



Annual Report on Sexual Abuse and Sexual Assault by CBP Employees

June 28, 2016

Fiscal Year 2016 Report to Congress



Homeland
Security

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

June 28, 2016

I am pleased to submit the following “*Annual Report on Sexual Abuse and Sexual Assault by CBP Employees,*” prepared by U.S. Customs and Border Protection (CBP).

This document has been compiled pursuant to a requirement in Senate Report 114-68 accompanying the *Fiscal Year (FY) 2016 Department of Homeland Security Appropriations Act* (P.L. 114-113).

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:



The Honorable John R. Carter
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Lucille Roybal-Allard
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable John Hoeven
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jeanne Shaheen
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I would be pleased to respond to any questions you may have. Please do not hesitate to contact my office at (202) 344-2001 or the Department’s Deputy Under Secretary for Management and Chief Financial Officer, Chip Fulghum, at (202) 447-5751.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. McAleenan', written over a horizontal line.

Kevin K. McAleenan
Deputy Commissioner
U.S. Customs and Border Protection

Executive Summary

Sexual abuse and sexual assault are crimes that have no place in CBP. CBP has worked aggressively to enhance prevention and response through program implementation and policy changes to combat sexual misconduct by CBP employees. Programs include the hiring of a Prevention of Sexual Assault Coordinator, and providing prevention of sexual abuse and sexual assault training for all CBP personnel and contractors. In coordination with CBP's component offices, procedures have been developed to ensure that individuals held in CBP custody are safe from sexual abuse and sexual assault. To support CBP's global initiative, the Office of Professional Responsibility (OPR) Investigative Operations Division investigates all allegations of sexual abuse and sexual assault as related to potential employee criminal and administrative misconduct. OPR has established an objective to provide its investigators with specialized training for their roles in the response and investigation of sexual abuse and sexual assault.

CBP has a zero tolerance policy prohibiting all forms of sexual abuse and sexual assault of individuals in CBP custody, including in holding facilities, during transport, and during processing. CBP is committed to protecting the safety of individuals in CBP custody, and it is CBP's policy to provide effective safeguards against sexual abuse and sexual assault for individuals in CBP custody.

This policy prohibits sexual abuse and sexual assault of a detainee by another detainee; sexual abuse and sexual assault of a detainee by agents, officers, other CBP staff members, contractors, and volunteers; and retaliation against any person, including a detainee, who reports, complains about, or participates in an investigation of sexual abuse and sexual assault.

OPR maintains the Joint Intake Center (JIC) in partnership with U.S. Immigration and Customs Enforcement. The JIC is the central processing center responsible for receiving, documenting, and referring all allegations of employee misconduct. The Joint Integrity Case Management System (JICMS) is the case management system that electronically tracks and categorizes all allegations and incidents reported to the JIC.

This annual report provides a summary of the sexual abuse and sexual assault misconduct allegations and the investigative findings documented in JICMS from October 1, 2014, through September 30, 2015.



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I. Legislative Language

This document was compiled pursuant to the legislative language set forth in Senate Report 114-68 accompanying the *Fiscal Year (FY) 2016 Department of Homeland Security Appropriations Act* (P.L. 114-113).

Senate Report 114-68 states:

In light of recent media reports regarding allegations of sexual abuse by CBP personnel, the Committee directs CBP to report to Congress on an annual basis regarding all cases of reported sexual abuse and sexual assault by its employees.

II. Background

The Office of Professional Responsibility (OPR) classifies allegations of sexual abuse and sexual assault in the Joint Integrity Case Management System (JICMS), as defined by the “Department of Homeland Security Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities” (6 CFR Part 115), and adopted by the “U.S. Customs and Border Protection (CBP) Zero Tolerance Policy on Sexual Abuse and Assault.” The use of the term “victim,” as it appears in the definitions and investigative reports, is not intended to presume a crime or the guilt or innocence of the accused.

The Joint Intake Center (JIC) classifies allegations of sexual abuse or sexual assault involving CBP employees, to include, but not be limited to, any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are sexual activities, such as forced sexual intercourse, sodomy, child molestation, sexual exploitation, incest, fondling, and attempted rape. Allegations of sexual abuse and sexual assault are also classified, in accordance with local and state laws. The JIC also refers to the definitions of sexual abuse and sexual assault, as defined in 6 CFR Part 115, to classify allegations.

Sexual abuse and sexual assault investigations are closed with a finding of *substantiated/sustained*, *unsubstantiated/not sustained*, *unfounded*, or *exonerated*. A *substantiated/sustained* allegation denotes an allegation that was investigated and determined to have occurred. An *unsubstantiated/not sustained* allegation denotes an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. An *unfounded* allegation denotes an allegation that was investigated and determined not to have occurred. An *exonerated* allegation denotes an allegation that was investigated and determined that the act occurred, but was lawful and consistent with policy. An example of an exonerated finding is an investigation of a pat down that determines that the pat down was justified and conducted in accordance with CBP policies and procedures.

III. Data Report

For an overall perspective of the CBP workforce, CBP employs more than 59,000 employees, which includes more than 22,000 CBP officers and more than 20,000 Border Patrol agents. In FY 2015, CBP officers inspected 382,750,789 passengers and pedestrians for entry into the United States. In FY 2015, the apprehensions by the U.S. Border Patrol totaled 337,117 nationwide.

Allegations of Sexual Abuse and Sexual Assault by CBP Employees

Fifty-two allegations of sexual abuse and sexual assault by CBP employees were documented in JICMS for FY 2015. The allegations consisted of:

- 34 related to on-duty sexual abuse and sexual assault allegations during the course of the employee's official duties. The on-duty allegations primarily involved incidents during the personal searches of those who were inspected or apprehended by CBP employees. Other on-duty allegations included sexual harassment and sexual abuse incidents involving victims who were CBP employees (e.g., sexual harassment of coworkers).
- 18 related to off-duty sexual abuse and sexual assault by CBP employees.

Investigations and Findings

Thirty-five of the 52 allegations were investigated and closed in FY 2015. The closed investigations disclosed the following findings:

- 19 allegations were unsubstantiated/not sustained;
- 9 allegations were unfounded; and
- 7 allegations were substantiated/sustained.

Thirteen of the 52 allegations were opened in FY 2015 and closed in FY 2016. The closed investigations disclosed the following findings:

- 6 allegations were unsubstantiated/not sustained;
- 2 allegations were unfounded;
- 3 allegations were substantiated/sustained; and
- 2 allegations were exonerated.

The employees who committed the acts in the substantiated cases have either resigned, been charged, been disciplined, or are pending disciplinary action.

The remaining four allegations currently are under investigation and are expected to be closed in FY 2016.

IV. Conclusion

In coordination and cooperation with federal, state, and local law enforcement agencies, OPR ensures that all allegations of sexual misconduct involving CBP employees are investigated for transparency and accountability. In FY 2016, OPR will continue to work to incorporate best practices and the development of a program to focus on increasing knowledge and skills in sexual abuse and sexual assault investigations.

CBP remains steadfast in preventing, detecting, and responding to sexual abuse and sexual assault and holds fast to its commitment to promote a culture of safety for all persons.

V. Appendix - List of Acronyms

Acronym	Definition
CBP	U.S. Customs and Border Protection
FY	Fiscal Year
JIC	Joint Intake Center
JICMS	Joint Integrity Case Management System
OPR	Office of Professional Responsibility