



December 2023

TRAVELER INSPECTIONS

DHS Mechanisms to Help Prevent Discrimination and Address Complaints

Accessible Version

Why GAO Did This Study

On a typical day, CBP officers inspect hundreds of thousands of travelers entering the U.S. CBP is responsible for inspection activities that facilitate the flow of legitimate travel and trade while also keeping terrorists and their weapons, criminals and contraband, and inadmissible individuals out of the country. Some travelers and stakeholder organizations have raised concerns about CBP inspections, including concerns related to potential discrimination based on race, religion, or other characteristics.

GAO was asked to review CBP's efforts to help prevent and address potential discrimination during the traveler inspection process. This report describes (1) CBP's mechanisms to help ensure that its inspection practices at air and land ports of entry do not result in discrimination against travelers based on race, ethnicity, religion, disability, and other characteristics; (2) DHS and CBP mechanisms for receiving complaints related to potential discrimination during traveler inspection process; and (3) mechanisms for investigating complaints related to potential discrimination and the outcomes of those investigations.

GAO interviewed DHS and CBP headquarters officials and CBP officials at seven field locations selected based on a mix of criteria including geographic location and volume of travelers. GAO also conducted in-person observations of traveler inspections at four of these locations to gain firsthand knowledge of the traveler inspection process.

View [GAO-24-105383](#). For more information, contact Rebecca Gambler at (202) 512-8777 or GamblerR@gao.gov.

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DHS Mechanisms to Help Prevent Discrimination and Address Complaints

What GAO Found

U.S. Customs and Border Protection (CBP) has policies, guidance, and training courses to help prevent and address aspects of potential discrimination in its traveler inspection process. For example, consistent with the Department of Homeland Security's (DHS) nondiscrimination policy, CBP issued a 2014 memorandum prohibiting the consideration of race or ethnicity in law enforcement, investigation, and screening activities in all but the most exceptional circumstances. As of November 2023, DHS is considering updates to its policy. CBP officials noted that the agency has been working with DHS's Office for Civil Rights and Civil Liberties (CRCL) on this effort. It will be important to ensure that CBP's policy continues to be consistent with departmentwide policy, as these policies help to guide CBP officers' activities as part of the inspection process. CBP has issued other guidance documents that include directives on officers' standards of conduct, for example. Further, CBP's training program includes courses on law enforcement professionalism and unconscious bias. CBP evaluates the effectiveness of its trainings by administering course evaluation surveys, according to CBP officials.

CBP also has mechanisms for reviewing and monitoring its traveler inspection processes to oversee implementation of the agency's inspection policies and to help prevent discrimination, among other objectives. For example, CBP has developed and implemented processes to review its pre-primary targeting rules used to identify potentially high-risk travelers. These reviews occur as they are developed and on a regular basis thereafter and are conducted to ensure each rule meets its intended purpose, is supported by current law enforcement or intelligence information, and does not impose an unjustifiable impact on legitimate travelers. Moreover, CBP officers and supervisors collect, review, and monitor data and information related to primary and secondary inspections conducted at ports of entry. Supervisors are responsible for monitoring traveler inspections at ports of entry by interacting with officers and travelers to help ensure officers comply with policies and guidance and reviewing inspection records. For example, during a visit to one port of entry, GAO observed a supervisor walking around the secondary baggage inspection area to observe inspections as they were occurring. Further, CBP supervisors GAO spoke with at seven ports of entry said travelers may ask a supervisor why they were selected for secondary inspection. CBP officers and supervisors at those ports of entry stated, and GAO observed at two of the four ports of entry visited, that supervisors answered questions about the inspection process from travelers.

Canine Search During Secondary Inspection at a U.S. Land Port of Entry



Source: GAO. | GAO-24-105383

GAO also interviewed representatives from nine stakeholder organizations, selected based on their work on addressing discrimination or immigration-related issues and prior interaction with CRCL. These organizations included the American Arab Anti-Discrimination Committee, the American Civil Liberties Union Texas Border Rights Center, the Council on American-Islamic Relations, the Disability Rights Education Defense Fund, the National Center for Transgender Equality, the National Disability Rights Network, the National Immigrant Justice Center, the Paralyzed Veterans of America, and the Sikh Coalition.

