



Discipline Overview

Fiscal Years 2016-2017



U.S. Customs and
Border Protection

Office of Human Resources Management

U.S. Customs and Border Protection Discipline Overview Fiscal Years 2016-17

The release of the U.S. Customs and Border Protection (CBP) Discipline Overview for Fiscal Years (FY) 2016-17 supports CBP's goal to improve transparency by informing the public about the Agency's management of misconduct allegations. As the largest law enforcement agency in the Nation, CBP focuses on strategically recruiting, training, and retaining a wide range of personnel to meet the demands of its increasingly complex global mission. Regardless of rank, position or duty station, every employee is accountable for upholding the highest standards of professional conduct, to personify CBP's core values of Vigilance, Service to Country and Integrity.

In this reporting period CBP continues to implement significant policy, procedural, and programmatic reforms to promote integrity, accountability, and transparency. These efforts include:

- Exercising authority granted by the Department of Homeland Security to initiate and conduct investigations of alleged criminal misconduct;
- Mandating all CBP law enforcement personnel immediately self-report misconduct whether or not it leads to arrest;
- Standardizing and elevating discipline reviews of law enforcement personnel for domestic violence and alcohol-related misconduct;
- Enhancing systems for tracking allegations and consolidating systems for receiving public comments and complaints;
- Adding additional Spanish-language capabilities at the CBP Information Center and bi-lingual notices describing the complaint process and contact methods posted in high visibility areas of CBP processing and holding locations;
- Improving Use of Force instruction for law enforcement personnel by extending basic training of new recruits to include a 35% increase in less lethal and 58% increase in use of force judgement/firearms related training; Adding mandatory live and computer-assisted scenario based Use of Force training for all;
- Deploying CBP-wide, joint investigative units led by Office of Professional Responsibility (OPR) criminal investigators, Use of Force Incident Teams (UFIT) immediately respond to and investigate use of force incidents for policy compliance;
- The National Use of Force Review Board (NUFRB) reviewed 8 cases, published two findings and made numerous recommendations for improvements to techniques, policy and training;
- Continuing release of information to the public immediately following use of force incidents and publishing monthly use of force statistics on CBP.gov;
- Implementing CBP's Policy on Zero Tolerance of Sexual Abuse and Assault;
- Hosting Quarterly Roundtables at CBP Headquarters with Agency leadership and NGOs to exchange information, discuss policies, garner input and facilitate understanding; and
- Utilizing the Border Community Liaison program to improve CBP's awareness of community concerns while providing a forum for communities to learn about CBP's mission, functions, authorities, and responsibilities.

In September 2014, CBP commissioned Pivotal Practices Consulting, LLC to conduct an independent review of CBP's complaints and discipline systems. Based on recommendations pursuant to this review, as well as recommendations from the Homeland Security Advisory Committee's CBP Integrity Advisory Panel and other external stakeholders, CBP created a Complaints and Discipline Steering Committee and Working Group to guide Agency efforts.

In November 2017, CBP's Agency Leadership Council approved changes to CBP's discipline process to improve consistency and accountability. Based upon the recommendations of CBP working groups, the CBP Discipline Review Board (DRB) will review cases involving specifically defined categories of misconduct that seriously harm the Agency's mission and that cut across all geographic and component lines. Whereas the previous threshold of a DRB review was any misconduct that warranted adverse action, the new standard clearly differentiates the types of actions the DRB reviews. To increase leadership transparency into the discipline process, CBP will implement quarterly reporting to senior-level leadership highlighting certain proposals and decisions rendered on disciplinary cases. Additionally, CBP will hold quarterly senior-level leadership training seminars instructing best practices and lessons learned from the recently concluded disciplinary cases. CBP is actively implementing these changes anticipating completion no later than FY 2019.

Agency-Wide Actions at a Glance

The FY 2016-17 Discipline Overview includes comprehensive statistical analysis of disciplinary actions applied to CBP employees from FY 2016 to FY 2017, compared to FY 2015 data, with specific sections addressing:

- Disciplinary Breakdown by Program Office;
- CBP Information Center;
- Employee Arrests;
- Drug-Free Workplace;
- Use of Force Allegations; and,
- Mandatory Removals of Law Enforcement Officers.

In FY 2016, the Office of Human Resources Management processed 7,740 discipline files, and in FY 2017 processed 7,239 discipline files. It is important to note that the number of cases received in a specific quarter or fiscal year is not correlated with the number of discipline files closed in that specific quarter or fiscal year. These cases may traverse quarters or fiscal years due to several factors, including but not limited to, due process timeframes, requests for extensions granted by deciding officials, investigative lead times, legal review timeframes, time to respond to requests for information, and review time required for presentation to the DRB.

Cases processed decreased 6 percent year-over-year, both FY 2015 to FY 2016 (8,253 to 7,740), and again FY 2016 to FY 2017 (7,740 to 7,239). Overall, approximately three percent of CBP employees were subject to formal discipline each year in FY 2016 and FY 2017.

Table 1 illustrates actions pertaining to cases closed in FY 2016, including cases not warranting any disciplinary action.

Table 1: Agency-wide Actions by Quarter for FY 2016					
Result:	FY 2016 Q1	FY 2016 Q2	FY 2016 Q3	FY 2016 Q4	TOTALS
*Allegation Unsubstantiated	1,073	897	908	950	3,828
Counseling	362	382	431	428	1,603
Written Reprimand	223	227	261	263	974
Disciplinary Suspension (14 days or less)	107	107	127	129	470
Combined With Other Case	41	37	48	60	186
Memorandum of Instruction	84	19	30	27	160
Resignation/Retirement	23	33	28	25	109
Removal	19	21	23	22	85
Suspension Plus Days in Abeyance	16	13	22	8	59
Probationary Termination	19	11	14	7	51
Leave Restriction	11	14	10	14	49
Last Chance Agreement	12	9	14	11	46
Indefinite Suspension	12	6	11	9	38
Adverse Suspension (15 days or more)	4	6	13	8	31
Entire Suspension in Abeyance	2	3	9	7	21
Demotion	1	3	4	0	8
Written Reprimand Plus Days in Abeyance	4	2	0	2	8
Reassignment	1	2	2	2	7
**Non-Disciplinary Settlement	1	1	1	2	5
Death Prior to Decision	1	0	0	0	1
Entire Demotion and Suspension in Abeyance	0	1	0	0	1
Totals:	2,016	1,794	1,956	1,974	7,740

*Current CBP reporting requirements mandate or recommend employees report a variety of issues to the Joint Intake Center (JIC), regardless of whether the issue involves actionable misconduct. Additionally, a substantial number of outcomes reported as, “discipline not warranted,” include allegations of misconduct deemed unsubstantiated or unfounded.

