



Discipline Overview

Fiscal Year 2018



U.S. Customs and
Border Protection

*Office of Human Resources Management
Publication Number 1007-1119*

U.S. Customs and Border Protection Discipline Overview Fiscal Year 2018

The release of the U.S. Customs and Border Protection (CBP) Discipline Overview for Fiscal Year (FY) 2018 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.

Agency-Wide Actions at a Glance

The FY 2018 Discipline Overview includes comprehensive statistical analysis of disciplinary actions applied to CBP employees, compared to FY 2017 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 2018, the Office of Human Resources Management processed 7,739 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 factors such as, 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 Discipline Review Board (DRB).

Cases processed rose slightly from FY 2017 (7,239) to FY 2018 (7,739). Overall, approximately 3 percent of CBP employees were subject to formal discipline in FY 2018.

Table 1 illustrates actions pertaining to cases closed in FY 2018, including cases not warranting any disciplinary action.

Table 1: Agency-Wide Actions for FY 2018	
Result:	TOTALS
*Allegation Unsubstantiated	4,183
Counseling	1,287
Written Reprimand	1,039
Disciplinary Suspension (14 days or less)	438
Resignation/Retirement	173
Combined With Other Case	162
Memorandum of Instruction	103
Suspension Plus Days in Abeyance	73
Removal	68
Indefinite Suspension	37
Last Chance Agreement	32
Probationary Termination	29
Adverse Suspension (15 days or more)	27
Leave Restriction	25
Entire Suspension in Abeyance	16
Demotion	10
**Non-Disciplinary Settlement	10
Written Reprimand Plus Days in Abeyance	8
Suspension Plus Non-Disciplinary Action	7
Reassignment	4
Demotion Plus Suspension	3
Written Reprimand Plus Leave Donation	2
Contractor Termination	2
Demotion Plus Days in Abeyance	1
Totals:	7,739

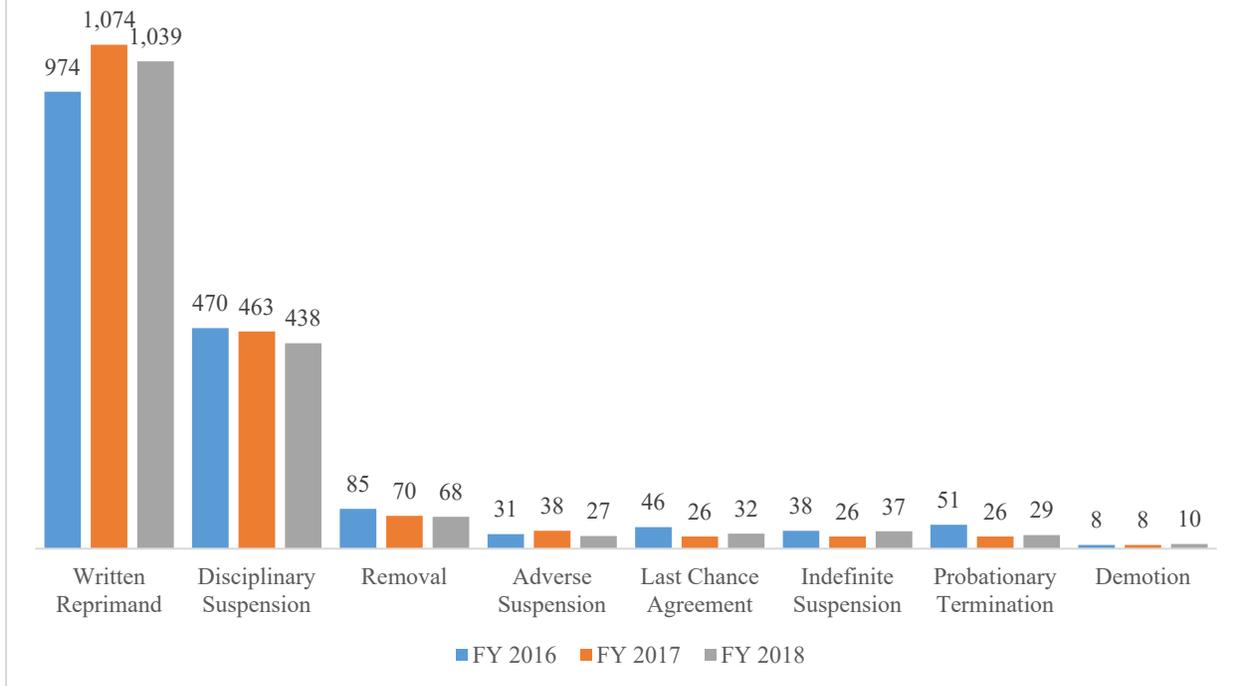
*Current CBP reporting requirements mandate or recommend employees report a variety of issues to the Joint Intake Center (JIC), regardless of whether the issue involves actionable misconduct. Additionally, a substantial number of outcomes reported as “discipline not warranted” include allegations of 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 (e.g., where an employee agreed to give a presentation to coworkers instead of serving a suspension).

