



# Report on Internal Investigations and Employee Accountability:

Fiscal Year 2020



U.S. Customs and  
Border Protection



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## Message from CBP Leadership

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**Troy A. Miller**  
Acting Commissioner

CBP strives to be the premier law enforcement agency in the nation. We hold our workforce to the highest standards of integrity, professionalism, and personal conduct. When just one employee engages in misconduct or corruption, it can pose a threat to our national or economic security and trust with the American people.

It is our duty to conduct thorough and timely investigations of alleged misconduct and corruption. Our disciplinary program must efficiently evaluate employee misconduct and impose consistent, fair, and timely corrective action independent of any potential criminal sanctions imposed through the judicial system. These standards are essential to the agency's success and to ensure the public's trust in CBP. Our ultimate responsibility is to be transparent about the outcomes and how we hold employees accountable for their actions.

In previous years, CBP released separate reports on misconduct and discipline. This year, I am pleased to release the following unified report. **The Report on Internal Investigations and Employee Accountability for Fiscal Year 2020** provides an overview of the process for handling allegations of misconduct and reports statistical data on intake, investigations, and disciplinary actions across the agency in fiscal year 2020.



# Introduction

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As the United States' unified border entity, CBP takes a comprehensive approach to border management and control, combining customs, immigration, border security, and agricultural protection into one coordinated activity. Our workforce is comprised of over 60,000 employees including law enforcement personnel and civilians working in administrative, professional, technical, and scientific positions.

Operating in such a complex threat environment requires tremendous focus and a commitment to the highest standards of professionalism and integrity. The conduct of our employees, both on and off duty, forms the basis of public trust. The American people have entrusted us to protect the homeland. Guided by the highest ethical and moral principles, and exhibiting the highest level of professional responsibility, CBP employees strive every day to maintain the public trust and instill the confidence of the communities we serve and protect. However, like all border agencies in the world, CBP remains vulnerable to the potential for corruption and misconduct within its workforce. CBP takes all allegations of misconduct seriously, investigates thoroughly, and holds employees accountable when policies are violated.

Part of our duty to the public is to be transparent about such violations and demonstrate our commitment to responsiveness and accountability. This report describes the process from intake through outcome and provides key statistics on the intake, investigative activity, and discipline taken against CBP employees for the time period from Oct. 1, 2019 through Sept. 30, 2020. It also highlights specific areas that are of particular concern to the agency. There is a special section highlighting several topics of significance including data on employee arrests, drug testing, use of force oversight, and social media cases. The report also features summaries of significant investigative and disciplinary outcomes that occurred during the reporting period.

Information identifying individual employees has been omitted in accordance with the Privacy Act. Instead, data is presented in aggregate and case summaries do not include personally identifiable information.



## CBP Overview

### MISSION STATEMENT

PROTECT THE AMERICAN PEOPLE, SAFEGUARD OUR BORDERS, AND ENHANCE THE NATION'S ECONOMIC PROSPERITY.

### VISION STATEMENT

ENHANCING THE NATION'S SECURITY THROUGH INNOVATION, INTELLIGENCE, COLLABORATION, AND TRUST.

### Core Values

**Vigilance** is how we ensure the safety of all Americans. We are continuously watchful and alert to deter, detect and prevent threats to our nation. We demonstrate courage and valor in the protection of our nation.

**Service to Country** is embodied in the work we do. We are dedicated to defending and upholding the Constitution of the United States. The American people have entrusted us to protect the homeland and defend liberty.

**Integrity** is our cornerstone. We are guided by the highest ethical and moral principles. Our actions bring honor to ourselves and our agency.



# On a Typical Day in Fiscal Year 2020, CBP:

## Processed:

- 650,179 passengers and pedestrians
  - 169,842 incoming international air passengers and crew
  - 35,795 passengers and crew on arriving ships/boats
  - 444,541 incoming land travelers
- 187,049 incoming privately owned vehicles
- 77,895 truck, rail, and sea containers
- \$6.64 billion worth of imported goods
- 90,000 entries of merchandise at our air, land, and sea ports of entry
- \$216 billion in duties, taxes and other fees, including more than \$204 million in duties

## Conducted:

- 1,107 apprehensions between U.S. ports of entry
- 39 arrests of wanted criminals at U.S. ports of entry
- 634 refusals of inadmissible persons at U.S. ports of entry

## Discovered:

- 250 pests at U.S. ports of entry and 3,091 materials for quarantine: plant, meat, animal byproduct, and soil

## Seized:

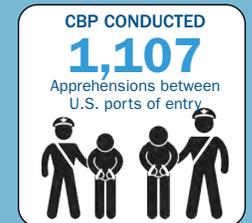
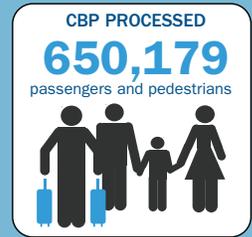
- 3,677 pounds of drugs
- \$386,195 illicit currency seized
- \$3.6 million worth of products with Intellectual Property Rights violations
- 269 intercepted fraudulent documents

## Employed 63,685 men and women including:

- 25,756 CBP officers
- 2,638 CBP Agriculture specialists
- 19,740 Border Patrol agents
- 621 Air Interdiction agents (pilots)
- 328 Marine Interdiction agents
- 338 Aviation Enforcement agents
- 1,033 trade personnel

## Conducted operations in:

- 106 countries with more than 697 CBP employees working internationally
- 328 ports of entry within 20 field offices
- 131 Border Patrol stations within 20 sectors, with 36 permanent checkpoints
- 74 Air and Marine Operations locations, including branches and units, National Air Security Operations Centers, and the Air and Marine Operations Center



## Reporting Misconduct

CBP expects its workforce to demonstrate high standards of professional conduct, as established in our Standards of Conduct. CBP employees must know the Standards of Conduct and their application to personal behavior; seek clarification if needed; and be aware of the consequences of violating the Standards of Conduct, as well as applicable statutes, regulations, and rules governing conduct.

Employees have an affirmative duty to report violations of these Standards and any matters that could reflect substantive misconduct or serious mismanagement. Thus, failure to report in and of itself constitutes misconduct and serves as the basis for potential discipline. Employees are required to report criminal activity that violates state or federal criminal laws such as bribery, theft, misuse of funds, smuggling, drug possession, perjury, civil rights violations and instances in which they have been arrested. They are also required to report serious misconduct that could jeopardize CBP's mission including misuse of government information technology systems, falsification, abuse of official position for personal gain, workplace violence or harassment, improper association, and willful misuse of government vehicle or property. All such matters may be reported to the CBP Joint Intake Center (JIC) or the Department of Homeland Security (DHS) Office of Inspector General (OIG).

Joint Intake Center	
	1-877-INTAKE
	<a href="mailto:JointIntake@dhs.gov">JointIntake@dhs.gov</a>
	P.O. Box 14775 1225 Pennsylvania Avenue, NW Washington, DC 20044

DHS Office of Inspector General	
	1-800-323-8603
	<a href="mailto:DHSOIGHOTLINE@dhs.gov">DHSOIGHOTLINE@dhs.gov</a>
	<a href="http://www.oig.dhs.gov/hotline">http://www.oig.dhs.gov/hotline</a>

CBP Information Center			
	1-877-CBP-5511		
		<a href="https://help.cbp.gov">https://help.cbp.gov</a>	

Law enforcement agencies, members of the public, and advocacy groups may also submit complaints and allegations of misconduct to the JIC and the DHS OIG. They can also contact the CBP Information Center (CIC) to ask questions, register comments, compliments, and complaints related to travel, immigration, and trade issues involving CBP.