** These are cases where CBP entered into a settlement agreement to resolve a disciplinary matter that resulted in a non-disciplinary action. For example, where an employee agreed to give a presentation to coworkers instead of serving a suspension.

Table 2 illustrates actions pertaining to cases closed in FY 2017, including cases not warranting any disciplinary action.

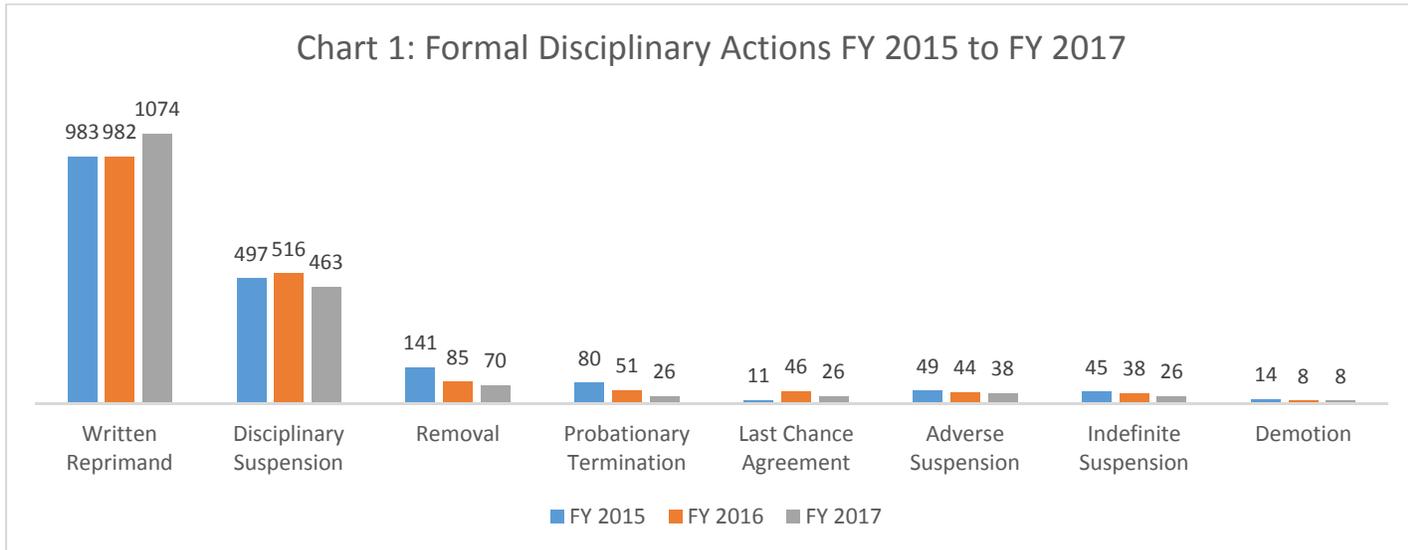
Table 2: Agency-wide Actions by Quarter for FY 2017					
Result:	FY 2017 Q1	FY 2017Q2	FY 2017 Q3	FY 2017 Q4	TOTALS
*Allegation Unsubstantiated	912	1,032	898	964	3,806
Counseling	298	332	336	313	1,279
Written Reprimand	277	263	275	259	1,074
Disciplinary Suspension (14 days or less)	108	123	135	97	463
Combined With Other Case	27	35	43	32	137
Memorandum of Instruction	14	17	12	13	56
Resignation/Retirement	32	28	32	35	127
Removal	16	21	17	16	70
Suspension Plus Days in Abeyance	14	15	9	10	48
Probationary Termination	6	3	9	8	26
Leave Restriction	5	4	2	5	16
Last Chance Agreement	6	9	6	5	26
Indefinite Suspension	5	10	8	3	26
Adverse Suspension (15 days or more)	8	8	12	10	38
Entire Suspension in Abeyance	6	7	6	3	22
Demotion	3	2	0	3	8
Written Reprimand Plus Days in Abeyance	4	0	1	1	6
Reassignment	0	0	1	0	1
**Non-Disciplinary Settlement	1	2	4	3	10
Death Prior to Decision	0	0	0	0	0
Entire Demotion and Suspension in Abeyance	0	0	0	0	0
Totals:	1,742	1,911	1,806	1,780	7,239

*Current CBP reporting requirements mandate or recommend employees report a variety of issues to JIC, regardless of whether the issue involves actionable misconduct. Additionally, a substantial number of outcomes reported as, “discipline not warranted,” include allegations of misconduct deemed unsubstantiated or unfounded.

** These are cases where CBP entered into a settlement agreement to resolve a disciplinary matter that resulted in a non-disciplinary action. For example, where an employee agreed to present a muster instead of serving a suspension.

Comparison of Disciplinary Actions Taken in FY 2017, FY 2016, and FY 2015

In FY 2016, CBP reviewed and processed 7,740 cases, which represents a 6 percent decrease from 8,253 in FY 2015. In FY 2017, CBP reviewed and processed 7,239 cases, which represents another 6 percent decrease from the 7,740 in FY 2016. The following chart illustrates formal disciplinary actions taken by CBP FY 2015 to FY 2017.



When comparing FY 2016 and FY 2017 data with that from FY 2015, CBP noted the following trends:

- Removal decisions decreased 50 percent over the three-year period: 70 removals in FY 2017; 85 in FY 2016; and 141 removals in FY 2015.
- Reprimand decisions increased 9 percent over the same three-year period: 1,074 reprimands in FY 2017; 982 in FY 2016; and 983 reprimands in FY 2015.
- The remainder of formal disciplinary actions remained statistically neutral.