Comparison of Disciplinary Actions Taken in the Past Three Fiscal Years

In FY 2017, CBP reviewed and processed 7,239 cases, which represented a 6 percent decrease from the 7,740 cases in FY 2016. However, in FY 2018, the number of cases reviewed and processed is nearly identical to the number reported in FY 2016, depicting consistency in CBP’s caseload across recent fiscal years. The following chart illustrates formal disciplinary actions taken by CBP from FY 2016 to FY 2018.

Chart 1: Formal Disciplinary Actions FY 2016 to FY 2018



When comparing FY 2016 and FY 2017 data with that from FY 2018, CBP noted the following trends:

- Removal decisions decreased 20 percent over the three-year period. Further, removals decreased nearly 50 percent from 141 removals in FY 2015;
- The use of Last Chance Agreements decreased 30 percent over the three-year period;
- Probationary Terminations decreased 43 percent over the three-year period; and
- The remainder of formal disciplinary actions remained statistically neutral.

In FY 2018, 1,774 formal disciplinary actions applied to 3 percent of the CBP workforce. These numbers have remained consistent over the past three years. CBP noted the following trends:

- Written reprimands accounted for 59 percent of formal disciplinary actions;
- CBP processed 1,287 cases in FY 2018 where management elected to address misconduct with counseling (informal discipline); and
- The number of cases where management determined disciplinary action was not warranted totaled 4,183 in FY 2018. This equated to an aggregate increase of 10 percent from 3,806 in FY 2017. However, there were 4,610 cases where management determined disciplinary action was not warranted in FY 2015. Therefore, although the number increased in the past year, it seems to fluctuate within the same range. In general, cases are closed in this manner when evidence shows the allegation is unsubstantiated or unfounded and therefore does not support taking action.
- Over 90 percent of the cases processed were employees from OFO and USBP, the two largest program offices of the CBP workforce. This number has remained over 90 percent since at

least FY 2011.

- CBP's Office of Enterprise Services had the third largest number of cases, at 312, followed by AMO at 122 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 2018 is illustrated in **Table 2**. This table includes discipline by program office, average number of employees in FY 2018, type of discipline, and percentage of employees disciplined by program office.

Table 2: Formal Disciplinary Breakdown by Program Office for FY 2018

Number of Employees¹:	OFO 29,684	USBP 21,160	Enterprise Services 4,416	AMO 1,658	Commissioner 954	Trade 942	Operations Support 841	TOTALS 59,655
Percentage Disciplined:	2.5%	4.4%	1.4%	1.4%	.8%	.1%	.8%	3%
Written Reprimand	445	542	35	10	3	-	4	1,039
Disciplinary Suspension (14 days or less)	158	250	17	9	2	-	2	438
Suspension Plus Days in Abeyance	35	34	2	-	2	-	-	73
Removal	28	34	5	-	-	-	1	68
Indefinite Suspension	15	21	1	-	-	-	-	37
Last Chance Agreement	14	17	-	1	-	-	-	32
Probationary Termination	11	16	-	1	-	1	-	29
Adverse Suspension (15 days or more)	13	9	2	2	1	-	-	27
Demotion	5	2	2	1	-	-	-	10
Written Reprimand Plus Days in Abeyance	6	2	-	-	-	-	-	8
Suspension Plus Non-Disciplinary Settlement	6	1	-	-	-	-	-	7
Demotion Plus Suspension	-	3	-	-	-	-	-	3
Written Reprimand Plus Leave Donation	2	-	-	-	-	-	-	2
Demotion Plus Days in Abeyance	1	-	-	-	-	-	-	1
Totals:	739	931	64	24	8	1	7	1,774

¹ Employee data as of September 30, 2018.

