Annual Report
Office of Professional Responsibility (OPR)

OPR Overview

Highlights of OPR Activity Fiscal Year 2018

Employee Misconduct and Corruption Statistics Fiscal Year 2018

U.S. Customs and Border Protection

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Matthew Klein
Assistant Commissioner
Office of Professional Responsibility

As the United States' first unified border entity, U.S. Customs and Border Protection (CBP) takes a comprehensive approach to border management and control; combining customs, immigration, border security, and agricultural protection into one coordinated activity. Operating in such a complex threat environment requires tremendous focus and a commitment to the highest standards of professionalism and integrity.

Employee conduct, both on and off duty, forms the basis of public trust. The American people have entrusted us to protect the homeland and defend liberty. Guided by the highest ethical and moral principles, and exhibiting the highest level of professional responsibility, CBP employees strive each and every day to maintain the public trust and engender 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.

Last year, we released our inaugural Annual Report highlighting activity from Fiscal Years (FY) 2016 and 2017. The report provided an overview of Office of Professional Responsibility (OPR) and key accomplishments in both Fiscal Years. It also reported information on OPR's investigative activities and statistics on CBP employee misconduct and corruption.

Continuing our commitment to transparency and responsiveness, OPR offers the following report for Fiscal Year 2018. As with the report for FY 2016 and 2017, it highlights key accomplishments as well as an overview of key statistics regarding misconduct and corruption. The purpose of this report is to provide transparency on employee misconduct and to highlight examples of the diverse scope of work OPR does on behalf of the entire CBP workforce.

Throughout FY 2018, OPR continued to make improvements to our operations in support of CBP's mission priorities including:

1) Developing, implementing and administering a new pre-employment polygraph format, Test for Espionage, Sabotage and Corruption (TES-C).

2) Implementing a Continuous Evaluation Program to continuously monitor the CBP workforce for criminal and suspicious activity.

3) Transitioning to 100% video recording of all subject interviews in administrative misconduct investigations.

4) Recognizing the best individual and team achievements in OPR by instituting the Annual Assistant Commissioner's Awards Program.

I am tremendously proud of the work OPR employees do every day as well as the progress we have made toward promoting workforce accountability and organizational transparency. However, our efforts remain a work in progress. Moving forward, OPR will continue to seek improvements and efficiencies in screening job applicants to ensure only those of the highest caliber enter on duty with CBP, monitoring and evaluating the continued suitability of the current workforce, and identifying and countering threats or vulnerabilities that could undermine CBP's integrity and security.

Sincerely,

Matthew Klein
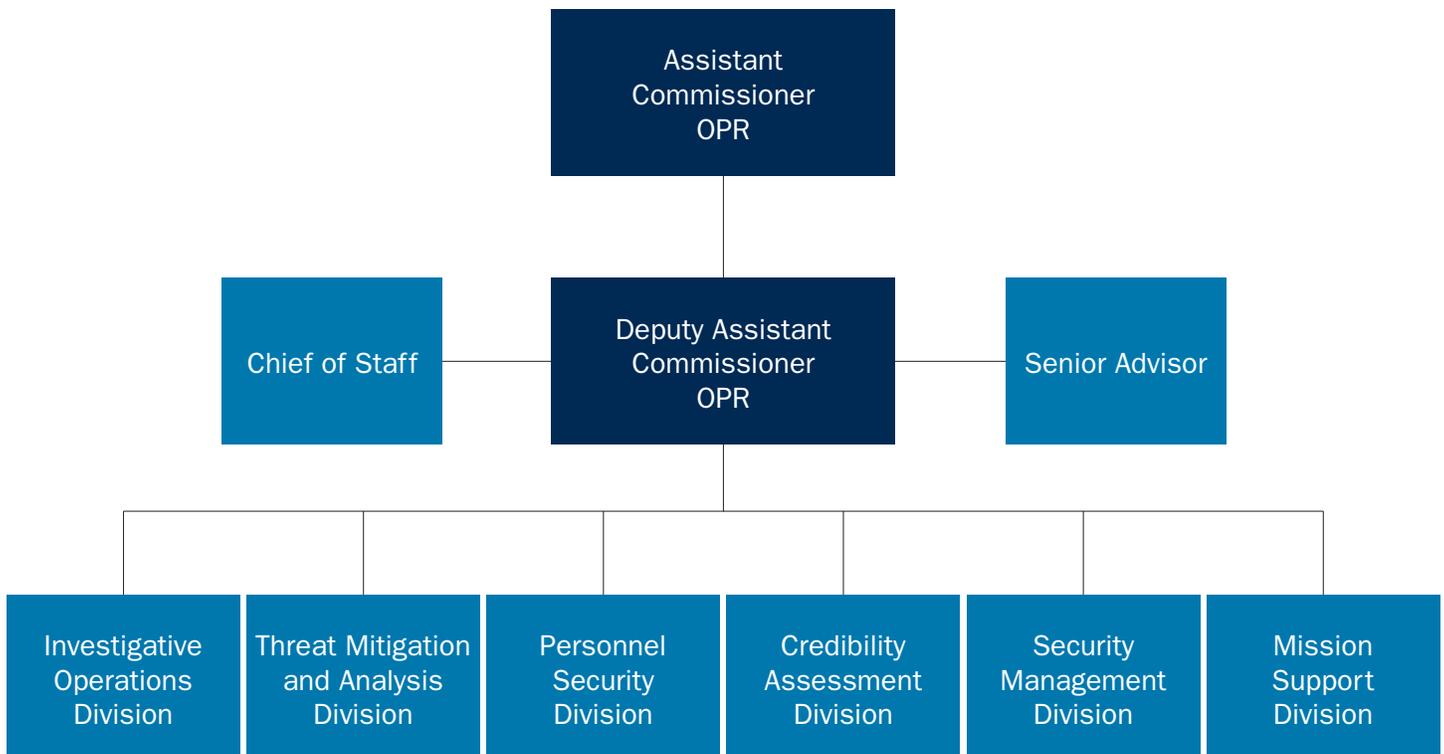Assistant Commissioner
Office of Professional Responsibility