## Intake and Internal Investigative Process

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Officially established by the Trade Facilitation and Trade Enforcement Act of 2015, the CBP Office of Professional Responsibility (OPR) promotes compliance with agency-wide programs and policies related to corruption, misconduct, and mismanagement and executes CBP's internal security and integrity awareness programs. It is the primary entity responsible for the intake and criminal and administrative investigations of allegations of serious misconduct. OPR is an independent office led by an Assistant Commissioner, who reports directly to the Commissioner of CBP.

### Intake

Situated within OPR, the JIC is the centralized intake point and clearinghouse for complaints and allegations of misconduct involving CBP employees and contractors. These reports come from many sources including employees, other law enforcement agencies, members of the public, and advocacy groups. Employees are required to report suspected misconduct and may do so by either contacting OPR through the JIC or by contacting DHS OIG directly. Members of the public and advocacy groups may also submit complaints or allegations directly to the JIC. In addition to complaints and allegations of misconduct, the JIC also receives information on a variety of other matters including employee performance issues, workplace disagreements and grievances, critical incidents, technology disruptions, lost property, evidence handling discrepancies, and matters involving non-CBP facilities or individuals who have no affiliation to CBP.

The intake process is initiated upon receipt of a complaint, allegation of misconduct, or other report. OPR records each instance, assigns a file number in the Joint Integrity Case Management System (JICMS) and classifies the matter into one of the following categories:

**Class 1 - Criminal Misconduct:** Criminal activity; conduct in violation of federal laws.

**Class 2 - Criminal Non-Federal Misconduct and Non-Criminal Serious Misconduct:** Serious and substantive misconduct and/or arrests by state/local law enforcement that could jeopardize the agency's mission including conduct that could result in a suspension of more than 14 days to removal on the first offense if substantiated.

**Class 3 - Administrative Misconduct:** Lesser administrative misconduct: allegations of misconduct referred to CBP management, as Administrative Inquiries or Management Referrals.

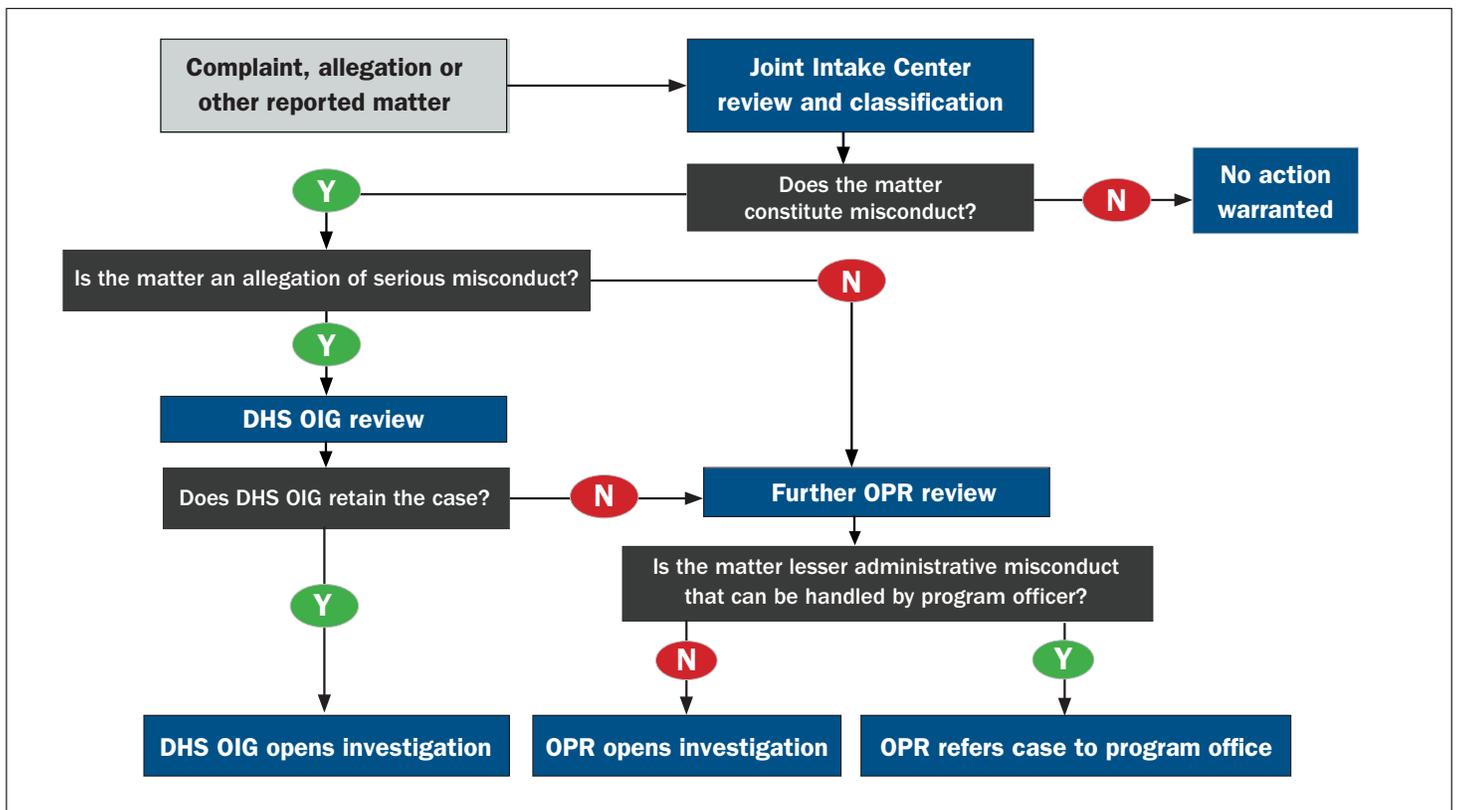
**Class 4 - Information Received:** Matters reported to the JIC that do not constitute misconduct that are received, reviewed, indexed, and referred as warranted.



Figure 1 depicts the intake process. As reports arrive in the JIC, OPR reviews each one to distinguish between misconduct and other matters, and to determine the appropriate entity or entities involved and the most appropriate course of action to address the report.

Allegations of serious misconduct are referred to the DHS OIG for independent review and determination in accordance with DHS Management Directive 0810.1. DHS OIG may hold the case and conduct its own investigation. OPR retains cases DHS OIG does not accept as well as those cases which do not meet the criteria for referral. These cases are sent to OPR field offices for further review and appropriate action. OPR field offices initiate investigations on allegations of criminal and serious misconduct. Cases involving lesser administrative misconduct are assigned back to the employee’s program office for administrative inquiry or immediate management action. Matters that do not constitute misconduct are classified as received and closed or referred, as appropriate.