Table 3 focuses on FY 2018 disciplinary actions within OFO including the location of the employee disciplined.

Table 3: Disciplinary Breakdown by OFO Field Office for FY 2018														
	Discipline Not Warranted	Informal Discipline	Written Reprimand	Disciplinary Suspension (14 days or less)	Retirement/Resignation	Suspension Plus Days in Abeyance	Removal	Indefinite Suspension	Last Chance Agreement	Adverse Suspension (15 days or more)	Probationary Termination	Suspension Plus Non-Disciplinary Settlement	Demotion	TOTALS
Atlanta	69	20	10	5	-	3	2	-	-	-	1	-	-	110
Baltimore	70	27	10	3	3	1	1	-	1	-	-	2	-	118
Boston	35	13	13	5	4	-	2	2	-	1	1	-	-	76
Buffalo	44	11	5	1	8	-	3	-	-	2	-	-	-	74
Chicago	110	11	15	11	1	1	1	-	1	-	1	-	-	152
Detroit	82	36	18	14	7	4	1	2	-	1	-	1	-	166
El Paso	129	26	59	13	2	5	1	-	-	1	-	-	-	236
Houston	101	18	22	10	6	2	1	1	1	1	-	-	-	163
HQ	34	10	2	1	2	1	1	1	1	-	-	-	1	54
Laredo	298	66	52	13	8	1	3	1	3	-	2	-	-	447
Los Angeles	103	49	37	10	4	-	2	2	1	1	1	-	1	211
Miami	128	68	20	2	10	-	1	-	-	1	-	-	-	230
New Orleans	15	7	5	1	-	-	-	-	-	-	-	-	-	28
New York	117	9	19	16	1	2	1	3	2	1	-	3	-	174
Portland	18	2	1	3	-	-	-	-	-	-	-	-	-	24
Preclearance	57	18	9	3	1	1	-	-	-	-	-	-	-	89
San Diego	244	220	65	20	7	1	1	1	4	2	4	-	1	570
San Francisco	81	12	33	10	3	7	3	-	-	-	-	-	1	150
San Juan	41	5	5	3	-	-	1	1	-	-	-	-	-	56
Seattle	106	25	18	9	8	2	2	-	-	1	1	-	2	174
Tampa	55	14	17	2	2	1	-	-	-	-	-	-	-	91
Tucson	191	58	18	3	9	3	1	1	-	1	-	-	-	285
Totals:	2,128	725	453	158	86	35	28	15	14	13	11	6	6	3,678

Table 4 focuses on FY 2018 disciplinary actions within USBP including the location of the employee disciplined.

Table 4: Disciplinary Breakdown by USBP Sector for FY 2018															
	Discipline Not Warranted	Informal Discipline	Written Reprimand	Disciplinary Suspension	Retirement/Resignation	Suspension Plus Days in Abeyance	Removal	Indefinite Suspension	Last Chance Agreement	Probationary Termination	Adverse Suspension	Demotion Plus Suspension	Demotion	Suspension Plus Non-Disciplinary Settlement	TOTALS
Big Bend	48	7	37	14	2	2	1	1	-	-	-	-	1	-	113
Blaine	9	7	10	6	2	-	1	1	-	-	-	-	-	-	36
Buffalo	9	2	14	2	-	1	1	1	-	-	-	-	-	-	30
Del Rio	108	60	60	15	6	4	3	4	2	2	1	2	-	-	267
Detroit	18	8	11	10	-	-	1	1	-	-	1	-	-	-	50
El Centro	89	18	14	9	1	-	1	-	-	-	-	-	-	-	132
El Paso	162	37	59	37	8	9	6	2	2	-	2	-	1	-	325
Grand Forks	7	-	2	-	-	1	-	-	-	-	-	-	-	-	10
Havre	33	5	1	-	1	-	-	-	-	-	-	-	-	-	40
Houlton	5	4	7	-	-	-	1	-	-	-	-	1	-	-	18
HQ	39	7	4	1	1	1	-	-	-	-	-	-	-	-	53
Laredo	225	101	62	17	6	1	2	2	-	5	-	-	-	-	421
Miami	13	-	1	8	-	-	-	-	-	-	-	-	-	-	22
New Orleans	1	3	1	2	-	-	-	-	-	-	-	-	-	-	7
Ramey	4	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Rio Grande Valley	316	118	81	43	6	4	3	3	2	4	-	-	-	-	580
San Diego	125	57	54	15	7	4	4	2	1	1	-	-	-	1	271
Special Operations Group	1	1	4	2	1	-	-	-	-	-	-	-	-	-	9
Spokane	6	6	12	2	-	1	-	-	-	-	-	-	-	-	27
Swanton	14	2	4	1	2	-	-	-	1	-	-	-	-	-	24
Tucson	364	164	89	54	11	5	9	4	8	1	4	-	-	-	713
Yuma	108	9	17	12	3	1	1	-	1	3	1	-	-	-	156
Totals:	1,704	616	544	250	57	34	34	21	17	16	9	3	2	1	3,308