In FY 2016, 1,770 formal disciplinary actions applied to 3 percent of the CBP workforce. Similarly, in FY 2017, 1,785 formal disciplinary actions also involved 3 percent of the CBP workforce. CBP noted the following trends:

- Written reprimands accounted for 56 percent of the formal disciplinary actions taken in FY 2016 and 62 percent in FY 2017.
- CBP processed 1,603 cases in FY 2016 and 1,279 cases in FY 2017 where management elected to address misconduct with counseling (informal discipline). This represents a 10 percent decrease from 1,418 in FY 2015.
- The number of cases where management determined disciplinary action was not warranted totaled 3,828 in FY 2016 and 3,806 in FY 2017. This equated to an aggregate decrease of 17 percent from 4,610 in FY 2015. In general, cases are closed in this manner when evidence shows the allegation is unsubstantiated or unfounded and therefore does not support taking

action.

In FY 2016 and FY 2017, CBP had three major operational components: Office of Field Operations (OFO), U.S. Border Patrol (USBP), and Air and Marine Operations (AMO).

- In both FY 2016 and FY 2017 over 90 percent of the cases processed were employees from OFO and USBP, the two largest program offices of the CBP workforce.
- In FY 2016, the Office of Information and Technology, which was folded into Enterprise Services (ES) in FY 2017, had the third largest number of cases totaling 182 cases, followed by AMO with 112 cases.
- In FY 2017, ES had the third largest number of cases, with 390 cases, followed by AMO at 130 cases.

A detailed discipline breakdown by CBP program office follows along with a separate discipline breakdown by geographic location for OFO and USBP.

A comprehensive breakdown of discipline by program office for FY 2016 is illustrated in **Table 3**. This table includes discipline by program office, average number of employees in FY 2016, type of discipline, and percentage of employees disciplined by program office.

Table 3: Formal Disciplinary Breakdown by Program Office for FY 2016								
Number of Employees:	USBP 21,316	OFO 29,240	Enterprise Services 4,131	AMO 1,660	Commissioner 909	Trade 852	Operations Support 792	TOTALS 58,900
Percentage Disciplined:	4.5%	2.4%	1.3%	1.5%	1.3%	1.3%	.8%	3%
Written Reprimand	533	393	24	14	4	3	3	974
Disciplinary Suspension (14 days or Removal)	292	154	12	7	1	3	1	470
Suspension Plus Days in Abeyance	35	42	4	1	1	1	1	85
Last Chance Agreement	26	29	1	0	2	1	0	59
Indefinite Suspension	24	17	4	0	1	0	0	46
Adverse Suspension (15 days or more)	25	13	0	0	0	0	0	38
Probationary Termination	13	13	3	2	0	0	0	31
Written Reprimand Plus Days in Abeyance	17	21	5	0	5	2	1	51
Demotion	2	6	0	0	0	0	0	8
Totals:	970	692	53	25	14	10	6	1,770

A comprehensive breakdown of discipline by program office for FY 2017 is presented in **Table 4**. This table includes discipline by program office, number of employees, type of discipline, and percentage of employees disciplined by office.

Table 4: Formal Disciplinary Breakdown by Program Office for FY 2017								
Number of Employees:	USBP 20,954	OFO 29,321	Enterprise Services 4,264	AMO 1,650	Commissioner 904	Trade 883	Operations Support 850	TOTALS 59,178
Percentage Disciplined:	4%	3%	1%	2%	1%	1%	2%	3%
Written Reprimand	526	484	32	16	6	2	8	1,074
Disciplinary Suspension (14 days or Removal)	240	197	13	7	1	2	3	463
Suspension Plus Days in Abeyance	31	28	4	3	3	1	0	70
Last Chance Agreement	28	16	1	2	0	0	1	48
Indefinite Suspension	12	14	0	0	0	0	0	26
Adverse Suspension (15 days or more)	9	16	0	1	0	0	0	26
Probationary Termination	25	11	0	2	0	0	0	38
Written Reprimand Plus Days in Abeyance	19	5	1	0	0	1	0	26
Demotion	2	4	0	0	0	0	0	6
Totals:	894	780	51	31	10	6	13	1,785

Tables 5 and 6 focus on FY 2016 and FY2017 disciplinary actions within OFO including the location of the employee disciplined, type of discipline, and number of employees.

Table 5: Disciplinary Breakdown by OFO Field Office for FY 2016

	Discipline Not Warranted	Informal Discipline	Written Reprimand	Disciplinary Suspension (14 days or less)	Retirement/ Resignation	Removal	Suspension Plus Days in Abeyance	Probationary Termination	Last Chance Agreement	Indefinite Suspension	Adverse Suspension (15 days or more)	Written Reprimand Plus Days in Abeyance	Demotion	TOTALS	Total Employees
Atlanta	46	17	8	7	3	2	-	-	1	-	1	-	-	85	1,127
Baltimore	49	42	8	4	3	-	-	-	-	-	-	-	-	106	758
Boston	37	48	12	5	2	-	1	3	-	-	1	-	-	109	986
Buffalo	39	20	11	4	-	5	1	-	-	-	3	-	-	83	1,408
Chicago	91	15	13	6	1	-	-	-	-	1	-	-	-	127	1,149
Detroit	62	49	12	11	1	4	6	-	1	-	-	-	-	146	1,406
El Paso	74	41	24	6	1	-	3	3	1	1	-	1	-	155	1,438
Houston	75	22	20	15	2	3	-	1	-	-	-	-	-	138	1,221
HQ	51	15	8	2	-	-	-	1	-	-	-	-	-	77	1,375
Laredo	264	94	45	14	6	6	2	3	3	3	1	-	-	441	2,737
Los Angeles	100	39	33	6	3	10	2	1	1	4	1	-	1	201	1,891
Miami	117	74	33	6	7	3	-	2	1	-	1	-	2	246	2,222
New Orleans	16	3	2	3	1	-	-	-	-	-	-	-	-	25	373
New York	95	44	43	19	5	2	3	2	2	-	-	3	-	218	2,939
Portland	11	4	-	1	-	-	-	-	-	-	-	-	-	16	235
Preclearance	52	19	6	2	-	-	1	-	-	-	1	-	-	81	623
San Diego	213	114	40	19	3	2	1	-	3	1	1	1	-	398	2,212
San Francisco	60	33	35	11	2	1	-	1	1	-	1	1	-	146	1,343
San Juan	37	29	9	-	-	-	-	-	1	-	-	-	-	76	616
Seattle	81	41	15	6	-	2	1	1	1	2	-	-	-	150	1,632
Tampa	33	5	2	3	1	1	-	-	-	-	-	-	-	45	536
Tucson	127	163	14	4	3	1	8	3	1	1	2	-	1	328	1,013
Totals:	1,730	931	393	154	44	42	29	21	17	13	13	6	4	3,397	29,240