OPR Overview

Officially established by the *Trade Facilitation and Trade Enforcement Act of 2015*, 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. OPR is a stand-alone office led by an Assistant Commissioner (AC), who reports directly to the Commissioner of CBP. The AC, OPR has executive oversight of CBP's *Integrity and Personal Accountability Strategy* and the agency's efforts to prevent, detect, and investigate employee misconduct and corruption. The AC also serves as CBP's Chief Security Officer, responsible for ensuring the safety and security of CBP's assets and personnel.

Mission	To safeguard and promote the integrity and security of the CBP workforce.
Vision	With professionalism, accountability, and vigilance we will serve as the premier organization for identifying, mitigating, and countering threats and vulnerabilities which undermine CBP's workforce and integrity and security.
Organization	The OPR mission transcends the traditional investigative functions of most law enforcement internal affairs units and the organizational structure reflects our unique dual mission to safeguard and promote both the integrity and security of CBP.

Assistant Commissioner OPR

Chief of Staff

Deputy Assistant Commissioner OPR

Senior Advisor

Investigative Operations Division

Threat Mitigation and Analysis Division

Personnel Security Division

Credibility Assessment Division

Security Management Division
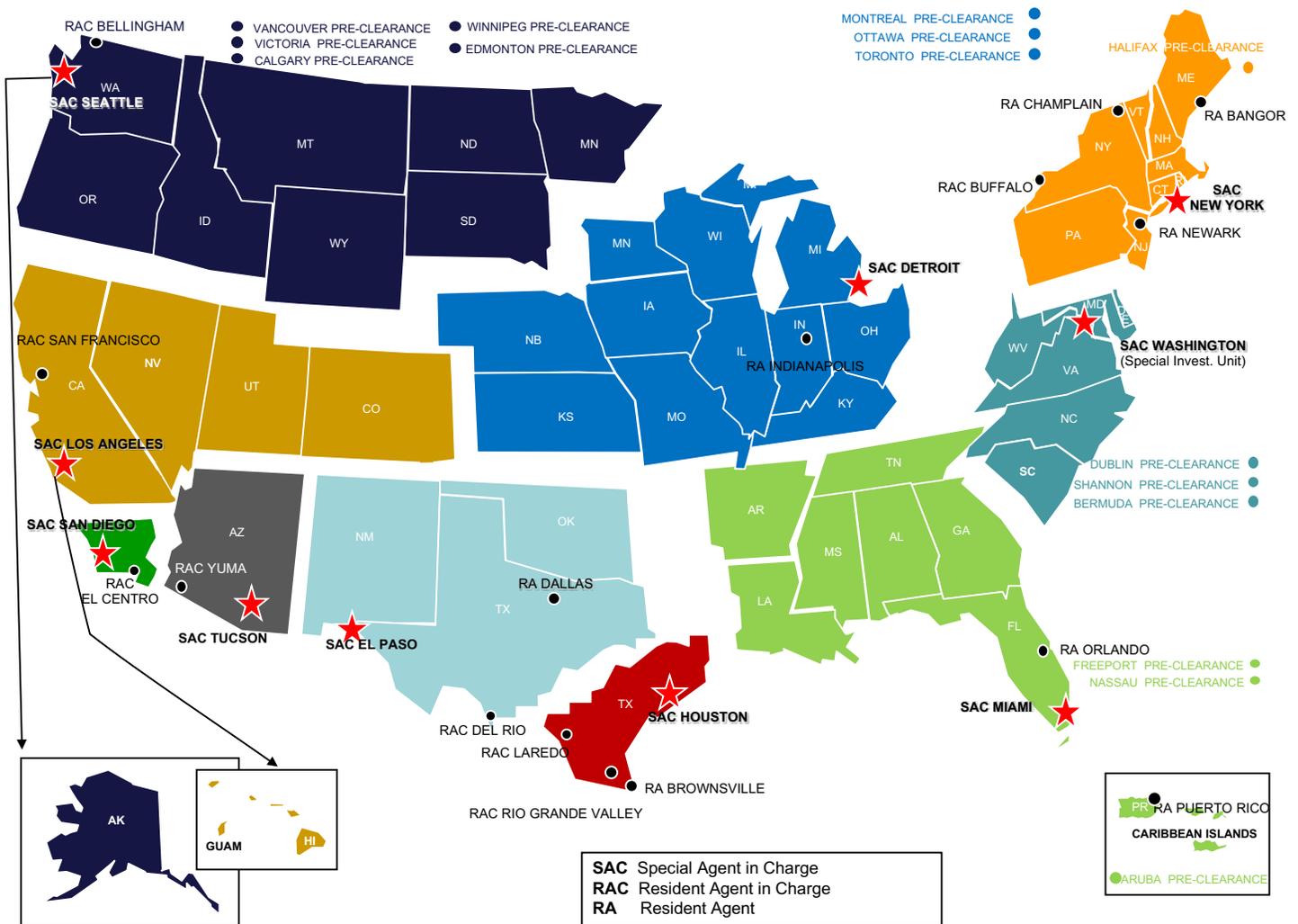
Mission Support Division

OPR Divisions

The OPR workforce consists of six divisions and the Executive Office of the Assistant Commissioner and includes criminal investigators, polygraph examiners, personnel security, information security, physical security specialists, analysts, and mission support specialists.

Investigative Operations