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 316 cases in FY 2018. The number of cases in FY 2018 marked a 14 percent increase compared to the 278 cases opened in FY 2017.

As of September 30, 2019, the discipline outcomes for the cases referred to HRM from CIC in FY 2018 were as follows:

- 1 case was closed with a removal;
- 1 case was closed with a suspension;
- 5 cases were closed with a written reprimand;
- 16 cases were closed with a counseling;
- 238 cases were closed without disciplinary action; and
- 17 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.

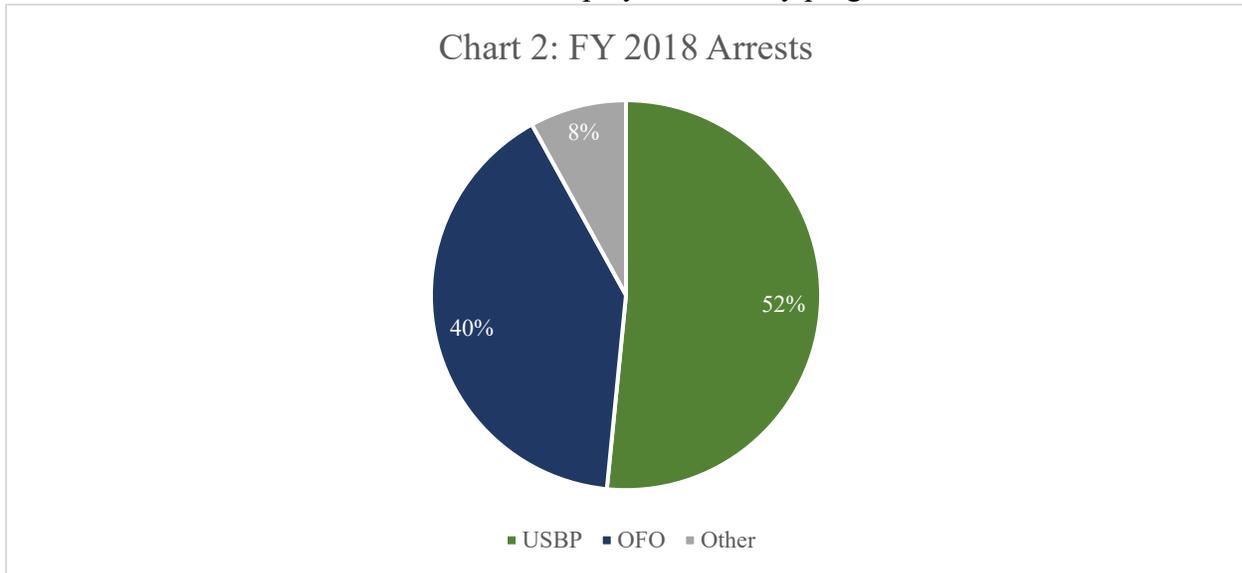
The number of employees arrested in FY 2018 represented a minute percentage of the overall CBP workforce of approximately 61,000.

