June 2000, OIG completed a series of audits to determine if FSIS had successfully implemented the science-based Hazard Analysis and Critical Control Point (HACCP) system for inspecting meat and poultry. This series of audits included the implementation of HACCP, laboratory analyses, foreign imports, and FSIS' compliance program that carried over from the previous inspection system. We made a series of recommendations to FSIS in each of these areas to strengthen FSIS' oversight of the meat supply.

To meet its responsibility of ensuring that meat and poultry entering consumer channels is wholesome, FSIS performs compliance reviews of non-federally inspected firms, such as warehouses, processors, distributors, transporters, and retailers. FSIS may initiate a compliance review to respond to a consumer complaint, to carry out its random reviews of firms, or to follow up its reviews of previous violators. Our review looked at 5 of 17 FSIS districts then in operation; generally, we found compliance needs to: assure that all firms subject to compliance reviews are identified; target its resources to metropolitan and geographic areas or at firms regarded as high-risk; and act more aggressively against repeat violators, including obtaining authority to impose civil penalties where violations do not warrant criminal prosecution.

The FSIS Albany, New York, district office was one of five district offices included in OIG's review of FSIS' compliance program. The results of OIG's work in the Albany district was considered in formulating conclusions about FSIS' compliance operations and whether weaknesses and problems existed that FSIS needed to address across the board.

FSIS had not implemented operating procedures to establish documentation requirements for compliance random reviews. For example, at the Albany district we reviewed 1,022 random reviews conducted by two compliance officers during September 1998 through February 1999. We were unable to identify the review steps performed by the two compliance officers, including meat and/or poultry inventory observations and record reviews. The compliance officers did not document whether assessments were made of controls on product storage and handling, pest management, or housekeeping. Without such documentation, there was no record that key components of the review were performed.

We also noted inconsistencies in how reviews were conducted among the districts visited and what were reported as random reviews. For example, a random review in the Albany district at a sandwich retail shop was counted as a review even though the owner did not allow the officer to perform the review. Until we brought it to the district's attention, one compliance officer had counted a visit to a police station as a random review. In this case the compliance officer was following up on a call that the police department was looking for someone with a badge who was going into restaurants.

OIG found that FSIS should target its resources to major metropolitan areas and to those firms judged to be high-risk. For example, three of the five compliance officers located in Albany made 1,167 random reviews September 1998, through February 1999 and found 20 firms with violations (2 percent). In contrast, two of six compliance officers in Jamaica, New York, FSIS Office, which has responsibility for the New York City metropolitan area, performed 89 random reviews during the same period and found violations at 22 firms (25 percent). New York City has a high concentration of custom exempt slaughter facilities, and the evidence suggests that resources need to be shifted to the New York City metropolitan area where more problems are being identified.

FSIS did not have an effective system to monitor consumer complaints so that the number, status and disposition could be tracked. This was also the case in the Albany district. FSIS' Office of Public Health and Science referred 11 complaints to the Albany district, but the office only had record of 2. Albany had recorded 143 consumer complaints, but the documentation indicated these were only the number where actual follow up was performed. OIG could not determine how many initial complaints were made or how many where no follow up was undertaken.

We reported that FSIS' enforcement actions were not sufficient to deter repeat violators where the violations did not lend themselves to criminal prosecution. For example, a firm in Atlantic City, part of the Albany district, was cited by FSIS for five separate violations between October 1997, and September 1999, but FSIS could only issue letters of warning to the company. Another firm had five violations, and 6 other firms had four violations each within a 24-month period. But again, letters of warning were the only option since criminal prosecution did not

appear warranted. We believe these examples support the Department's efforts to seek legislative authority to assess civil monetary penalties against firms that commit repeated violations.

I would point out that what we found and observed in the Albany district was not the only support for our conclusions and recommendations. Similar conditions were found at the other four districts we visited.

In conclusion, I will continue to endeavor to respond as my office's first priority to insure the health and safety of the citizens of this country against unscrupulous criminal meat processing businesses and misfeasant employees.

This concludes my statement Mr. Chairman. I appreciate the opportunity to appear before you today and would be pleased to respond to any questions you may have at this time.