Figure 1. JIC Intake Process

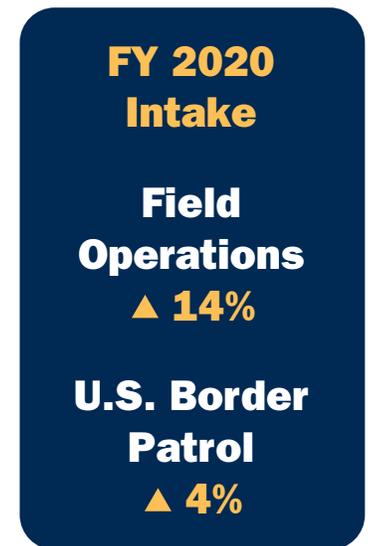


The JIC received 7,113 reports in FY 2020; 204 of these reports were referrals from the CBP Information Center based on complaints from the public.

Ninety percent (6,392) of matters reported to the JIC in FY 2020 involved employees in the Office of Field Operations (OFO) and U.S. Border Patrol (USBP), two of the three operational components which comprise the majority of the CBP workforce. The remaining 10% involved employees from all other CBP program offices combined. Both OFO and USBP had higher levels of intake in FY 2020 than in FY 2019, 14% and 4% respectively.

Table 1. JIC Intake by Program Office

Program Office	FY 2019	FY 2020
Office of Field Operations	3,394	3,868
U.S. Border Patrol	2,431	2,524
Air and Marine Operations	107	106
Enterprise Services	269	235
Office of Professional Responsibility	64	61
Office of the Commissioner	17	21
Office of Trade	19	33
Operations Support	64	79
Office of Public Affairs	4	2
Office of Chief Counsel	13	6
Office of Congressional Affairs	0	2
Unknown/Un-named Subject	238	176
<b>Total Intake</b>	<b>6,620</b>	<b>7,113</b>



At intake, 80% (5,678) of the 7,113 reports to the JIC were initially classified as potential criminal, serious, or administrative misconduct (Class 1, 2, and 3 combined).

Table 2. FY 2020 JIC Intake by Class Type

Class Type		# of Reports
<b>Class 1</b>	Criminal Misconduct	789
<b>Class 2</b>	Criminal Non-Federal Misconduct	177
<b>Class 2</b>	Non-Criminal Serious Misconduct	1,361
<b>Class 3</b>	Administrative Misconduct	3,351
<b>Class 4</b>	Information Received	1,435

The remaining 20% (1,435) of reports did not constitute misconduct and were categorized as Information Received (Class 4). These types of reports involve a wide range of issues including, but not limited to, seizure discrepancies with no sign of tampering, arrests involving a CBP employee’s family member with no nexus to the employee’s position or job, lost or missing government property with no indication of employee negligence or carelessness, lost or missing personal property or effects reported pursuant to inspections or other interactions with CBP, etc. These are typically closed with no action warranted.

Figure 2 depicts the differences in intake by class type between FY 2019 and FY 2020. Overall, FY 2020 intake was 7% higher than the 6,620 reports the JIC received in FY 2019. CBP’s workforce increased by 4% in the same time frame.



OPR criminal investigators work collaboratively with law enforcement partners in the Federal Bureau of Investigation (FBI) Border Corruption Task Forces (BCTF), the Drug Enforcement Administration (DEA) and both the DHS OIG and Homeland Security Investigations (HSI), as well as with state and local law enforcement agencies.

Upon receipt from the JIC, OPR SAC offices conduct a second level review of the cases to determine whether the reports should be investigated or referred to component offices for appropriate action. In FY 2020, 55% (3,140/5,678) of the cases transferred from the JIC were found to be allegations of lesser administrative misconduct that could be handled by component management. These cases were referred to the employees' program offices for administrative inquiry and appropriate action.

	OPR initiated investigations on 1,947 of the 7,113 reports made to the JIC in FY 2020.
	By the end of the fiscal year, OPR had closed 1,994 investigations, some of which included investigations opened in previous fiscal years.



## Discipline Process

Human Resources Policy and Programs Directorate (HRPPD) in the Office of Human Resources Management (HRM) is the sole authority within CBP for the management of labor and employee relations (LER) matters. HRPPD develops, establishes, and implements CBP-wide LER policies, programs, and procedures to facilitate effectiveness and operational consistency. HRPPD provides expert advice, training, and processes matters related to disciplinary and adverse actions, medical issues, leave administration, performance-based actions, grievances, unfair labor practices (ULP), and more.

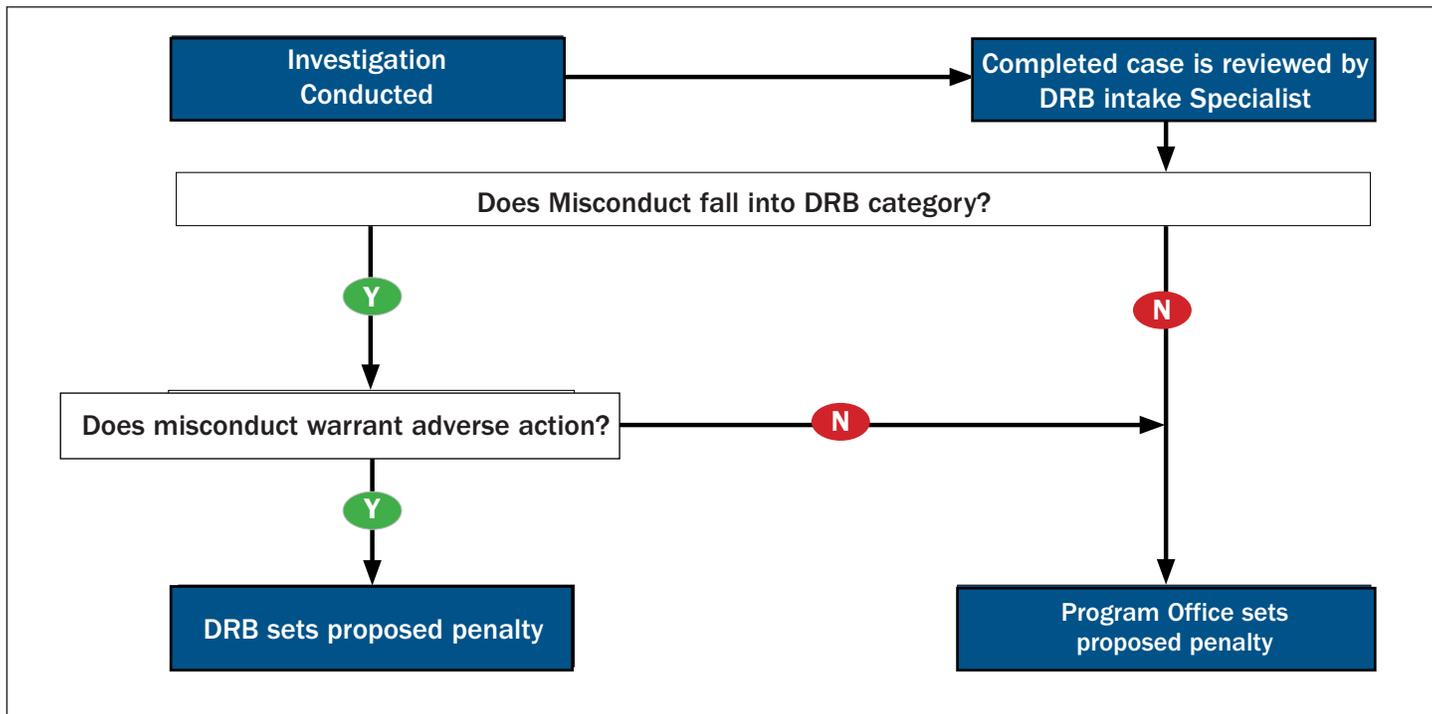
In accordance with CBP's Delegations of Authority, the authority to propose or decide specified actions is generally delegated to supervisory and managerial officials at the lowest organizational level. The final disposition of proposed discipline is determined by a deciding official in the employee's chain of command, unless there is a conflict of interest. In accordance with 5 U.S.C. § 7513(a), Cause and Procedure, the HRM and management ensure that the employee's rights are preserved throughout the discipline process and all decisions rendered are fair, consistent, and for "such cause as will promote the efficiency of the service."