A closer examination of CBP employees arrested in FY 2018 revealed:

- 269 CBP employees were arrested in FY 2018. Of this number, 11 employees were arrested twice in the same year, one employee was arrested four times, and one employee was arrested five times, resulting in 287 total arrests;
- 52 percent of employee arrests were attributable to alleged criminal conduct of USBP employees, 148 in total. This reflects a 1 percent decrease from FY 2017, when USBP employees accounted for 53 percent of all arrests;
- 40 percent of employee arrests were attributable to alleged criminal conduct of OFO employees—116 in total; and

- 8 percent of employee arrests were attributable to alleged criminal conduct by employees assigned to other CBP program offices, including AMO, the Office of Intelligence, Office of Information and Technology, and the Office of Professional Responsibility (OPR)—23 in total.

Chart 2 illustrates the breakdown of CBP employee arrests by program office in FY 2018.



A review of the arrest data revealed the following statistics for FY 2018:

- The number of CBP employee arrests increased from FY 2017 to FY 2018 (254 in FY 2017 versus 287 in FY 2018);
- Drug/alcohol-related offenses and domestic/family offenses accounted for 45 and 20 percent of all arrests, respectively; and,
 - Alcohol-related driving arrests and domestic violence arrests increased from FY 2017 totals.²

Table 5 provides a breakdown of employee arrests for FY 2018.

² These two categories of misconduct are subsets of the two arrest categories noted above.

Table 5: Employee Arrest Totals by Arrest Type – FY 2018³	
Workforce total for FY 2018 = 60,014	
Type of Arrest	Number of Arrests
Drug/Alcohol-Related Misconduct	129
Domestic/Family Misconduct	57
Impeding the Criminal Justice System	17
Crimes Involving Children	15
Miscellaneous Misconduct	12
Assault	9
Traffic/Driving Misconduct	8
Weapons Violations	8
Corruption	7
Sexual Misconduct	7
Property Crimes	6
White Collar Crime	4
Threatening Behavior	3
Violent Crimes	2
Civil Rights Violation	2
Minor Offenses	1
Total Arrests:	287

As shown in Table 5, drug/alcohol-related misconduct was the most common type of arrest. Breaking this category down, alcohol-related driving offenses, with 94 arrests, were the most common type of arrest, followed by domestic/family violence with 57 arrests; 35 arrests were attributable to other drug or alcohol-related misconduct. These three categories were also the most common types of arrest in FY 2017.

In FY 2018, LER closed a total of 249 cases

involving employee arrests, regardless of when the employee was arrested. For instance, a decision could be issued in FY 2018 on an employee who was arrested in FY 2017. The traversing of fiscal years is attributable to several factors, which include due process requirements, requests for extensions, and other case-related issues.

Agency deciding officials issued decisions on 193 cases involving employee arrests. This number does not include 23 cases where the employee retired or resigned prior to a decision being issued or 33 cases that were combined with other disciplinary cases on the same employee.

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 2018.

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.

³ Arrest data current as of August 30, 2019, pursuant to updated reporting to OPR.

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 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.

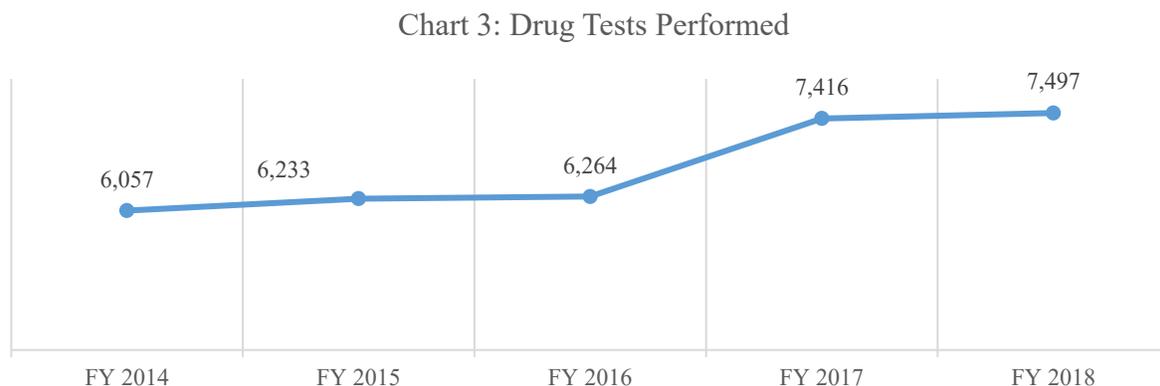
The remaining cases involving an alleged use of force that are not handled through the NUFRB or LUFRBs, including allegations of excessive force, are referred to OPR or component management for review and consideration of disciplinary action. A review of data for FY 2018 revealed the following statistics:

- 1 employee received a suspension;
- 2 employees received written reprimands; and
- 1 employee resigned.