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Washington, D.C.
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FOOD SAFETY AND INSPECTION SERVICE
U.S. DEPARTMENT OF AGRICULTURE

Statement of Thomas J. Billy, Administrator
Before the Senate Committee on Agriculture,
Nutrition and Forestry

March 22, 2001

Mr. Chairman and Members of the Committee, thank you for the invitation to appear before you today to discuss information from the Office of Inspector General (OIG) regarding Food Safety and Inspection Service (FSIS) operations in our Albany District, particularly the New York City metropolitan area. As I have not been informed of the specific allegations made by the OIG in this area, I can only address our activities there in a general way. With me today are FSIS Associate Administrator Margaret Glavin and FSIS Assistant Deputy Administrator for Management Donald Musacchio.

FSIS is a public health regulatory agency, and as the Administrator, I am proud to say that over the past seven years, FSIS has taken bold and dramatic steps to modernize its food safety programs, and it has done so with great success. The prevalence of Salmonella has declined for all categories of meat and poultry products. And even more significant, the incidence of foodborne illness has declined each year since 1996, and the Centers for Disease Control and Prevention have attributed a portion of this decline to improvements made by FSIS. The latest data for 2000 are expected to be released soon.

This success has occurred despite numerous challenges facing us, including emerging pathogens, new products in the marketplace that pose unique food safety concerns, and a growing segment of the population that is particularly susceptible to foodborne illness. There is still room for improvement, and I am optimistic that FSIS is well positioned to meet these challenges as well.

I believe this is the case because the changes FSIS has made are not superficial but deeply rooted. For example, all Federal and State inspected meat and poultry plants are now operating under both Sanitation Standard Operating Procedures (SSOPs) and Hazard Analysis and Critical Control Point (HACCP) systems—a massive task indeed, but one well worth the effort. The Pathogen Reduction and HACCP rule is not simply a new regulation, but a new way of doing business that enables FSIS to focus its attention on the most significant food safety hazards. It serves to prevent food safety hazards rather than catching them after the fact. And HACCP never goes out of date, because it can be adapted as new scientific information comes along. Thus, HACCP serves as a foundation for continual improvement. And despite concerns that it might jeopardize some small businesses, new data are emerging showing that businesses of all sizes are benefiting financially from HACCP.

These changes—and many others—have been carried out in a transparent manner, with numerous opportunities for public input. FSIS has held countless public meetings to receive input from the public on its planned and ongoing food safety improvements. We have provided more information to the public on problems we have encountered during our day-to-day activities. This openness has been extremely important to the success of our food safety initiatives.

Now that initial HACCP implementation is complete, it is time to take the next steps to improve its effectiveness. To prepare for these next steps, FSIS is reviewing information from a variety of sources, including reports from the GAO and the OIG, and input from internal working groups and our two advisory committees.

One major area for improvement is to strengthen the FSIS infrastructure and resources to better support HACCP. As you know, FSIS is a large agency, with approximately 10,000 employees. This includes more than 7,600 inspection personnel stationed in meat and poultry plants who inspect more than 8.5 billion birds and 133 million head of livestock annually. It includes a staff of 167 compliance officers who address situations where unsafe, unwholesome, or inaccurately labeled products have been produced or marketed. Last year, they conducted nearly 50,000 compliance reviews nationwide—an 11 percent increase over FY 1999. And FSIS includes a host of veterinarians, microbiologists, chemists, physicians, and others who provide valuable scientific and technical expertise.

Many changes are underway. For example, FSIS is redesigning the system it uses to assign field personnel to make decisions more risk-based. We have implemented revised job descriptions and performance standards to make field supervisors and managers more accountable for oversight of FSIS regulatory activities within their jurisdiction. FSIS also has underway its Workforce for the Future Initiative, which involves upgrading the education, expertise, and skills of its employees. This is necessary to ensure that the FSIS workforce can support an

increasingly complex food safety system. And FSIS is committed to improving the workplace environment for its employees.

FSIS recognizes that there is room for improvement. For example, in June 2000, the OIG released a series of reports on FSIS activities. One of these reports focused on District Enforcement Operations and that office's compliance activities in non-federally inspected establishments. In the report, the OIG cited deficiencies in FSIS' ability to meet its compliance obligations in the over 1 million establishments in this category. The release of that report coincided with our plans to consider the next steps under HACCP. We were looking at ways to strengthen our coverage of distribution channels and to assure timely and appropriate action in response to violations. The OIG report offered useful advice for meeting our goals and objectives. FSIS agreed with every one of the key recommendations and the eight specific recommendations the OIG presented, and we have made good progress in addressing them.