GAO reviewed agency documents, including DHS's and CBP's policy memos on nondiscrimination and CBP's directive on standards of conduct. GAO also reviewed materials from CBP officer training programs and training-related activities that discuss aspects of preventing discrimination during the traveler inspection process. GAO also interviewed CBP officials to obtain information on how CBP assesses the effectiveness of its training.

GAO also analyzed documentation on the processes used by DHS and CBP offices that receive and investigate complaints, including DHS's CRCL and CBP's OPR.

GAO analyzed CRCL and OPR data on complaints of potential discrimination in CBP's traveler inspection process received in fiscal years 2017 through 2021 (the most recent available). In particular, GAO analyzed the complaints to describe categories of complaints and types of investigations. For the complaints received and retained by CRCL for investigation, GAO interviewed CRCL officials and reviewed agency documentation to describe any outcomes, such as policy recommendations to CBP documented in memoranda, as well as documentation on CBP's responses to those recommendations. For the complaints received and investigated by OPR, GAO analyzed information on outcomes of each investigation, such as whether the complaint resulted in employee discipline.

CBP uses various methods at ports of entry and through other communication means to address concerns raised by travelers and share information about complaint mechanisms. At ports of entry, CBP officials stated that if a traveler raises a concern about potential discrimination, generally on-site supervisors first try to address the concern immediately by speaking with the traveler. Officials also stated that travelers may request to speak with a CBP supervisor at any time during the inspection process, and the supervisor can provide the traveler with additional information about the inspection process and answer any questions. Representatives from four of the nine stakeholder organizations GAO interviewed said that some travelers have expressed concerns to them regarding not knowing why they were referred for a secondary inspection. Generally, CBP officials are not permitted to provide specific details regarding reasons a traveler is referred for secondary inspection if that referral is based upon law enforcement and other sensitive information, according to CBP officials.

CBP also provides travelers with information on how to submit complaints, including posters and brochures in the inspection areas at ports of entry. GAO observed CBP posters and contact cards in the inspection areas at each of the four ports of entry GAO visited. These posters and brochures encourage travelers to provide comments or compliments via phone, mail, or online forms.

Several DHS and CBP offices, such as DHS's CRCL and CBP's Office of Professional Responsibility (OPR), have varying responsibilities in receiving or investigating complaints about traveler inspections, including potential discrimination. These entities can receive complaints from other DHS entities, employees, travelers, and from stakeholder organizations that submit complaints on behalf of individual or groups of travelers. Representatives from five of the nine stakeholder organizations GAO interviewed said they had filed complaints with CRCL or CBP. For example, representatives noted filing complaints on behalf of travelers with disabilities who experienced issues related to accessibility as well as complaints regarding secondary inspection referrals based solely on nationality or country of birth.

From fiscal years 2017 through 2021, CRCL and OPR received and investigated hundreds of complaints related to potential discrimination during traveler inspections. During that time period, CBP inspected over 1.5 billion arriving travelers at land and air ports of entry. CRCL, responsible for addressing civil rights and civil liberties complaints related to DHS activities, received 479 complaints related to potential discrimination in the traveler inspection process. Based on its investigations, CRCL identified findings and issues that it summarized in seven memoranda to CBP. These memoranda included 22 recommendations to CBP to address those findings and issues, such as for it to implement additional training for employees on policies related to nondiscrimination and update guidance on things like personal searches. As of August 2023, CBP had taken action in response to most of those recommendations. In particular, CBP concurred or partially concurred with 17 of the 20 recommendations, and completed planned actions for all but one of those 17 recommendations. These actions included providing training or reminders on CBP's disability access and nondiscrimination policies and updating its Personal Search Handbook. CBP expects to complete action for the remaining recommendation by February 2024. For the three recommendations with which CBP did not concur, it provided CRCL with the rationale for its determination, such as that existing policies addressed identified issues.