Table 6: Disciplinary Breakdown by OFO Field Office for FY 2017

	Discipline Not Warranted	Informal Discipline	Written Reprimand	Disciplinary Suspension (14 days or less)	Retirement/Resignation	Removal	Suspension Plus Days in Abeyance	Probationary Termination	Last Chance Agreement	Indefinite Suspension	Adverse Suspension (15 days or more)	Written Reprimand Plus Days in Abeyance	Demotion	TOTALS	Total Employees
Atlanta	25	13	9	7	1	-	-	-	1	-	1	-	-	57	1,150
Baltimore	48	29	6	5	-	-	1	-	1	-	-	-	-	90	745
Boston	68	30	15	6	-	1	-	-	-	-	1	-	-	121	1,028
Buffalo	31	14	1	4	1	1	-	-	-	-	1	-	-	53	1,404
Chicago	78	17	13	7	2	1	-	-	-	-	-	-	-	118	1,121
Detroit	90	18	24	13	3	1	-	-	-	1	1	-	1	152	1,418
El Paso	102	38	72	23	3	-	2	-	1	-	-	-	-	241	1,476
Houston	106	12	23	6	1	-	-	1	2	-	-	-	-	151	1,197
HQ	55	15	1	8	1	-	-	-	-	-	-	-	1	81	1,473
Laredo	250	30	69	16	7	3	-	-	-	2	1	-	-	378	2,882
Los Angeles	83	21	44	19	4	6	-	-	1	1	-	-	-	179	1,845
Miami	141	51	21	7	-	2	1	1	1	-	-	-	-	225	2,239
New Orleans	14	4	3	-	1	-	-	-	-	1	-	-	-	23	340
New York	81	8	20	12	3	1	3	-	3	2	2	2	-	137	2,774
Portland	12	9	3	1	-	-	1	1	-	-	-	-	1	28	229
Preclearance	40	15	5	3	-	-	-	-	-	-	-	-	-	63	655
San Diego	244	49	73	25	4	3	2	-	3	1	2	1	1	408	2,288
San Francisco	70	22	26	9	3	5	4	2	1	1	1	-	1	145	1,342
San Juan	38	7	4	-	-	-	-	-	-	-	-	-	-	49	602
Seattle	88	19	31	12	9	3	1	-	-	3	1	1	-	168	1,616
Tampa	38	11	9	4	-	-	-	-	-	-	-	-	-	62	516
Tucson	131	39	12	10	2	1	1	-	-	4	-	-	-	200	981
Totals:	1,833	471	484	197	45	28	16	5	14	16	11	4	5	3,129	29,321

Tables 7 and 8 concentrate on disciplinary actions within USBP in FY 2016 and FY 2017 and include location of the employee disciplined, type of discipline, and number of employees.

Table 7: Disciplinary Breakdown by USBP Sector for FY 2016

	Removal	Last Chance Agreement	Demotion	Adverse Suspension (15 days or more)	Suspension Plus Days in Abeyance	Disciplinary Suspension (14 days or less)	Written Reprimand Plus Days in Abeyance	Written Reprimand	Probationary Termination	Indefinite Suspension	Informal Discipline	Discipline Not Warranted	Retirement/ Resignation	TOTALS	Total Employees
Big Bend	-	1	-	1	2	16	2	24	1	-	14	49	5	115	548
Blaine	1	-	-	-	-	9	-	9	1	-	5	32	1	58	332
Buffalo	1	-	-	-	-	1	-	7	-	-	1	4	-	14	327
Del Rio	3	-	-	-	1	13	2	55	4	3	55	66	4	206	1,560
Detroit	-	-	1	2	-	7	-	9	-	-	5	20	-	44	457
El Centro	3	2	-	-	3	16	1	25	-	1	35	104	-	190	1,005
El Paso	4	4	-	5	6	48	1	60	-	3	25	155	6	317	2,420
Grand Forks	-	-	-	-	-	3	-	5	-	-	2	6	-	16	215
Havre	-	1	-	-	-	1	-	7	-	-	7	11	-	27	205
Houlton	-	1	-	-	1	4	-	7	-	-	4	11	-	28	220
HQ	1	-	-	-	1	1	-	-	-	-	8	14	-	25	373
Laredo	4	-	-	2	2	32	1	48	1	2	110	197	4	403	1,788
Miami	-	-	-	-	-	4	-	5	-	-	16	3	-	28	129
New Orleans	-	-	-	-	-	-	-	3	-	-	3	4	-	10	85
Ramey	-	-	-	-	-	1	-	-	-	-	1	2	-	4	55
Rio Grande Valley	2	2	-	-	4	46	-	101	5	5	128	402	9	704	3,356
San Diego	5	5	-	3	-	20	-	53	1	4	109	168	5	373	2,487
Special Operations Group	-	-	-	-	-	-	-	2	-	-	8	13	1	24	134
Spokane	-	-	-	-	-	1	-	2	-	-	7	9	1	20	269
Swanton	2	-	-	-	-	-	-	2	-	1	5	14	-	24	339
Tucson	6	7	1	-	6	51	-	91	2	3	183	452	7	809	4,104
Yuma	3	1	1	-	-	18	1	17	2	3	17	40	2	105	908
Totals:	35	24	3	13	26	292	8	532	17	25	748	1,776	45	3,544	21,316