Discipline, whether informal or formal action, is imposed to deter misconduct that affects the efficiency of the service and to encourage conduct that complies with the Agency's standards of conduct, standard operating procedures, policies, and office practices.

### Discipline Intake

Reports of investigation completed by OPR, CBP's Administrative Inquiry Program, and DHS OIG are routed from OPR to HRM. LER also receives cases directly from management when the misconduct does not require reporting to the JIC. LER conducts a thorough review to determine whether the report and evidence collected substantiates the misconduct. LER then routes the cases to the appropriate proposing official, whether that is the Discipline Review Board (DRB) or local management.

Figure 4. Discipline Intake Process



Each program office had an increase in cases in FY 2020. Table 3 depicts the differences in discipline intake between FY 2019 and FY 2020. FY 2020 discipline intake was 17% higher than the 7,924 discipline cases received in FY 2019. CBP's workforce increased by 4% in the same time frame.

Table 3. Discipline Intake by Component Office

Discipline Intake By Component Office	FY 2019	FY 2020
Office of Field Operations	4,176	4,928
U.S. Border Patrol	3,137	3,606
Air and Marine Operations	159	162
Enterprise Services	280	311
Office of Professional Responsibility	39	70
Office of the Commissioner	22	31
Office of Trade	35	40
Operations Support	73	109
Office of Public Affairs	3	4
Office of Chief Counsel	0	5 <sup>1</sup>
Office of Congressional Affairs	0	3
<b>Total Intake</b>	<b>7,924</b>	<b>9,269</b>

LER assisted management to close 9,269 allegations of misconduct against CBP employees during FY 2020. While this is a substantial number of allegations, it is important to note that management determined that half of the allegations did not warrant disciplinary action.

Ninety-two percent of cases LER assisted management to close in FY 2020 involved employees in OFO and USBP. Employees within these two components comprise 85% of CBP's workforce, and include many law enforcement officers who are held to a higher standard than non-weapons carrying employees. OFO and USBP have made up over 90% of allegations each year since at least FY 2011.

**FY 2020**  
LER Case  
Closure

▲ **17%**

<sup>1</sup> LER does not provide disciplinary servicing to the Office of Chief Counsel (OCC). However, OCC requested assistance from LER on 5 cases in FY 2020.

## Agency-Wide Disciplinary Actions

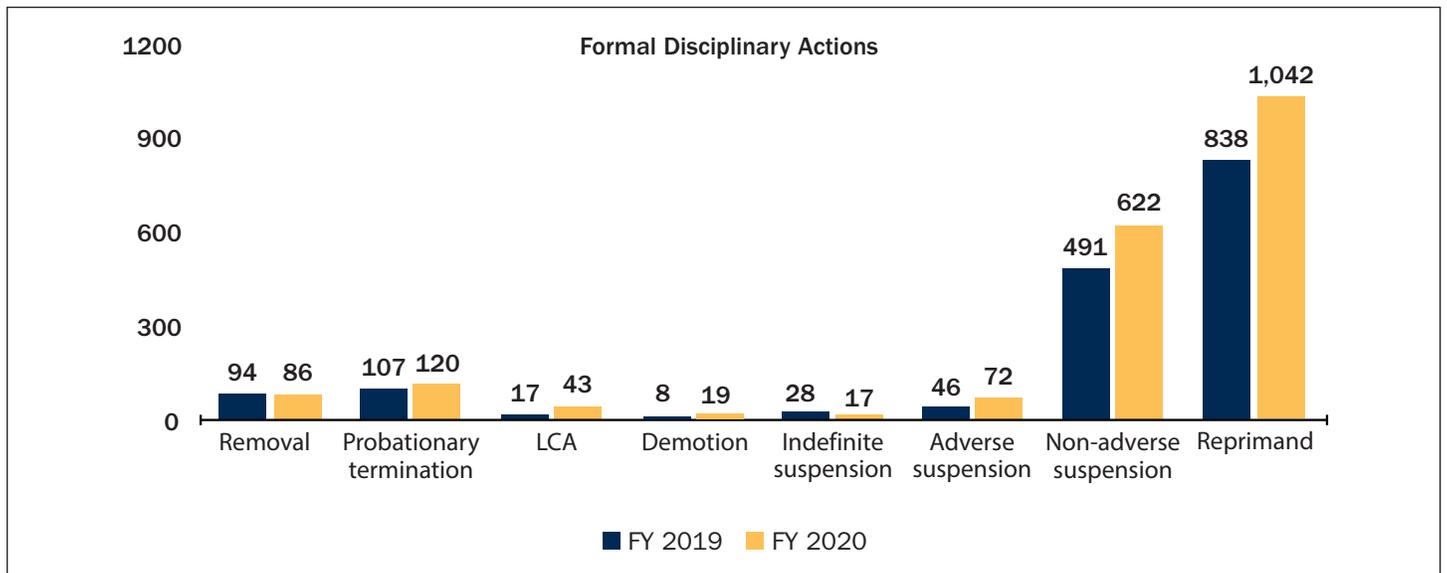
Formal disciplinary actions include reprimands, suspensions, demotions, last chance agreements<sup>2</sup> (LCA), and removals from federal service, while informal disciplinary action refers to oral or written counselings. In FY 2020, CBP took 2,021 formal disciplinary actions, and issued 2,112 counselings.

Table 4. Disciplinary Actions by Component Office and Type

Office	Removal	Probationary Termination	Last Chance Agreement	Demotion	Indefinite Suspension	Adverse Suspension	Non-Adverse Suspension	Reprimand	Counseling	Totals
Office of Field Operations	46	50	20	7	8	36	242	485	1,200	<b>2,094</b>
U.S. Border Patrol	29	64	16	8	8	31	328	503	734	<b>1,721</b>
Air and Marine Operations	2	1	1	—	—	2	18	16	159	<b>95</b>
Enterprise Services	4	3	4	2	1	3	26	24	280	<b>139</b>
Office of Professional Responsibility	2	—	1	1	—	—	4	6	39	<b>27</b>
Office of the Commissioner	—	—	—	—	—	—	—	2	22	<b>11</b>
Office of Trade	1	1	—	1	—	—	1	1	35	<b>19</b>
Operations Support	2	1	1	—	—	—	3	5	15	<b>27</b>
<b>Totals</b>	<b>86</b>	<b>120</b>	<b>43</b>	<b>19</b>	<b>17</b>	<b>72</b>	<b>622</b>	<b>1,042</b>	<b>2,112</b>	<b>4,133</b>

Removals and indefinite suspensions are the only types of formal disciplinary actions that did not increase from FY 2019.