A second of those OIG reports dealt with FSIS' import inspection procedures. Throughout the report, the OIG stated, "Nothing came to our attention during this audit, however, that indicated FSIS allowed unsafe meat and poultry products to enter the United States." I am pleased to say that changes are in the works to make our import inspection system as strong as ever.

In addition, in cooperation with the OIG, FSIS has begun reviews of several federally inspected establishments in New York and New Jersey to support ongoing investigations by the OIG. The reviews will involve an examination of HACCP systems and SSOPs to determine that each

facility has effective systems in place to ensure the production of safe, wholesome food for consumers.

Modernizing an inspection program that is almost 100 years old is a challenge, but because of the importance of protecting the public health, we have worked hard and accomplished much in recent years. But, it remains a work in progress. FSIS is committed to working with Congress, industry, and the public to make further progress.

CONCLUSION

Mr. Chairman, this concludes my prepared statement. Thank you again for the Committee's continued support on helping FSIS meet its responsibilities to improve the safety of meat, poultry and egg products.

DOCUMENTS SUBMITTED FOR THE RECORD

MARCH 22, 2001



March 22, 2001

U.S. Officials Investigate Meat Safety in New York and New Jersey

By CHRISTOPHER DREW with BUD HAZELKORN

Federal and Congressional investigators are examining possible lapses and misconduct in meat safety regulation in New York and New Jersey, federal officials say.

They say they have found evidence of unsanitary conditions in some plants, raising concerns about whether enough is being done to protect consumers from new threats of illness.

The investigators are looking into a variety of issues and incidents that could have compromised safety. Over the last two months, for instance, criminal investigators for the Agriculture Department have placed some meat inspectors under surveillance to check allegations that they often failed to show up for work, allowing some plants in the New York City region to operate without proper inspection, the officials said.

The department's investigators and the Senate Agriculture Committee are also looking into whether proper safeguards were taken last summer during a lengthy refrigeration failure at the West 14th Street meat market in Manhattan, which serves many local stores and restaurants. Investigators say they are also exploring allegations that top inspection officials in the region have stifled the efforts of a few inspectors to call attention to unsafe practices.

This week, the Agriculture Department's Food Safety and Inspection Service, which employs the inspectors and is in charge of meat and poultry safety, began its own review.

On Tuesday, the service began sending teams of inspectors from Nebraska into plants in New York and New Jersey to check conditions, and industry officials said they had already shut down one plant at the 14th Street market for rodent infestation. Officials in Washington said yesterday that they had also temporarily reassigned George J. Puchta, the inspection service's Northeast district manager, pending the completion of the investigations.

The primary investigation is being run by the Agriculture Department's inspector general, Roger C. Viadero, who is expected to appear before the Senate Agriculture Committee at a hearing today.

The federal officials have emphasized that the investigations are at an early stage, and that at the moment they have no evidence that consumers were harmed by tainted meat. No one, they said, has been charged, and final conclusions could be months away.

Mr. Puchta did not return repeated calls for comment. Thomas J. Billy, the administrator

of the inspection service in Washington, released a statement saying that the review involved "a very small number" of plants, and that consumers should not be alarmed.

"I believe that the F.S.I.S. work force and the vast majority of the plants we inspect work very hard to ensure the safest meat and poultry products possible for the American public," Mr. Billy said.

The federal inspection service has about 300 meat inspectors in New York and New Jersey, each making rounds at several meat processing and packing plants daily. Their job is to ensure that large and small companies are processing steaks, Italian sausages and all other meat in chilled and clean areas.

An examination of government documents and interviews with current and former inspection officials suggest that Mr. Puchta, who has been in charge of inspections in the New York region for more than two decades, has long had a questionable record in cracking down on safety violations.

Dr. Robert Bartlett, who was the director of the inspection service's program review office from 1979 to 1994, said Mr. Puchta, 68, had blocked several efforts during those years to force him to clamp down on unsavory plants.

"George Puchta thought that we were kind of tough on him," said Dr. Bartlett, a veterinarian. "What I tried to explain to him was we were actually trying to help him because his program wasn't working as well as it should have."

Dr. Bartlett said Mr. Puchta had once suggested that given the difficulties of operating in such a congested setting, meat companies in New York City should not be held to the same sanitary standards as processors elsewhere. "I said, 'George, the standards are the same whether you are in Iowa or North Dakota or New York,'" Dr. Bartlett said.

The New York region is being investigated while the inspection agency's effort to revamp its inspection methods and requirements is the subject of sharp debate. As part of a modernization effort, the agency has turned over much of the responsibility for meat safety and sanitary processing plants to the plants themselves, requiring the meat companies to create comprehensive plans to keep germs from spreading.