Table 8: Disciplinary Breakdown by USBP Sector for FY 2017

	Removal	Last Chance Agreement	Demotion	Adverse Suspension (15 days or more)	Suspension Plus Days in Absence	Disciplinary Suspension (14 days or less)	Written Reprimand Plus Days in	Written Reprimand	Probationary Termination	Indefinite	Informal Discipline	Discipline Not Warranted	Retirement/Resignation	TOTALS	Total Employees
Big Bend	-	-	-	-	1	12	1	31	1	1	2	26	-	75	541
Blaine	-	1	-	-	-	10	-	18	-	-	3	17	2	51	329
Buffalo	-	-	-	-	1	6	-	9	-	1	2	7	-	26	320
Del Rio	1	-	-	2	4	12	1	68	1	1	59	113	4	266	1,514
Detroit	2	-	-	-	-	2	-	9	1	1	4	18	-	37	458
El Centro	3	-	-	1	-	12	-	21	-	-	22	80	-	139	948
El Paso	-	2	-	1	4	33	-	49	3	1	42	189	8	332	2,367
Grand Forks	-	-	-	-	1	1	-	3	-	-	2	5	-	12	224
Havre	-	-	-	-	1	4	-	4	-	-	6	31	-	46	215
Houlton	1	-	-	-	2	3	-	5	-	-	4	7	-	22	210
HQ	1	-	-	-	-	1	-	1	-	-	8	13	1	25	401
Laredo	5	-	1	1	2	23	-	62	2	-	137	201	4	438	1,791
Miami	1	-	-	-	-	3	-	2	-	-	3	5	-	14	137
New Orleans	-	-	-	-	-	-	-	3	-	-	-	3	-	6	81
Ramey	-	-	-	-	-	1	-	2	-	-	-	2	1	6	55
Rio Grande Valley	4	-	-	5	6	30	-	74	5	1	115	321	7	568	3,362
San Diego	4	2	1	6	3	37	-	37	-	1	65	115	9	280	2,358
Special Operations Group	1	-	-	1	-	1	-	3	-	-	1	7	1	15	133
Spokane	-	1	-	-	-	2	-	7	1	-	5	12	-	28	265
Swanton	1	-	-	-	-	2	-	-	-	-	2	13	2	20	338
Tucson	3	6	-	7	3	40	-	107	3	2	161	347	22	701	3,962
Yuma	4	-	-	1	-	5	-	11	2	-	12	43	1	79	945
Totals:	31	12	2	25	28	240	2	526	19	9	655	1,575	62	3,186	20,954

CBP Information Center

The CBP Information Center (CIC) is a centralized resource for the public to contact to ask questions, register comments, compliments, and complaints related to travel, immigration, and trade issues involving CBP. CIC also receives tips about illegal activity or allegations of misconduct and refers that information to the appropriate authority. CIC analyzes trends and patterns for both compliments and complaints, and uses this data to inform leadership of possible opportunities for customer service improvements.

The Joint Intake Center (JIC) serves as the central "clearinghouse" for receiving, processing, and tracking allegations of misconduct involving personnel and contractors employed by CBP. Based upon referrals from CIC, the JIC opened 191 cases in FY 2016 and 278 cases in FY 2017. The number of cases in FY 2016 marked a 34 percent increase compared to the 143 cases opened in FY 2015. Cases increased another 46 percent from FY 2016 to FY 2017.

Of the 191 cases in FY 2016, all but 58 were sent to the Office of Human Resources Management (HRM) for review and action. Of the 278 FY 2017 cases, all but 67 were sent to HRM. Of those 58 cases for FY 2016 and 67 cases for FY 2017 were closed either by JIC, an OFO employee detailed to the Office of Professional Responsibility (OPR), or remained open as of September 30, 2017.

As of September 30, 2016, the discipline outcomes for the cases referred to HRM by CIC in FY 2016 were as follows:

- 9 cases were closed with a counseling;
- 75 cases were closed without disciplinary action; and
- 49 cases remained open.

As of September 30, 2017, the discipline outcomes for the cases referred to HRM by CIC in FY 2017 were as follows:

- 1 case was closed with a suspension;
- 1 case was closed with a written reprimand;
- 16 cases were closed with a counseling;
- 167 cases were closed without disciplinary action; and
- 25 cases remained open.

Employee Arrests

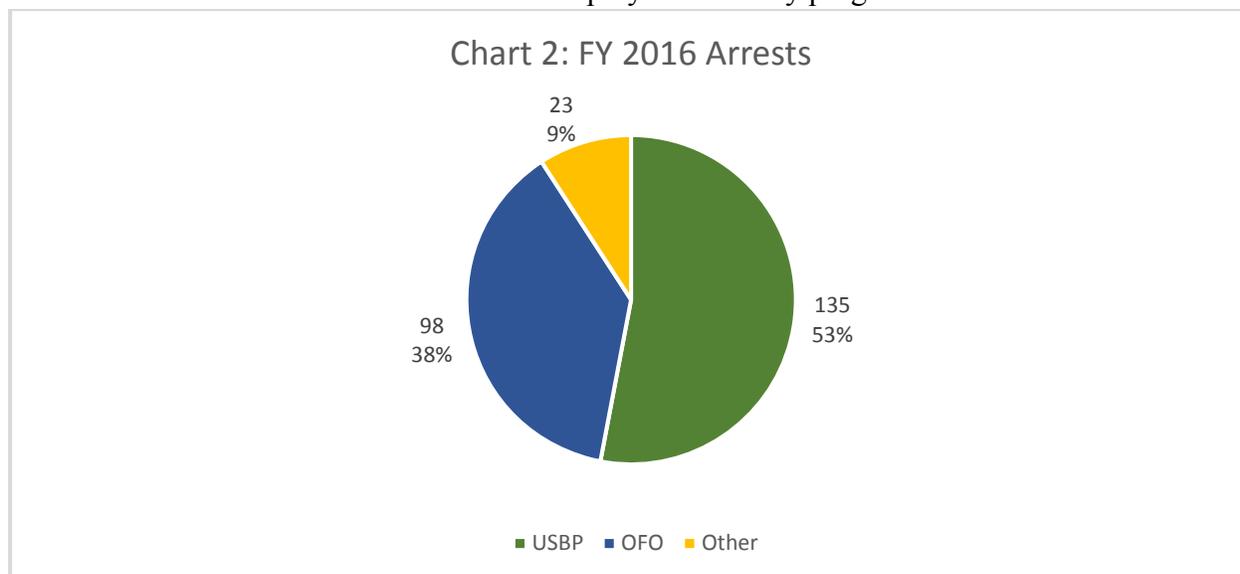
The CBP Standards of Conduct state that in order to fulfill its mission, CBP and its employees must sustain the trust and confidence of the public they serve. As such, any violation of law by a CBP employee is inconsistent with and contrary to the Agency's law enforcement mission. CBP's Standards of Conduct specify that certain conduct, on and off-duty, may subject an employee to disciplinary action. These standards serve as notice to all CBP employees of the Agency's expectations for employee conduct wherever and whenever they are.