As the internal investigative arm of CBP, OPR conducts both criminal and administrative misconduct investigations. The OPR Investigative Operations Division (IOD) is organizationally structured to meet the threat of corruption and address misconduct that undermines the safety and security of CBP's workforce and mission.

IOD personnel are strategically assigned throughout the United States in ten OPR field offices each led by a Special Agent in Charge (SAC): Seattle, Los Angeles, San Diego, Tucson, El Paso, Houston, Detroit, Miami, New York, and Washington, DC. IOD criminal investigators collaborate with the Department of Homeland Security (DHS) Office of Inspector General (OIG) and the Federal Bureau of Investigation (FBI)-led Border Corruption Task Force (BCTF)/Public Corruption Task Force (PCTF) to safeguard the integrity of the CBP workforce. Seven specialized units managed in Headquarters support investigations: Technical Operations Unit, Cyber Investigations Unit, Use of Force Incident Team, Administrative Inquiry Program, Investigative Review Team, Policy Team, and the Integrity Assurance Program.

RAC BELLINGHAM
VANCOUVER PRE-CLEARANCE
VICTORIA PRE-CLEARANCE
CALGARY PRE-CLEARANCE
WINNIPEG PRE-CLEARANCE
EDMONTON PRE-CLEARANCE
MONTREAL PRE-CLEARANCE
OTTAWA PRE-CLEARANCE
TORONTO PRE-CLEARANCE
HALIFAX PRE-CLEARANCE
SAC SEATTLE
RA CHAMPLAIN
RA BANGOR
RAC BUFFALO
SAC NEW YORK
RA NEWARK
RAC SAN FRANCISCO
SAC DETROIT
RA INDIANAPOLIS
SAC WASHINGTON (Special Invest. Unit)
SAC LOS ANGELES
DUBLIN PRE-CLEARANCE
SHANNON PRE-CLEARANCE
BERMUDA PRE-CLEARANCE
SAC SAN DIEGO
RAC YUMA
RAC EL CENTRO
SAC TUCSON
RA DALLAS
SAC EL PASO
RA ORLANDO
FREEPORT PRE-CLEARANCE
NASSAU PRE-CLEARANCE
RAC DEL RIO
RAC LAREDO
SAC HOUSTON
SAC MIAMI
RA BROWNSVILLE
RAC RIO GRANDE VALLEY
RA PUERTO RICO
CARIBBEAN ISLANDS
ARUBA PRE-CLEARANCE
AK
GUAM
HI