But critics, including Mr. Viadero, the inspector general, have said that the changes have been carried out poorly and that many plants have been allowed to get by with inadequate safety plans.

The service changed its approach over the last three years as a way to ward off relatively new pathogens, like E. coli O157:H7, which can ravage children and the elderly. As a result, inspectors spend less time poking and sniffing meat and more checking temperature records to see if safe practices are being used.

But in a report last summer, Mr. Viadero said his inspectors had concluded that the loose construction of the program had led to reductions in government oversight to "beyond what was prudent and necessary for the protection of the consumer."

In interviews, longtime meat inspectors said the sanitary problems at plants in New York

and New Jersey could be due partly to these difficulties. But officials in Washington and several former meat inspectors said some of the allegations were more peculiar to New York and reflected concerns about Mr. Puchta's willingness to clamp down on a variety of questionable activities.

Government officials said one allegation is whether some inspectors failed to show up for work at times or falsified logs to indicate that they worked overtime when they had not. If the allegations are true, plants may have operated extra hours without the normal inspections.

Mr. Puchta joined the agency as an inspector in 1961 and became the area supervisor in charge of plants in New York City and northern New Jersey in the mid-70's. In 1997, he was promoted to district manager for the Northeast region, which includes eight states.

Dr. Bartlett and other former inspection officials said in interviews that they sympathized with Mr. Puchta to some extent because some businesses at the 14th Street market and in parts of the Bronx and Brooklyn were housed in antiquated buildings that were extremely hard to keep clean.

In fact, while at one time almost 300 meat companies were located near the junction of 14th Street and the West Side Highway, now there are only about four dozen. Many have moved to new warehouses at Hunts Point in the Bronx, and others have closed as developers convert much of the neighborhood, known as the meatpacking district, into luxury condominiums.

Velmer Chipps, who conducted several reviews of New York plants for Dr. Bartlett's review program in the 1980's and 1990's, said that at times it appeared that plant owners had been tipped off that the reviewers were coming.

Roger Etzig, another former review official, said one review trip in the mid-1980's ended abruptly when Mr. Puchta told him that he had shut down a number of plants so that the reviewers could not go into them.

In 1995, Mr. Chipps said, he insisted on going into a plant in the Bronx that one of Mr. Puchta's inspectors had just shut down. Mr. Chipps said that he had found a variety of contaminants inside the plant, and that Mr. Puchta "got mad" at him.

In a written response at that time, Mr. Puchta asserted that Mr. Chipps had focused on trivial problems and spent an inordinately long time conducting his inspections.

The examination of meat inspections in the metropolitan area began with a relatively modest check into an emergency refrigeration failure in the 14th Street market. One hot day last July, a pipe ruptured in the century-old refrigeration system at the Manhattan market, forcing at least nine wholesalers to scramble for blocks of dry ice to try to keep their beef and pork from spoiling. Owners said they initially had hurried to ship products to restaurants and stores, and later had to throw out some meat that had spoiled.

Some companies went without normal refrigeration for five days. And after an anonymous tipster alerted some of Mr. Viadero's agents to the potential health hazard, they went out to check whether the meat inspection service had been on top of the situation.

Senior inspection service officials said that they did not think any spoiled meat had been shipped to customers during the refrigeration failure. One business owner, Joe Nemecek, has said he had to throw away \$10,000 worth of spoiled food, and other owners said they would not have risked ruining their reputations by shipping questionable goods.

But a government report also says that when agents from the inspector general's office went to the market to check what was going on, one of the meat inspectors became "belligerent" with the agents.

Officials said the inspector general and the Senate Agriculture Committee were trying to determine how much time had passed before the region's inspectors initially responded to the cooling failure.

John J. Calcagno, the president of the Greater New York Meat Trade Institute, said yesterday that merchants at the 14th Street market had spent a lot to update their plants, and it was "an out-and-out lie" to call the plants substandard. He defended Mr. Puchta, saying that when it came to safety, "no way in hell would George ever compromise."

The Senate committee in Washington is also reviewing several cases in which meat inspectors in the New York area claimed that they had been ignored, or even retaliated against, after reporting possible improprieties involving other inspectors.

Top inspection service officials denied that any retaliation had occurred. But Keith Luse, the committee's staff director, said his staff took the allegations of retaliation "very seriously."

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