Figure 5. Formal Disciplinary Actions FY 2020 vs. FY 2019



<sup>2</sup> In a LCA, the employee's removal is held in abeyance for the duration of the agreement period and the employee serves a suspension. If the employee commits misconduct during the LCA period, their removal is effected immediately.

## Special Section on Misconduct Topics of Significance

The following sections are subsets of the overall disciplinary actions outlined above. They were selected to depict the various misconduct encountered in FY 2020. The types of misconduct selected are Employee Arrests, Use of Force, CBP Information Center Complaints, Positive Drug Tests, and Social Media.

### Employee Arrests

Employees are required to report to the JIC instances in which they are arrested, cited, detained, or indicted for violations of law. For ease of discussion, these instances are collectively referred to as arrests.

Despite the requirement, employees sometimes delay reporting and/or fail to report such arrests. As a result, the numbers listed here represent all reported arrests as of the date the data was queried. As arrests are reported to the JIC or identified via OPR's continuous evaluation research program, they are added to the appropriate fiscal year. Some of the arrests below were the result of investigations carried out by CBP OPR.

The JIC received 201 reports of arrest in FY 2020 involving 196 employees. Five employees reported two arrests in FY 2020. These reports are a 14% decrease from the 232 reported in FY 2019.

The unlawful activity occurred primarily off-duty, but also included activity while on duty in cases of corruption. Upon receipt in the JIC, OPR opens an investigation to document the facts and circumstances surrounding the arrest. OPR further investigates to see if there is any connection to the workplace and if any policies, rules, or procedures were also violated by the arrested employee. The results of the investigation are forwarded to LER for disposition.

**FY 2020  
Employee  
Arrests**  
▼ **14%**

Nearly all of the arrests involved employees from OFO and USBP (187/201; 93%) as compared to all other offices combined. On average, the employee arrested was 41 years of age and had served just over ten years with CBP at the time of arrest.

Figure 6. Employee Arrests



All reported arrests of CBP employees are classified into one of 16 categories depicted in Figure 7 according to the nature of the offense.

Figure 7. Arrest Offense Categories



With the exception of Corruption, the totals in each category reflect criminal activity and subsequent arrests that took place during FY 2020. While the arrests and indictments in the Corruption category took place in the fiscal year, they are typically the result of complex investigations of criminal activity that may span multiple fiscal years.



Drug and Alcohol Related Misconduct continued to be the most frequently reported offense comprising 42% of all incidents. This category includes a range of violations which includes driving under the influence of alcohol, public intoxication, and drug possession.



Domestic and Family Misconduct is the next highest category of reported unlawful activity, comprising 23% of the arrests reported in FY 2020.

Table 5. Arrests Reported to the JIC FY 2019 and FY 2020 (as of 10/9/2020)

Arrest Offense Category	FY 2019	FY 2020
<b>Corruption</b> – Illegal activity for personal gain that involved the misuse of abuse of the knowledge, access, or authority granted by virtue of official position or that violated or facilitated the violation of the laws that CBP enforces.	11	4
<b>Assault</b> – Any willful attempt or threat to inflict injury upon another person. Excludes domestic or sexual assault of adults and any assault of children.	7	13
<b>Civil Rights Violations</b> – Actions that violate the rights afforded by the U.S. Constitution, particularly civil liberties, due process, equal protection under the law and freedom from discrimination. This includes actions on duty.	1	2
<b>Crimes Involving Children</b> – Any illicit activity involving a child under the age of 18 including sexual acts.	10	12
<b>Domestic/Family Misconduct</b> – Physical violence inflicted upon or disturbances that involve an adult spouse, ex-spouse, co-habitant, domestic partner or date.	47	46
<b>Drug/Alcohol Related Misconduct</b> – Range of violations involving drugs and alcohol, primarily operating a vehicle under the influence of alcohol, public intoxication and possession of controlled substances.	116	85
<b>Impeding the Criminal Justice System</b> – Range of actions that inhibit the practices and institutions of government directed at upholding social control, deterring and mitigating crime.	11	4
<b>Minor Offenses</b> – Nuisance offenses including disorderly conduct, public urination, and fighting.	3	1
<b>Miscellaneous Misconduct</b> – Arrests not otherwise classified.	2	3
<b>Property Crimes</b> – Array of criminal activity involving the destruction, damage, or theft of material property.	2	5
<b>Sexual Misconduct</b> – Any type of illicit activity of a sexual nature committed by or upon an adult.	7	5
<b>Threatening Behavior</b> – Threatening, harassing, and stalking others.	0	2
<b>Traffic/Driving Misconduct</b> - Violations that do not involve alcohol.	8	13
<b>Violent Crimes</b> – Any act which results in serious harm an/or injury to another person. Excludes all crimes against children and sexual violence against adults.	3	2
<b>Weapons Violations</b> – Primarily relating to firearms	4	3
<b>White Collar Crime</b> – A variety of non-violent crimes typically committed for financial gain	0	1
<b>Total Reported Arrests</b>	<b>232</b>	<b>201</b>

LER has received reports of investigation on 143 of the 201 arrests in FY 2020; the remaining cases are still under investigation<sup>3</sup>. Of the 143 cases, 49 were pending management action. The remaining 94 cases resulted in the disciplinary actions listed in Table 6. In some cases, charges were dropped or employees were exonerated.

Table 6. FY 2020 Employee Arrest Disciplinary Outcomes

Type of Arrest & Discipline	Closed Cases
<b>Drug/Alcohol Related</b>	<b>52</b>
Removal	2
Last Chance Agreement (LCA)	3
Demotion	1
Adverse suspension	9
Non-adverse suspension	30
Reprimand	3
Retired/Resigned <sup>4</sup>	2
Action unwarranted	2
<b>Domestic/Family Misconduct</b>	<b>11</b>
Removal	2
Non-adverse suspension	2
Action unwarranted	7
<b>Traffic/Driving</b>	<b>8</b>
Non-adverse suspension	1
Reprimand	1
Counseling	2
Action unwarranted	4
<b>Assault</b>	<b>4</b>
Non-adverse suspension	1
Counseling	1
Action unwarranted	2
<b>Crimes Involving Children</b>	<b>4</b>
Removal	1
Retired/Resigned	3
<b>Impeding the Criminal Justice System</b>	<b>3</b>
Adverse suspension	1
Non-adverse suspension	1
Retired/Resigned	1
<b>Corruption</b>	<b>2</b>
Removal	1
Retired/Resigned	1
<b>Miscellaneous Misconduct</b>	<b>2</b>
Non-adverse suspension	1
Action unwarranted	1
<b>Property Crimes</b>	<b>2</b>
Removal	1
Reprimand	1