SAC Special Agent in Charge
RAC Resident Agent in Charge
RA Resident Agent

Threat Mitigation and Analysis

The Threat Mitigation and Analysis Division (TMAD) performs research and analysis of complex data and information surrounding individuals and allegations related to suspected or identified CBP administrative or criminal misconduct using a variety of sources within DHS and other federal and state law enforcement partners and private sector tools.

Personnel Security

The Personnel Security Division (PSD) is responsible for the development of policy and procedures and the implementation and administration of all aspects of the Personnel Security program at CBP to include background investigations, periodic reinvestigations, security clearances, employment suitability determinations, and continuous evaluation of employees to ensure eligibility for employment. CBP has been delegated authority by the Office of Personnel Management (OPM) to perform its own background investigations of applicants, employees, and contractors employed by or seeking employment with CBP. PSD directs, coordinates, and ensures compliance with all required standards of background investigations conducted by our contracted Investigative Service Providers.

Credibility Assessment

The Credibility Assessment Division (CAD) enhances the integrity of the CBP workforce and deters insider threats by providing OPR Divisions with essential information through administration of polygraph examinations that advance or resolve pre-employment background, administrative, criminal and counterintelligence investigations. *The Anti-Border Corruption Act of 2010* (ABCA) mandates that all applicants for CBP law enforcement positions undergo a pre-employment polygraph examination as part of the screening process. CAD administers all of CBP's pre-employment polygraph examinations from 28 OPR offices and over 30 satellite offices across the continental United States in compliance with the ABCA.

Security Management

The Security Management Division (SMD) safeguards CBP's workforce and operations by providing oversight for physical, informational, industrial, and operational security programs in CBP. SMD identifies and reduces risks, threats, and vulnerabilities in the security of CBP's personnel and assets, while working to support its mission of protecting the Nation's borders.

Mission Support

The Mission Support Division (MSD) develops and executes administrative support strategies that enable OPR to perform its function by improving effectiveness, efficiency, customer service, and communication in the following areas: financial and administrative support services; facilities, fleet, and property management; and coordination of training and work/life programs.

Investigations

IOD investigators completed a total of **1,267** investigations in FY 2018, a **7%** increase from the **1,184** investigations completed in FY 2017. IOD continued to reduce case processing times in FY 2018, averaging **38** days to complete administrative investigations, a **35%** decrease from the average of **59** days in FY 2017. IOD additionally:

- Implemented **100%** video recording technology for all administrative subject interviews.
- Responded to nearly **1,000** call outs related to use of force and critical incidents in support of investigative operations.
- Completed **98** Administrative Inquiries involving non-criminal employee misconduct and conducted four training sessions for **93** new component fact finders.

Use of Force Incident Team (UFIT) Response

In FY 2018, OPR opened and assigned for investigation **308** use of force incidents involving **357** individual applications of force[1].

- **13** of the **308** use of force incidents opened by the UFIT in FY 2018 involved the use of deadly force or resulted in serious injury or death. These incidents occurred in five states; however, the majority occurred in Texas, Arizona, and California.
- **295** of the **308** use of force incidents opened by the UFIT in FY 2018 involved less-lethal uses of force and did not result in serious injury or death. The incidents took place in **12** states, and the majority occurred in Texas, Arizona, and California.

Analysis

TMAD investigative analysts completed a total of **2,030** analytical actions in FY 2018. TMAD investigative analysts continued to increase research and analysis capabilities in FY 2018:

- TMAD investigative analysts increased the identification and mitigation of threats by **16%**.
- Research success is highlighted by **250** formal analytical products, **1120** internal responses, and **42** partner responses.
- The investigative analysts utilized **52** suspected misconduct alert memoranda, **134** data request responses, and **58** analytical actions that resulted in referrals for investigation.