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.

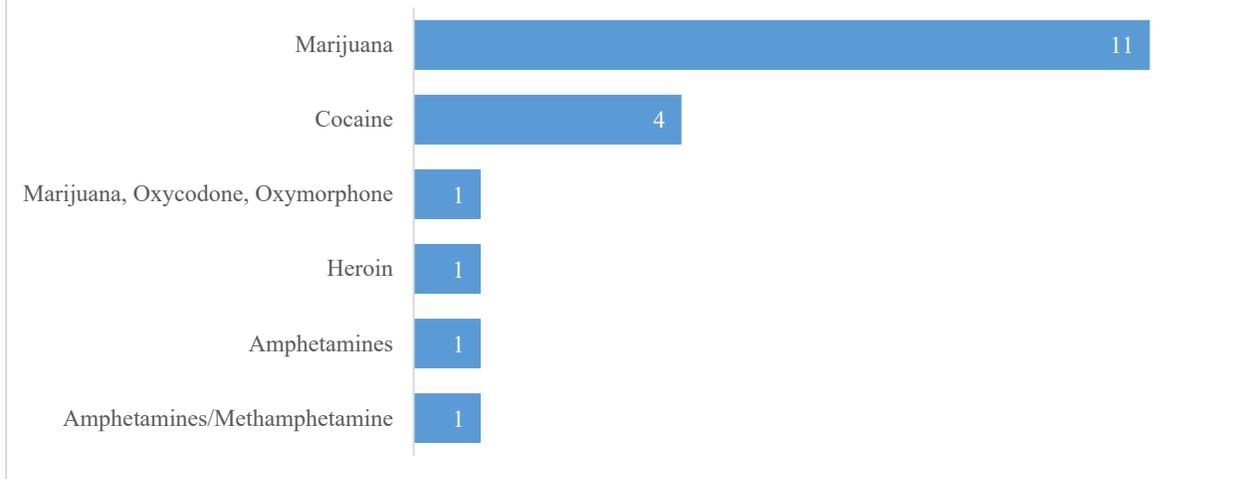
Chart 3 displays the number of drug tests conducted since FY 2014. Although the number of tests conducted has increased, the rate of employees testing positive for drugs has consistently remained less than one-half of 1 percent.



In FY 2018, CBP performed 7,477 random drug tests, 10 reasonable-suspicion drug tests, 8 post-accident drug tests, and 2 follow-up drug tests, which resulted in 19 employees testing positive for drug use.

Chart 4 illustrates the categories of drugs for which employees tested positive in FY 2018. Twelve cases involved marijuana, one of which involved two other drugs as well, and the other seven involved a positive test for a different drug(s).

Chart 4: Positive Tests in FY 2018



Employees who tested positive included nine CBPOs, six BPAs, one CBP Agriculture Specialist, one Intelligence Research Specialist, one Law Enforcement Communications Assistant, and one Enforcement Analysis Specialist.

In FY 2018, LER closed a total of 14 cases involving positive drug tests, regardless of when the employee tested positive. Excluding the 10 cases where the employee retired or resigned prior to a decision being issued, deciding officials issued decisions on 4 cases involving positive drug tests. Deciding officials mitigated the penalty in three cases resulting in one demotion, one adverse suspension settlement, and one reprimand. A deciding official sustained a removal in one case.

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.

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.

In FY 2019, CBP implemented changes to the discipline process to improve consistency and accountability. Based upon the recommendations of CBP working groups, the CBP DRB now reviews cases involving specifically defined categories of misconduct that seriously harm the

Agency's mission and that cut across all geographic and component lines. These categories include arrests for domestic violence and arrests for driving under the influence with additional aggravating factors. To increase leadership transparency into the discipline process, in FY 2019 CBP implemented quarterly reporting to senior-level leadership highlighting certain proposals and decisions rendered on disciplinary cases. Additionally, CBP held quarterly senior-level leadership training seminars instructing best practices and lessons learned from the recently concluded disciplinary cases.

CBP will continue to increase its transparency efforts with annual discipline overviews, publication of NUFRB 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.