<sup>3</sup> As of 1/25/2021

<sup>4</sup> If an employee resigns after proposed disciplinary action, their resignation is coded as in lieu of discipline

Type of Arrest & Discipline	Closed Cases
<b>Weapons Violations</b>	<b>2</b>
Removal	1
Counseling	1
<b>Civil Rights Violations</b>	<b>1</b>
Retire/Resigned	1
<b>Minor Offenses</b>	<b>1</b>
Action unwarranted	1
<b>Threatening Behavior</b>	<b>1</b>
Action unwarranted	1
<b>White Collar Crime</b>	<b>1</b>
Reprimand	1

## Use of Force Oversight

In addition to investigating allegations of misconduct, OPR criminal investigators also review critical incidents and serious use of force incidents. When CBP officers and agents use force, OPR convenes a Use of Force Incident Team (UFIT). The UFIT is comprised of specially trained personnel and directed by an OPR Incident Commander (IC) who is typically the agent in charge for the area of responsibility. The UFIT gathers facts and evidence related to the incident and prepares investigative reports. In cases involving deadly force or serious injury or death, the IC coordinates with local, state, and federal authorities also having investigative jurisdiction to ensure the investigation is thorough and complete.

In FY 2020, CBP OPR opened and assigned for investigation 516 use of force incidents.

- 17 of the 516 use of force incidents opened by the UFIT in FY 2020 involved the use of deadly force or resulted in serious injury or death.

These incidents occurred in 5 states: Arizona, California, Mississippi, Texas and New Mexico.

- 499 of the 516 use of force incidents opened by the UFIT in FY 2020 involved less-lethal uses of force and did not result in serious injury or death.

The incidents took place in 12 states or territories, and the majority occurred in Oregon, Arizona, Texas, New Mexico, and California.

CBP's National Use of Force Review Board (NUFRB) reviews all lethal use of force incidents, including the use of firearms and uses of force that result in serious injury or death. The Local Use of Force Review Board (LUFRB) reviews all less-lethal use of force incidents not addressed by the NUFRB. Both processes are administrative in nature and begin after any and all judicial action has been taken or foreclosed. Any recommendations regarding tactics, training, equipment, and policy identified are referred to CBP's Law Enforcement Safety and Compliance Directorate (LESC) for evaluation and feasibility assessments in conjunction with the various CBP operational components. Suspected misconduct is referred to the JIC for further investigation and ultimately is referred to HRM for potential disciplinary action, if appropriate.

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During FY 2020, one NUFRB convened reviewing a total of eight incidents. All eight incidents were found to be within policy. This meeting resulted in two recommendations regarding tactics, training, and equipment. Fifty one LUFRBs were held during FY 2020, reviewing a total of 455 less-lethal use of force incidents involving 529 applications of force. The LUFRBs made six recommendations regarding tactics, training, and equipment. Of the 455 incidents, 438 were found to be within policy; 17 were referred to the JIC for possible misconduct.

Investigations on 12 of the 17 cases referred to the JIC have been completed. The others remain open for investigation either by OPR or component management.

**These investigations resulted in the following disciplinary outcomes:**

- 1 reprimand
- 3 counselings
- Action was unwarranted in 8 cases

The remaining cases involving an alleged use of force that are not handled through the NUFRB or LUFRBs, including allegations of excessive force, are referred to OPR or component management for investigation and consideration of disciplinary action.

**In FY 2020, those resulted in the following disciplinary outcomes:**

- 1 removal
- 1 reprimand
- 2 counselings

During the period from June to August of 2020, the OPR SAC Seattle office established a fully functioning, remote office in Portland, Oregon to oversee the deployment of CBP personnel in response to civil disturbances. The office developed and executed a plan to address 585 individual deployments by CBP personnel of less-lethal force, multiple allegations of misconduct and myriad other investigative requirements. As a result, inquiries of 100% of the less-lethal force deployments by CBP personnel in Portland, Oregon were rapidly, efficiently and thoroughly documented, enabling real-time reporting for senior CBP leadership. Those use of force incidents will be reviewed by a special use of force review board to be carried out during FY 2021.

## Complaints from the Public via the CBP Information Center

Most of the public complaints pertain to issues such as CBP's search authority (including allegations of rude or unprofessional behavior, bias, or discrimination), delays that cause inconvenience to the traveler, or non-specific complaints about missing property or property damage for which there is no video or corroborating evidence. The JIC opened 204 cases based upon allegations of misconduct made to the CIC in FY 2020.

- LER has received reports of investigation on 179 of the 204 CIC cases in FY 2020<sup>5</sup>; the remaining referrals are still under investigation. Of the 179 cases, 11 are pending management action.

**The remaining 168 cases resulted in the following disciplinary actions:**

- 1 removal
- 4 reprimands
- 6 counselings
- 2 memorandums of instruction
- 155 cases management determined did not warrant disciplinary action

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<sup>5</sup> As of 1/25/2021.

## Drug-Free Workplace

CBP is committed to the Federal Drug-Free Workplace Program and mandates a drug-free workplace. As the guardians of our nation’s borders, CBP is a leader among other federal agencies in the interdiction of illegal drugs. By the very nature of CBP’s mission, illegal drug use is unacceptable.

Although the number of tests conducted has varied, the rate of employees testing positive for drugs has consistently remained extremely small. Due to COVID-19, CBP took hiatus from drug testing for three months. In FY 2020, CBP performed 5,731 random drug tests. Employees in Testing Designated Positions are subject to being selected for random drug testing. System algorithms that use a statistically valid stratified sampling methodology are utilized to randomly select locations and employees within each selected location. Fifteen were performed due to reasonable suspicion of drug use, four were done following on-the-job accidents and two were follow-ups. Reasonable suspicion drug testing may be conducted when there is sufficient cause to believe that an employee is using illegal drugs on or off duty.

These tests resulted in 11 employees testing positive for drug use, all of which resulted from a random test or one based on reasonable suspicion. It is considered a positive result when an employee refuses to undergo a drug test; one of the 11 positive tests resulted from a refusal. The collector reports a refusal to test when the donor fails to cooperate with any part of the testing process.