Personnel Security

Throughout FY 2018, PSD developed and implemented programs to increase efficiency and effectiveness of applicant, employee, and contractor vetting including:

- Developed and deployed a Continuous Evaluation program to continuously monitor for criminal and suspicious activity for those CBP employees deemed eligible for access to classified information or hold a Sensitive/National Security position.
- Leveraged existing CBP technology to more efficiently vet applicants, employees, and contractors during the background investigation process.
- Participated in DHS collaborative efforts including the DHS Personnel Security Operations Task Force which identified ways to improve overall personnel security posture by evaluating personnel security processes and procedures and DHS Acquisition Innovative Roundtable, which aided in contractor security clearance efficiency.
- Supported Operation Guardian Support by vetting National Guard personnel assigned to support CBP operations on the Southwest Border.

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1 Types of Force are as follows: Electronic Control Weapon (ECW; aka Taser), Collapsible Straight Baton (CSB), Oleoresin Capsicum (OC; aka pepper spray), Pepper ball Launching System (PLS), FN-303 (less lethal projectiles), K-9 bites (use of a CBP patrol canine to physically apprehend a subject), Warning shots (only authorized for AMO), Firearm discharges (any intentional discharge of a CBP owned firearm), and Other (includes Controlled Tire Deflation Device, Unintentional Discharge of a CBP firearm, Animal Euthanasia, CS Gas, and flashlight used as a weapon).

Personnel Security Activity

Activity	FY 2017	FY 2018
Cases processed through Intake	39,977 cases including: ■ 27,197 background investigations ■ 12,780 periodic reinvestigations	58,905 cases including: ■ 40,641 initial background investigations ■ 18,264 periodic reinvestigations
Adjudicative determinations on the suitability and fitness for employment and/or eligibility to occupy a national security position	30,567	24,806
Security clearance reviews for eligibility for access to classified information	2,016	1,309
Reviews of investigations and adjudications and site inspections as part of the Quality Assurance Program	5,435 Eight site inspections of Investigative Service Providers	7,100 11 site inspections of Investigative Service Providers
Responses to FOIA requests related to OPR activities	894	759
Continuous Evaluation Cases	N/A	4,599 Continuous Evaluation Cases ■ 7 referrals to IOD for investigative purposes

Credibility Assessment

In FY 2018, CAD completed pre-employment polygraph examinations for **12,116** applicants, and:

■ Collaborated with the National Center for Credibility Assessment (NCCA) to develop a more efficient and streamlined pre-employment polygraph format that maintained CBP's high integrity standards. *The Test for Sabotage, Espionage and Corruption (TES-C)* was implemented on May 1, 2018. The new TES-C format has decreased applicant times in polygraph from **5.1** hours to **4.1** hours and significantly reduced the number of applicants requiring follow-up examinations.

■ Briefed the *Test for Espionage, Sabotage and Corruption (TES-C)* Pilot Report to Congress and provided results and status briefings to several oversight Committees.

■ Produced a 'What to Expect' video on the pre-employment polygraph for applicants which is available on *cbp.gov*.

■ Executed a polygraph examiner staffing plan based on CBP applicant populations and implemented protocols which reduced polygraph examiner travel, increased productivity and promoted fiscal responsibility. These efficiencies were responsible for reducing polygraph travel expenditures by **31%**, while assisting in increasing the number of applicants processed through polygraph by **54%**.

Security Management

In FY 2018, SMD implemented a number of key initiatives to improve the security of CBP's personnel, information, facilities, and operations including:

- **269** Physical Security Vulnerability Assessments of CBP facilities.
- **45** Information Sharing Inquiries into security violations and infractions related to mishandling of classified and sensitive information.
- Devised several Active Shooter contingency plans and tested their validity through table-top scenarios culminating with a live-training exercise conducted at five CBP facilities within the National Capital Region.
- Launched a Security Awareness Campaign to increase the CBP workforce's overall cognizance of the Information Security and Operations Security programs.

Mission Support

During FY 2018, MSD provided key administrative support to OPR's operational divisions in **26** locations nationwide, including:

- **$210** million in budget execution.
- Managed **45** service, supply, and equipment contracts.
- Identified funding and coordinated purchase of **118** replacement and enhancement vehicles.
- Facilitated **89** hiring actions producing a net gain of **46** OPR employees.

Intake: Allegations of Misconduct and Other Reported Matters

The investigative process is initiated upon receipt of an allegation of misconduct involving a CBP employee. Allegations may be reported to the DHS OIG, IOD Field Offices, or the Joint Intake Center (JIC).

Situated in the OPR-IOD headquarters office, the JIC serves as the centralized clearinghouse for receiving, documenting and processing misconduct allegations involving CBP employees and contractors as well as other reported matters. "Other reported matters" includes 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.. The JIC provides CBP with a centralized and uniform system for reporting and processing allegations of misconduct. The JIC staff documents, classifies, and refers allegations of misconduct to the DHS OIG for independent review and assessment. Cases that are declined by DHS OIG for investigative interest are either retained for investigation by CBP OPR or assigned back to the program office for administrative inquiry or immediate management action.