The number of employees arrested in FY 2016 and FY 2017 represents a minute percentage of the overall CBP workforce of approximately 60,000.

A closer examination of CBP employees arrested in FY 2016 revealed:

- 251 CBP employees were arrested in FY 2016. Of this number, 5 of these employees were arrested twice in the same year, resulting in 256 total arrests;
- 53 percent of all employee arrests were attributable to criminal conduct allegedly committed by USBP employees—135 in total, which is a slight decrease from FY 2015, where USBP employees accounted for 55 percent of all arrests;
- 38 percent of all employee arrests were attributable to criminal conduct allegedly committed by OFO employees—98 in total; and
- 9 percent of all employee arrests were attributable to criminal conduct allegedly committed by employees assigned to other CBP program offices—23 in total. The other program offices in FY 2016 included AMO, HRM, the Office of Administration, the Office of Intelligence, Office of Information and Technology, OPR, Office of Trade, Office of Technology Innovation and Acquisition, and Office of Training and Development.

Chart 2 illustrates the breakdown of CBP employee arrests by program office in FY 2016.



A review of the arrest data revealed the following statistics for FY 2016:

- The number of CBP employee arrests remained steady from FY 2015 to FY 2016—256 in FY 2016 versus 257 in FY 2015;
- Drug/alcohol-related offenses and domestic/family offenses accounted for 42.6 and 17.2 percent of all arrests, respectively; and
 - Alcohol-related driving arrests increased slightly from FY 2015 totals, whereas arrests for domestic violence decreased substantially from FY 2015 totals¹.

¹ These two categories of misconduct are subsets of the two arrest categories noted above

Table 9 provides a breakdown of employee arrests for FY 2016.

Table 9: Employee Arrest Totals by Arrest Type – FY 2016 ² Workforce total for FY 2016 = 59,221	
Type of Arrest	Number of Arrests
Drug/Alcohol-Related Misconduct	109
Domestic/Family Misconduct	44
Assault	16
Corruption	15
Impeding the Criminal Justice System	13
Property Crimes	12
Traffic/Driving Misconduct	12
Minor Offenses	8
Crimes Involving Children	6
Threatening Behavior	6
Weapons Violations	4
White Collar Crime	4
Miscellaneous Misconduct	3
Sexual Misconduct	2
Mission-Related Misconduct	1
Violent Crimes	1
Total Arrests:	256

A review of the discipline data for the 256 employee arrest cases indicated that 193 remained open as of September 30, 2016. This may be attributed to several factors including pending criminal proceedings, cases warranting further investigation, or cases pending management action.

As of September 30, 2016, arrest totals included nine cases involving employees who are no longer employees for CBP. Two of those former employees were separated after tendering their resignation. Five other former employees were removed and the remaining two were terminated during their probationary period. Forty-two cases were resolved with action ranging from counseling to removal. Management determined discipline was not warranted in 19 off-duty arrest cases.

For FY 2017, a closer examination of the employees arrested revealed:

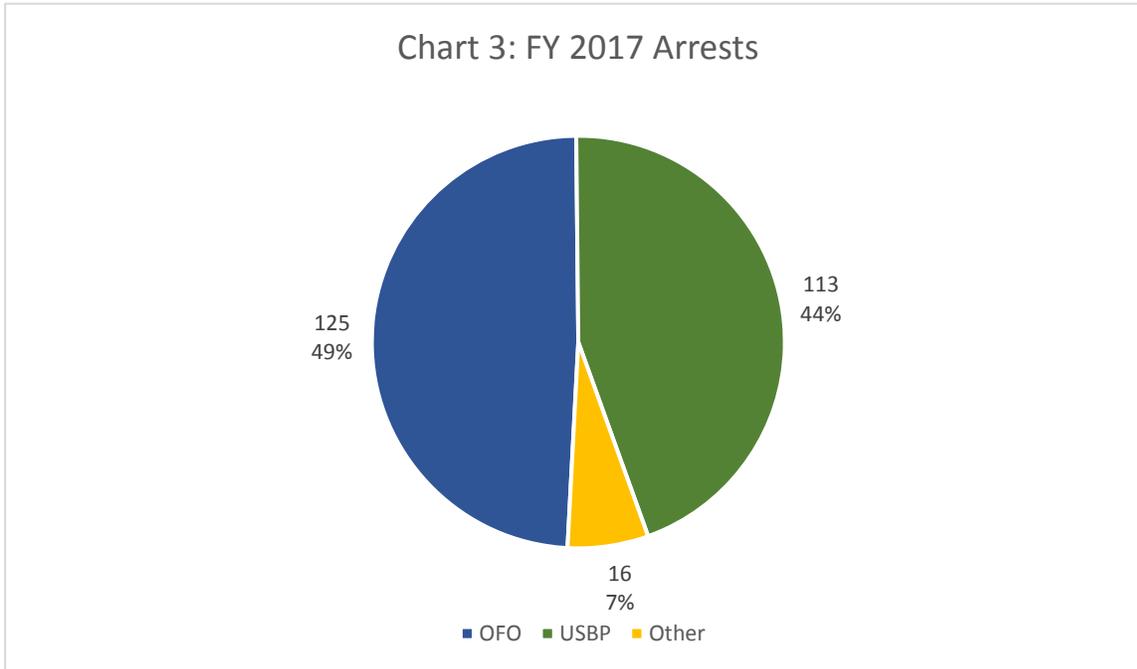
- 245 CBP employees were arrested in FY 2017. Of this number, 7 of these employees were arrested twice in the same year and 1 employee was arrested 3 times in the same year, resulting in 254 total arrests;
- 44 percent of all employee arrests were attributable to criminal conduct allegedly committed by USBP employees—113 in total. This is a decrease from FY 2016 where USBP

² Arrest data current as of July 26, 2018, pursuant to updated reporting to CBP Office of Professional Responsibility

employees accounted for 53 percent of all arrests;

- 49 percent of all employee arrests were attributable to criminal conduct allegedly committed by OFO employees—125 in total; and
- 7 percent of all employee arrests were attributable to criminal conduct allegedly committed by employees assigned to other CBP program offices – 16 in total. The other program offices in FY 2017 included AMO, Enterprise Services, and Operations Support.