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Figure 9. Positive Tests by Drug

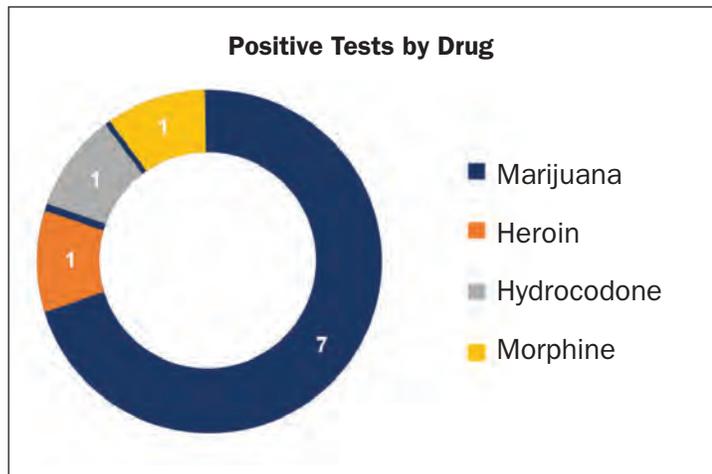


Figure 8. Drug Tests FY 2016-FY 2020

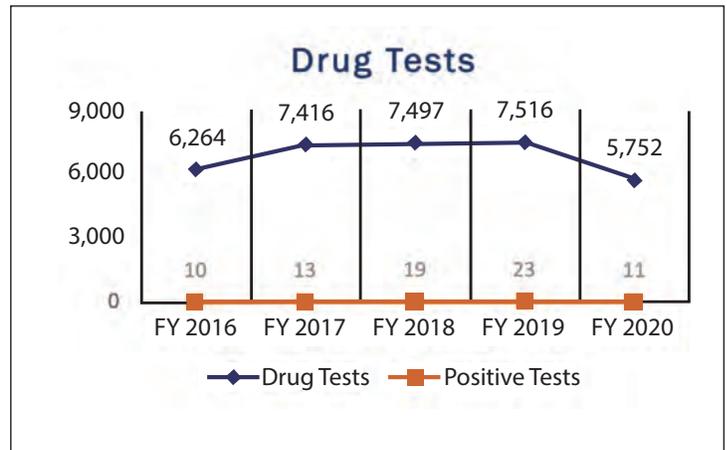
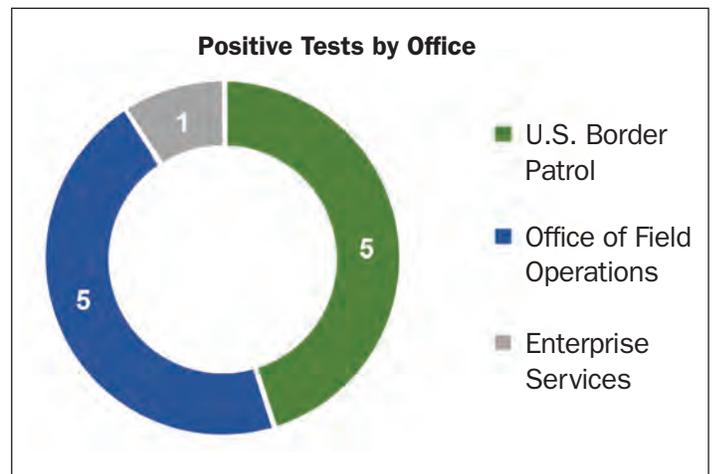


Figure 9. Positive Tests by Office



LER has received reports on 10 of the 11 positive drug tests<sup>6</sup>. Of the 10 cases, 3 are pending management action. The remaining 7 cases resulted in the following disciplinary actions listed in Table 7.

<sup>6</sup> As of 1/25/2021

Table 7. Positive Drug Test Disciplinary Outcomes

Type of Drug & Discipline	Closed Classes
<b>Marijuana</b>	<b>4</b>
Removal	1
Resigned/Retired	3
<b>Hydrocodone</b>	<b>1</b>
Result revised to negative	1
<b>Morphine</b>	<b>1</b>
LCA	1
<b>Refusal</b>	<b>1</b>
Removal	1

### “I’m 10-15” and Related Social Media Cases

In July 2019, a media organization uncovered a Facebook page named “I’m 10-15” purporting to have thousands of CBP employees as members. The page included racist, sexist, and other offensive material, much of which was aimed at migrants and politicians. OPR immediately reviewed the Facebook page, determined there were other similar pages, and opened investigations on those who were members of the groups. CBP determined that membership in the Facebook page alone did not constitute misconduct.

CBP elected to send all of these cases through its DRB and use a limited number of deciding officials to ensure the cases were handled consistently, fairly, and expeditiously. Throughout FY 2019 and FY 2020, LER sent 136 of these cases through the DRB. Cases were opened on employees who posted inappropriate content or who likely saw inappropriate content and did not report it. Individuals such as senior leaders and investigative personnel were investigated for membership alone. Decisions have been issued on all but one of these cases<sup>7</sup>.

Table 8. “I’m 10-15” and Related Social Media Disciplinary Outcomes

Discipline	Closed Cases
Removal	4
LCA	3
Adverse suspension	2
Non-adverse suspension	39
Reprimand	11
Counseling	9
Retired/Resigned	4
Action unwarranted	62
Combined with a removal case	1

<sup>7</sup> As of 1/25/2021

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## Significant Investigative and Disciplinary Outcomes

The FY 2020 Report on Internal Investigations and Employee Accountability concludes with actual examples of investigative outcomes and actions taken against employees who violate the Standards of Conduct, as well as applicable statutes, regulations, and rules governing conduct. While the conduct outlined in the following paragraphs is deeply troubling, these case summaries demonstrate CBP's commitment to thoroughly investigating, and bringing to justice, agency personnel who violate the public's trust. These cases also highlight the effectiveness of CBP's misconduct reporting systems, cooperation with other investigative agencies, and internal investigative capabilities.

An Operations Officer pleaded guilty to Title 18 USC § 1905, Disclosure of Government Records. OPR initiated this investigation based on information provided by FBI alleging the Operations Officer was involved in an immigration fraud scheme. The Operations Officer was sentenced to three years' probation. A condition of probation prohibits him from accepting or applying for a federal, state, local law enforcement officer or contractor position during the 3-year period. He was also assessed a fine of \$2,500 and a \$50 special assessment. CBP allowed the Operations Officer's appointment to expire after his interview with the FBI effectively terminating his CBP employment.

A Supervisory BPA pleaded guilty to one count of Title 18, USC Section 654, Employee of the United States Embezzling Property of Another, and one count of Title 18, USC § 1001 (a)(2), False Statements. During the course of the investigation, OPR installed and utilized surveillance equipment in a property room at a Border Patrol Station and discovered the Supervisory BPA was removing currency from an undocumented migrant's property bags. In return for pleading guilty to both counts, the Supervisory BPA was admitted into the Veterans Treatment Court (VTC) Veterans Diversion Program (VDP). The Supervisory BPA retired after his interview with OPR.

A BPA was sentenced to Conspiracy to Possess with Intent to Distribute Marijuana, Bribery, and Importation of a Controlled Substance. OPR received allegations that the BPA was illegally importing prescription medication through a Port of Entry. The BPA was also the subject of a BCTF investigation based on allegations that he was moving surveillance cameras away from target areas to facilitate narcotic smuggling. The investigation led to a search warrant of the BPA's residence and his arrest. During subsequent interviews, the BPA admitted to smuggling large quantities of marijuana and the prescription medication. The BPA was sentenced to six years' incarceration, three years supervised release, a \$16,000 fine, and he was ordered to pay \$340,434 in restitution to the Border Patrol. The BPA resigned after his sentencing.

A CBPO pleaded guilty to Luring of a Minor under 15 for Sexual Exploitation. OPR received allegations that the CBPO was in contact with undercover investigators from HSI and Sheriff's office, who were posing a minor child. The investigation confirmed the CBPO was attempting to lure a 14-year-old boy via the internet, when the CBPO showed up to the residence during a Child Exploitation sting operation targeting pedophiles in the Tucson area. The CBPO was sentenced to four years' probation, ordered to register as a sex offender, and fined \$413. The CBPO resigned after his arrest.