Processing Allegations of Misconduct and Other Reported Matters
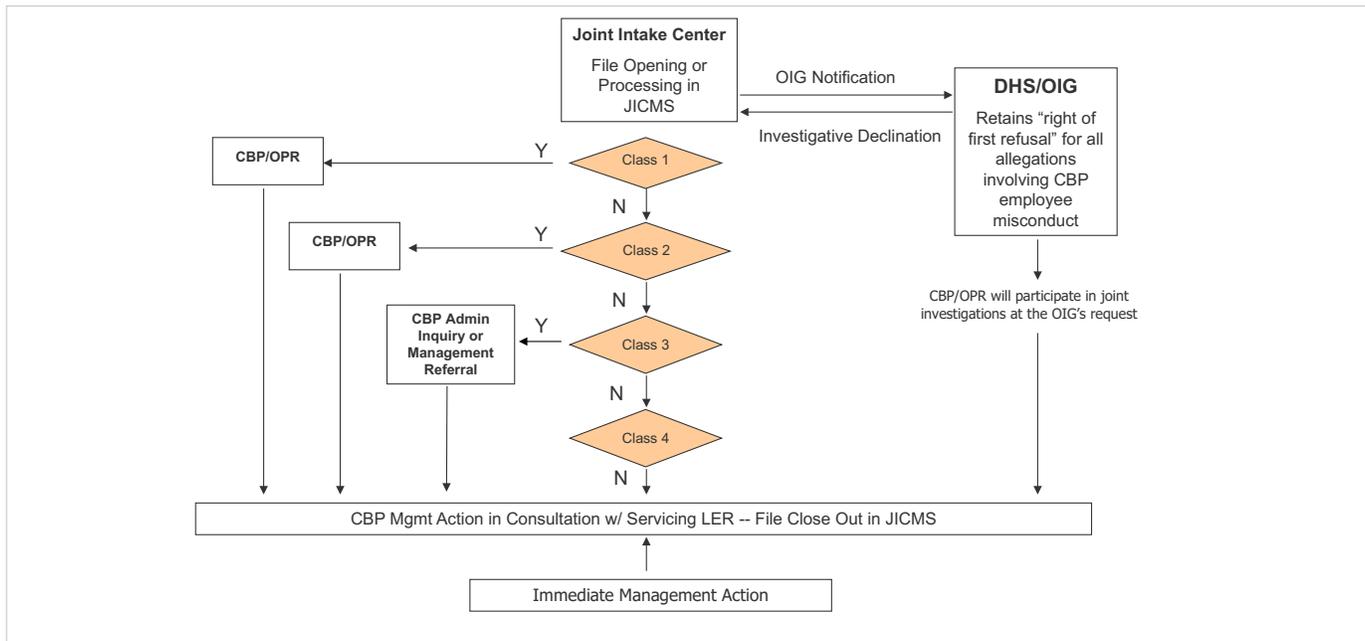
Once a report is received, an Intake Specialist creates a file in the Joint Integrity Case Management System (JICMS) database, classifies it according to the following criteria, and transmits it to DHS OIG for investigative interest:

- **Class 1** – Criminal activity; conduct that would violate federal laws.
- **Class 2** – Serious misconduct; 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** – Lesser administrative misconduct: allegations of misconduct referred to CBP management, as Administrative Inquiries or Management Referrals.
- **Class 4** – Information received, indexed, and referred as warranted.

When IOD has completed an investigation, the case is transferred to Labor and Employee Relations (LER) in the Office of Human Resources Management (HRM) for adjudication by CBP management.