Chart 3 illustrates the breakdown of CBP employee arrests by program office in FY 2017.



A review of the arrest data revealed the following statistics for FY 2017:

- The total number of arrests remained steady from FY 2016 to FY 2017—256 in FY 2016 contrasted with 254 employee arrests in FY 2017;
- Drug/alcohol-related offenses and domestic/family offenses accounted for 47 and 20 percent of all arrests, respectively; and,
 - Alcohol-related driving arrests decreased slightly from FY 2016 totals, whereas arrests for domestic violence increased.³

³ These two categories of misconduct are subsets of the two arrest categories noted above

Table 10 provides a breakdown of employee arrests for FY 2017.

Table 10: Employee Arrest Totals by Arrest Type – FY 2017⁴	
Workforce total for FY 2017 = 59,178	
Type of Arrest	Number of Arrests
Drug/Alcohol-Related Misconduct	119
Domestic/Family Misconduct	51
Corruption	15
Impeding the Criminal Justice System	14
Assault	9
White Collar Crime	7
Property Crimes	6
Traffic/Driving Misconduct	6
Crimes Involving Children	6
Weapons Violations	5
Threatening Behavior	4
Miscellaneous Misconduct	4
Violent Crimes	3
Minor Offenses	2
Sexual Misconduct	2
Mission-Related Misconduct	1
Total Arrests:	254

A review of the discipline data for the 254 cases involving employee arrests revealed that 184 remained open as of September 30, 2017. This may be attributed to several factors including pending criminal proceedings, cases warranting further investigation, or cases pending management action.

As of September 30, 2017, arrest totals included 13 cases involving employees who are no longer working for CBP. Six of those former employees were separated after tendering their resignations and two former employees retired. One other former employee was removed and four were terminated during their probationary period.

Forty-three cases were resolved with actions ranging from counseling to removal. Management determined discipline was not warranted in 19 off-duty arrest cases.

Mandatory Removals of Law Enforcement Officers for Felony Convictions

Pursuant to 5 U.S.C. § 7371, law enforcement officers convicted of a federal or state felony are subject to mandatory removal from federal service. Discipline data reflects that three CBP employees were removed under this authority in FY 2016, and two were removed under this authority in FY 2017.

⁴ Arrest data current as of July 26, 2018, pursuant to updated reporting to CBP Office of Professional Responsibility

Use of Force Allegations

Each year, CBP receives and reviews hundreds of allegations pertaining to use of force incidents. Authorized employees may use objectively reasonable force only when it is necessary to carry out their law enforcement duties. When these cases involve excessive force or civil rights abuse allegations, and prosecution is declined by the U.S. Attorney's Office or the local prosecutor, the matter is then subject to an administrative investigation to determine if an employee's actions, although not unlawful, violated Agency policy or procedure.

In FY 2015, CBP implemented a new process for reporting, tracking, and investigating use of force incidents. Under this new process, use of force cases are evaluated to determine whether the amount or type of force used was excessive or outside of Agency policy. 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 reviews all less than lethal use of force incidents not addressed by the NUFRB. If there is a determination that an employee's use of force was outside of Agency policy, the case returns to HRM for potential disciplinary action.

The remaining cases involving an alleged use of force that are not handled through the NUFRB or Local Use of Force Review Boards, including allegations of excessive force, are referred to OPR or component management for review and consideration of disciplinary action. A review of data for FY 2016 revealed the following statistics:

- Three employees received suspensions;
- One employee received a written reprimand;
- One employee received counseling;
- One employee resigned; and,
- Three cases remained open as of September 30, 2016.

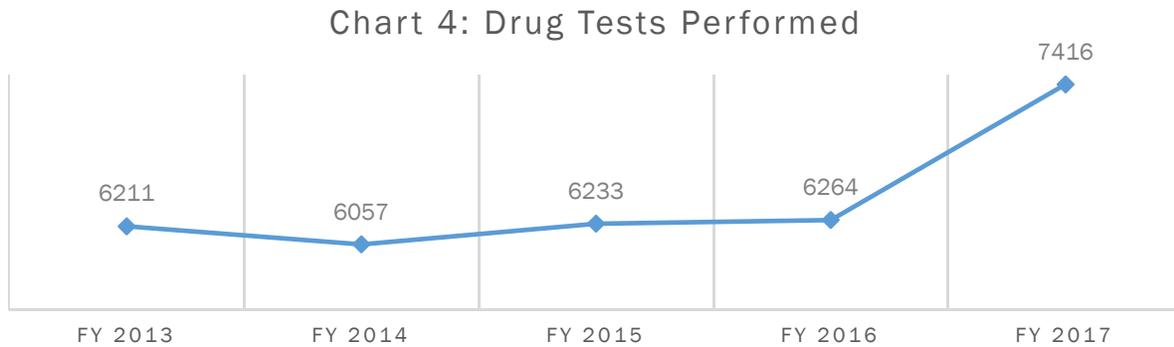
A review of data for FY 2017 revealed the following statistics:

- One employee received a suspension;
- Two employees received written reprimands;
- One employee resigned; and,
- Seven cases remained open as of September 30, 2017.