A BPA was convicted of multiple counts of Luring of a Minor Under 15 for Sexual Exploitation and Distribution of Child Pornography. OPR received allegations that the BPA was in contact with an undercover investigator from HSI who was posing a minor child via the internet. OPR identified the subject and the investigation confirmed that the BPA distributed child pornography. HSI and OPR conducted a search warrant of the BPA's residence and developed additional information that the BPA was molesting children. The former BPA was sentenced to 40 years in prison with no possibility of early release and lifetime supervised probation. The BPA resigned after his arrest.

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A deposit made by a Mission Support Assistant (MSA) was found to have a shortage of \$14,613.08. During an interview with OPR investigators, the MSA acknowledged he took the money a little at a time and intended to pay the money back. The MSA was charged and pleaded guilty to an offense charge of 18 USC § 641: Theft of Government Money, Property, or Records. The MSA was sentenced to three years of probation, restitution for the entire \$14,613.08 at a rate of at least \$150 a month, 100 hours of community service, attendance of a drug rehabilitation course, and not to work in any job that requires handling money. The MSA was terminated from CBP employment.



A Management and Program Analyst (MPA) pleaded guilty to executing a scheme to defraud financial institutions by submitting false claims of identity theft to evade the payment of legitimately incurred debts and to improve their credit profile in connection with their background investigation for federal employment. The OPR investigation confirmed that the former MPA falsely filed a complaint and affidavit with the three major credit bureaus alleging identity theft and disputing the debts incurred between 2010 through 2017. The former MPA pleaded guilty to false statements and second-degree fraud and was sentenced to serve 12 months imprisonment, two years of probation as well as pay full restitution totaling \$34,664.88, a \$2,000 fine, \$200 court fees, and 150-hours of community service. The MPA resigned while under investigation.



A Watch Commander was sentenced to serve 31 months in federal prison for committing a series of crimes, including operating an illegal gun-selling business, possessing machine guns and other prohibited firearms, failing to disclose his foreign financial interests and contacts in China in order to obtain a secret-level security clearance, and failing to pay federal income taxes from 2005-2017. The joint FBI, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Internal Revenue Service (IRS) and CBP OPR investigation confirmed the former Watch Commander sold at least 99 firearms without the required federal license. A search of the Watch Commander's residence led to the recovery of more than 250 firearms, including 41 machine guns and 2 additional short-barreled rifles – all of which were never registered with ATF as required by federal law. The investigation also revealed the former watch commander made materially false statements on three questionnaires submitted to the Office of Personnel Management (OPM) to obtain a secret-level security clearance related to foreign interests, contacts and businesses in China and admitted to willfully evading the payment of federal income taxes for the years 2005 through 2017. The Watch Commander was terminated from CBP employment.



During an inventory of seized iPhones stored at a contractor facility it was discovered that a box containing 292 iPhones valued at \$215,820 seized by CBP was stolen. CBP OPR and DHS OIG investigators arrested a former civilian contractor at his residence for violations of Stealing Property after entering on Federal property, 41 C.F.R. Section 102-74.380(c); 41 C.F.R Section 102-74.450; and 18 U.S.C Section 2. The contractor pleaded to an offense against the United States. The contractor was sentenced to 22 months' probation and was ordered to pay \$7,500 in restitution.



OPR and DHS OIG investigated the theft of iPhones from a government warehouse. A contractor was issued a target letter by the United States Attorney's Office, District of NJ and later pleaded guilty in US District Court for violations of Title 18 USC § 659, Theft of Interstate or Foreign Shipment, and Title 18, USC § 371 Conspiracy. These violations carry a maximum sentence of 10 years. The contractor also agreed to make full restitution to CBP for all losses resulting from the offense charged in the information in the amount of \$218,372. He was sentenced to five years' probation and was ordered to pay \$218 in restitution.



A CBPO was charged with Larceny in a Building by the Detroit/Wayne County Metropolitan Airport Police Department. A joint investigation with CBP OPR found that she took a backpack from a passenger while on duty. During her

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interview, she stated that all of the contents were disposed of into a trash receptacle, with the exception of an iPad. The CBPO was arrested and pleaded guilty to the amended misdemeanor charge of Larceny by Conversion; \$200, or more, but less than \$1,000. She was sentenced to 9 months' probation, \$965 in restitution and \$500 in court costs and fines. The CBPO resigned after her interview with OPR.

Two Telecommunications Specialists were sentenced to one year unsupervised probation and ordered to pay \$22,080 in restitution after pleading guilty to Misdemeanor – Theft of Government Funds in February 2020. The OPR investigation found they claimed hazard duty pay hours that were not worked. They both claimed they climbed and serviced a tower over a period of several days when only one of them did the climbing and was entitled to the hazard pay on one day. One of the Telecommunications Specialist retired while on indefinite suspension and the other resigned while on indefinite suspension.

A Supervisory BPA accessed CBP computer systems and provided information to noncitizens in exchange for sex. The Supervisory BPA also agreed to assist one noncitizen with reentering the U.S. illegally. Moreover, he had a personal and inappropriate relationship with another known noncitizen. As a result of the OPR investigation, the Supervisory BPA was arrested and criminally charged months after his retirement from CBP and pleaded guilty to Obtaining Information from Financial Institution, Government Computer, or Protected Computer, 18 USC § 1030 (a)(2). The SBPA was sentenced to four years of federal probation and fined \$3,600.

## Significant Misconduct and Disciplinary Outcomes

An Agriculture Specialist submitted a falsified invoice to his insurance company. The employee also lied on his background investigation about having dual citizenship in Mexico and having multiple active criminal records in Mexico.

### **Disciplinary Outcome: The Agriculture Specialist was removed from CBP in FY 2020.**

While at the Academy, a CBPO engaged in inappropriate sexual behavior with a fellow trainee. He then lied about the events in a written memorandum, during his interview with OPR, and during a polygraph examination.

### **Disciplinary Outcome: The CBPO was removed from CBP in FY 2020.**

A BPA was arrested for first degree aggravated domestic assault for hitting his girlfriend in the face, causing a bloody nose. The employee pleaded guilty to Reckless Endangerment. As a condition of his probation, the employee was not allowed to “buy, have, or use any firearms.”

### **Disciplinary Outcome: The BPA was removed from CBP in FY 2020.**

A CBPO was arrested for assault and battery against a family member for grabbing his wife, kicking her, and pulling her hair. The employee lied to the police about assaulting his wife, and about how he damaged his garage.

### **Disciplinary Outcome: The CBPO was removed from CBP in FY 2020.**

A CBPO consumed alcohol, drove, and struck another vehicle. The employee had a prior 14-day suspension for a previous DUI.

### **Disciplinary Outcome: The CBPO entered into a LCA and served a 30-day suspension in FY 2020.**

A BPA operated a TikTok account for personal gain. He posted multiple photos and videos of himself in a CBP uniform. He also posted links to several websites he endorsed that sell products.

### **Disciplinary Outcome: The BPA entered into a LCA and served a 45-day suspension in FY 2020.**

## NOTES

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# U.S. Customs and Border Protection

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