The JIC received 6,274 reports of alleged misconduct and other matters in FY 2018. Intake increased less than 1% (0.19%) overall from FY 2017 (6,269) to FY 2018.
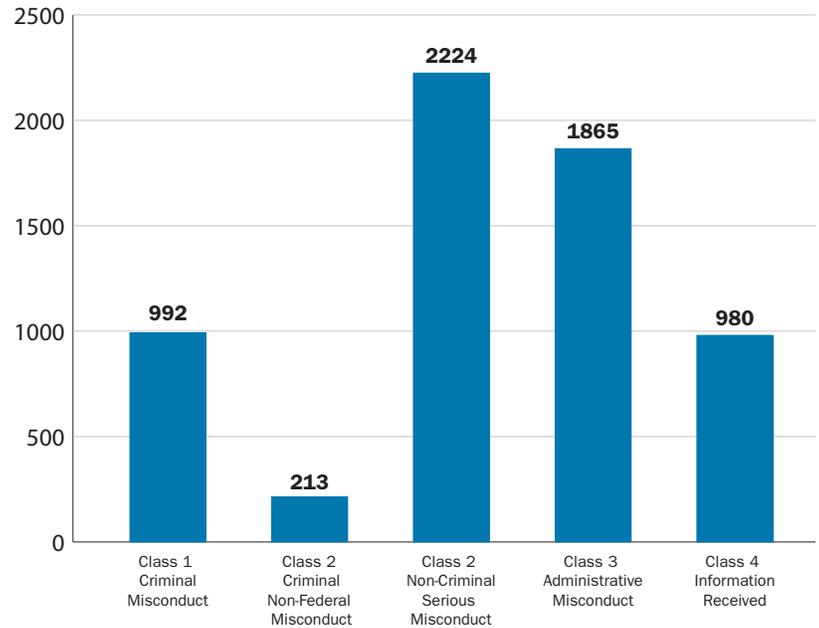
Intake in three classes increased in FY 2018:

- 0.9% ↑ in Class 2 Criminal Non-Federal allegations
- 2.86% ↑ in Class 2 Non-Criminal Serious allegations
- 6.69% ↑ in Class 3 Administrative allegations

Intake in two classes decreased in FY 2018:

- 10.5% ↓ in Class 1 Criminal allegations.
- 5.67% ↓ in Class 4 Information Received reports.

Intake by Class Type FY 2018

Class 2 Non-Criminal Serious Misconduct accounted for over 1/3 of all allegations and other reported matters.

FY 2018 Intake

Criminal Activity (Class 1 and Class 2)

Non-Criminal Serious Misconduct (Class 2)

Administrative Misconduct (Class 3)

Information Received (Class 4)
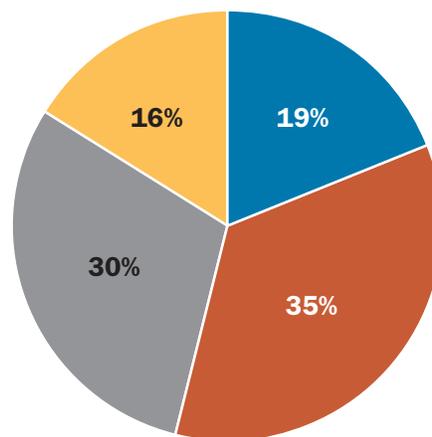
Intake by CBP Component Office

In FY 2018, **89.87%** of the intake in the JIC involved employees from the Office of Field Operations (OFO) and U.S. Border Patrol (USBP).

Component Office	FY 2018
Office of Field Operations	3,242
U.S. Border Patrol	2,403
Air and Marine Operations	100
Enterprise Services	258
Office of Professional Responsibility	44
Office of the Commissioner	10
Office of Trade	18
Operations Support	87
Office of Public Affairs	5
Office of Chief Counsel	13
Office of Congressional Affairs	2
Unknown	92
TOTAL INTAKE	**6,274**

Arrests for Misconduct and Corruption

Employees are required to report 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 this 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 other investigative means, they are added to the appropriate fiscal year.

The JIC received **287** reports of arrest in FY 2018 involving **269** employees. Eleven employees reported two arrests, one employee reported four arrests and one employee reported five arrests in FY 2018. Misconduct occurred primarily off-duty, but also included illegal activity while on duty.

Reported Arrests by Office

Nearly all of the arrests involved employees from OFO and USBP in FY2018 **(92%)** as compared to all other offices.

Reported Arrests	FY 2018
TOTAL	**287**
USBP	148
OFO	116
All Other Offices	23
Average Age	40 years
Average Time with CBP	10.7 years

All reported arrests of CBP employees are classified into one of 16 categories according to the nature of the offense. With the exception of Corruption, the totals in each category reflect criminal activity and subsequent arrests that took place during the respective fiscal year.

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.