Drug-Free Workplace

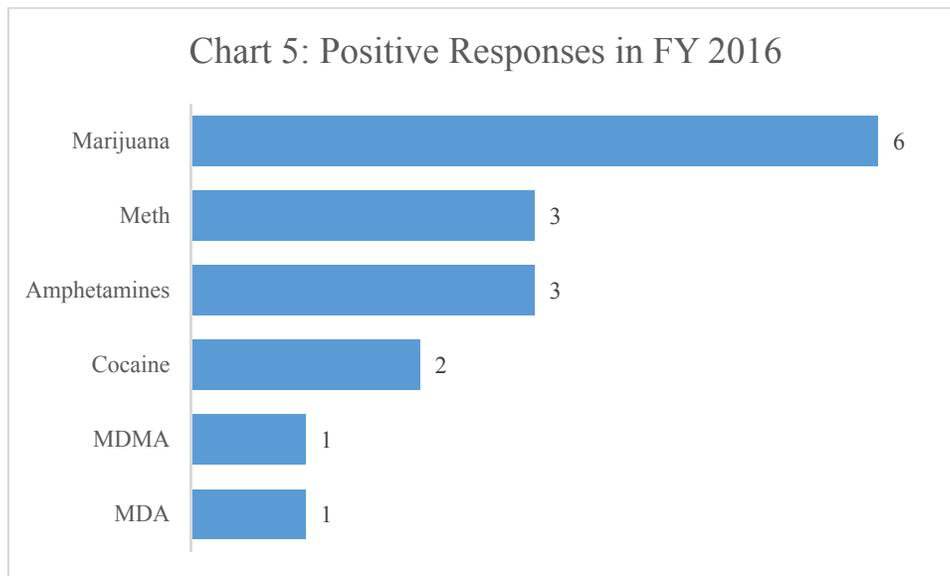
CBP is committed to the Federal Drug-Free Workplace Program and mandates a drug-free workplace. As the guardians of our Nation's borders, CBP is a leader among other federal agencies in the interdiction of illegal drugs. By the very nature of CBP's mission, illegal drug use is unacceptable.

Chart 4 displays the number of drug tests conducted since FY 2013. Although the number of tests conducted has increased, the rate of employees testing positive for drugs has consistently remained less than one-half of one percent.



In FY 2016, CBP performed 6,254 random drug tests, which resulted in 6 employees testing positive for drug use. Additionally, CBP performed 10 reasonable-suspicion drug tests, of which 4 resulted in the employees testing positive for drug use.

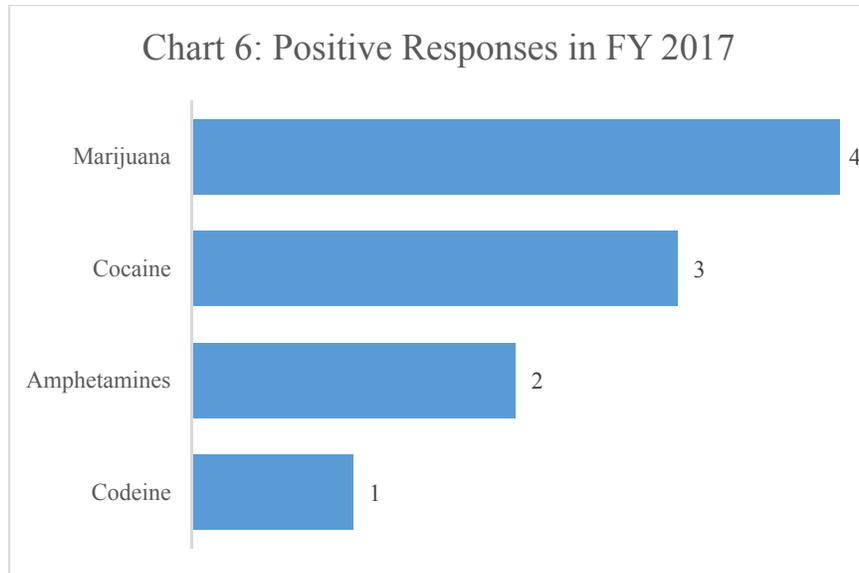
Chart 5 illustrates the categories of drugs for which employees tested positive in FY 2016. Six cases involved marijuana and the other four involved a positive test for more than one drug.



Employees who tested positive included one CBP Officer, eight Border Patrol Agents, and one OIT Field Technician.

In FY 2017, CBP tested 7,416, or 13 percent, of the 56,000 employees in testing designated positions. Of those tested, only 13 were performed due to a reasonable suspicion of drug use. All 13 employees tested by this method resulted in a positive result for drug use.⁵ Of the total eligible workforce in FY 2017, less than one-half of one percent of drug tests resulted in a positive response.

Over the past five years, marijuana has remained the most common drug misused by employees. In FY 2017, employees tested positive for marijuana, cocaine, amphetamines, and codeine as illustrated in **Chart 6**. Three employees refused to submit to a drug test.



Employees who tested positive in FY 2017 included three CBP Officers, seven Border Patrol Agents, one Marine Interdiction Agent, one CBP Technician, and one Laboratory Staff.

In FY 2017, CBP closed a total of 12 cases involving positive drug tests, regardless of in what fiscal year the employee tested positive. Deciding Officials issued decisions on seven cases involving positive drug tests. In addition, in five cases the employee retired or resigned prior to a decision being issued. Overall, Deciding Officials sustained a removal in all but one of the seven cases. In that one case, the employee failed to report to the drug test and the Deciding Official determined the employee may have been on pre-approved leave at the time of the drug test.

⁵ It is considered a positive result when an employee refuses to undergo a drug test, so refusals are included in the number of positive results.

Conclusion

Integrity is a core value that guides all CBP employees and is reflected in the successful work the Agency performs each day securing our nation's borders and protecting its citizens from harm. The public has placed its trust in CBP and with that trust comes an expectation that its employees will perform their duties with a level of integrity that includes transparency, accountability, and professionalism. All CBP employees are guided by these principles of the public trust both on and off-duty. Those who breach it are held accountable for their actions.

Although the number of CBP employees arrested for misconduct on or off-duty declined for the second year in a row, the number of employees arrested continues to be a concern. CBP is addressing employee arrests through its ongoing efforts promoting education and resilience services to employees and their families, reducing the use of administrative leave or indefinite suspension when employees are subject to a criminal proceeding, and by ensuring appropriate discipline is applied.

CBP will continue to increase its transparency efforts with annual discipline overviews, publication of National Use of Force Board results, and through public engagement on our policies and operations. Finally, CBP's internal complaints and discipline systems will remain focused on systemic improvements to reduce case investigation and administrative processing timelines and increase consistency in handling misconduct allegations and more timely arrive at discipline case decisions.