Arrests Reported to the Joint Intake Center FY 2018

ARREST OFFENSE CATEGORY	FY 2017[2]	FY 2018[3]
Corruption – Illegal activity for personal gain that involved the misuse or 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.	15	7
Assault – Any willful attempt or threat to inflict injury upon another person. Excludes domestic or sexual assault or adults and any assault of children.	9	9
Civil Rights Violations – 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 (e.g., excessive use of force). This includes actions on duty.	1	2
Crimes Involving Children – Any illicit activity involving a child under the age of 18 including sexual acts	6	15
Domestic/Family Misconduct – Physical violence inflicted upon or disturbances that involves an adult spouse, ex-spouse, co-habitant, domestic partner or date.	51	57
Drug/Alcohol Related Misconduct – Range of violations involving drugs and alcohol, primarily operating a vehicle under the influence of alcohol, public intoxication and possession of controlled substances.	119	129
Impeding the Criminal Justice System – Range of actions that inhibit the practices and institutions of government directed at upholding social control, deterring and mitigating crime.	14	17
Minor Offenses –Nuisance offenses including disorderly conduct, public urination, and fighting.	2	1
Miscellaneous Misconduct – Arrests not otherwise classified (e.g., animal cruelty).	4	12
Property Crimes – Array of criminal activity involving the destruction, damage, or theft of material property	6	6
Sexual Misconduct – Any type of illicit activity of a sexual nature committed by or upon an adult.	2	7
Threatening Behavior – Threatening, harassing, and stalking others.	4	3
Traffic/Driving Misconduct – Violations that do not involve alcohol.	6	8
Violent Crimes – Any act which results in serious harm and/or injury to another person. Excludes all crimes against children and sexual violence against adults.	3	2
Weapons Violations – Primarily relating to firearms.	5	8
White Collar Crimes – A variety of non-violent crimes typically committed for financial gain.	7	4
TOTAL REPORTED ARRESTS	**254**	**287**

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2 Reported as of 7/26/2018.
3 Reported as of 8/30/2019.

- In FY 2018, Drug and Alcohol Related Misconduct continued to be the most frequently reported offense comprising **45%** of all incidents. This category includes a range of violations which includes driving under the influence of alcohol and public intoxication.

- Domestic and Family Misconduct **(20%)**, Impeding the Criminal Justice System **(7%)** and Crimes Involving Children **(5%)** are next highest categories of reported unlawful offenses.

Corruption

CBP distinguishes arrests and indictments for illegal activity involving the misuse or abuse of official position for personal gain from those that involve conduct in an employee's personal life. Offenses involving misuse of official position are considered Corruption and represent the most serious threat to the integrity of CBP. OPR researchers conduct an in-depth assessment of each of these cases to understand the nature of the activity, how the employee used official position to engage in criminal activity, and the reasons for violating public trust. The data collected from each incident are aggregated to identify trends and strategic implications for improving prevention, detection, and investigative efforts.

Seven CBP employees were indicted for corruption-related activity in FY 2018.

Many of the corruption cases involve criminal activity that took place over time and investigations that overlapped fiscal years. These employees engaged in criminal activity including drug and alien smuggling, fraud involving immigration documents, theft, weapons violations, and misuse of government databases. Just over half of these cases had implications for national security, as the employees engaged in criminal activity that directly impacted border security.

To date four of the seven FY 2018 corruption cases resulted in convictions or guilty pleas:

Casa Grande, AZ: A 40-year old BPA with nine years of service was arrested in November 2017 and pleaded guilty to Conspiracy to Possess with Intent to Distribute Marijuana and Bribery of a Public Official. The agent provided surveillance during smuggling efforts, provided assistance regarding law enforcement interdiction efforts and agreed to receive cash payments. He was sentenced to 90 months incarceration, three years of supervised release, ordered to pay a $200 special assessment and received a $24,000 forfeiture judgment.

Casa Grande, AZ: After 17 years of service, a 45-year old BPA pleaded guilty to Conversion of United States Property by falsifying his Time and Attendance Records by claiming hours that he did not work. He was sentenced to 2 years probation, ordered to pay a fine of $1,200, a special assessment of $25 and restitution in the amount of $6,882.05.

Weslaco, TX: Arrested in September 2018, a 45-year old BPA pleaded guilty to one count of Bribery. In exchange for cash payments, the agent facilitated the trafficking of illegal drugs into the United States from Mexico on behalf of a drug trafficking organization. He was sentenced to 112 months confinement, three years supervised release, ordered to pay a fine in the amount of $20,000 and to pay a $100 special assessment.

Bellingham, WA/Houston, TX: A 42-year old with 8 years service pleaded guilty to Theft in the Thid Degree. He received a subsidy for his children's tuition but kept the money instead of paying the school. He was ordered to pay restitution in the amount of $19,880 to Blaine School District and a $500 fine.

U.S. Customs and
Border Protection