CBP's Office of Professional Responsibility, responsible for investigating allegations of CBP employee misconduct, received 443 complaints from fiscal year 2017 through 2021 and took action against employees in about 4 percent of the 425 cases in which investigations had been completed at the time of GAO's review. CBP did not take action against employees in most cases (410 cases) due to insufficient evidence of misconduct, according to CBP officials. In cases where CBP took action against employees (15 cases), actions included written or verbal counseling, reprimand, and suspension.

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Abbreviations

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
OPR	Office of Professional Responsibility
CRCL	Office for Civil Rights and Civil Liberties
TEDS	Transportation, Escort, Detention, and Search
TSA	Transportation Security Administration

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December 12, 2023

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

On a typical day, U.S. Customs and Border Protection (CBP) officers inspect hundreds of thousands of travelers entering the U.S. through air and land ports of entry.¹ Within the Department of Homeland Security (DHS), CBP is responsible for processing and inspection activities that facilitate the flow of legitimate travel and trade at our nation's borders while also keeping terrorists and their weapons, criminals and their contraband, and inadmissible individuals out of the country. Upon returning to the country, a U.S. citizen is required to present a valid U.S. passport for entry.² A noncitizen traveler will have particular travel document requirements, such as a visa, Green Card, or other entry permit, which vary based on such factors as nationality and the purpose of travel.³

As stated in CBP policy, during the traveler inspection process, CBP officers review these documents and interview travelers to obtain a declaration of citizenship, the purpose of travel, and identify items

¹Ports of entry are facilities that provide for the controlled entry into or departure from the U.S. Specifically, a port of entry is any officially designated location (seaport, airport, or land border location) where CBP officers clear passengers, merchandise and other items; collect duties; enforce customs laws; and inspect persons entering or applying for admission into, or departing the U.S. pursuant to U.S. immigration and travel controls.

²8 U.S.C. §§ 1185 (travel control of citizens and aliens), 1225 (inspection of aliens arriving in the U.S. who are deemed applicants for admission); 8 C.F.R. pts. 215 subpt. A (alien departure controls), 235 (inspection of persons applying for admission).

³An individual seeking to come to the U.S. from abroad must obtain a visa or other authorization permitting the person to travel to the U.S., and present for inspection at a U.S. port of entry. At the port, a CBP officer may admit an admissible individual for an authorized period of stay or on a permanent basis, depending on whether the person is seeking entry as a temporary nonimmigrant or as an immigrant, respectively.

acquired outside the U.S. to determine if the traveler should be permitted to enter the country, or if further inspection is warranted. CBP officers are to assess and make determinations regarding any admissibility issues related to a traveler's documentation, immigration status, or other relevant factors. A U.S. citizen is not subject to statutory noncitizen admissibility restrictions and will be permitted to enter the U. S. upon completion of the inspection process and subject to any related law enforcement actions.⁴ Noncitizen travelers must establish to the satisfaction of the inspecting officer that they are not inadmissible and should be permitted to enter the country under the status listed on their valid travel document.⁵ Some travelers and stakeholders organizations have raised concerns about CBP inspections, including concerns related to potential discrimination based on race, religion, or other characteristics. These concerns have related to issues such as the frequency of referrals for secondary inspection; accessibility for travelers with disabilities during inspections; and CBP asking travelers questions relating to certain sensitive topics like religion.

In November 2022, at your request, we reported on the Transportation Security Administration's (TSA) efforts to help ensure that its airline passenger screening practices at airport checkpoints do not result in discrimination against passengers based on race, religion, gender, and other characteristics.⁶ We found that TSA had taken actions, such as establishing procedures and training, which can help prevent the potential for discrimination in its airline passenger screening practices. However, it had not collected data on referrals for additional screening and assessed the extent to which these practices may result in certain passengers being referred for additional screening more often than others. We also found that while TSA has a process for addressing passenger complaints alleging discrimination and has signs at airport checkpoints that include contact information for questions about screening, most do not explicitly cite how to file complaints. We recommended TSA take additional actions

⁴It is unlawful for a U.S. citizen to depart from or enter, or attempt to depart from or enter, the U.S. unless they have a valid U.S. passport. 8 U.S.C. § 1185(b).

⁵8 U.S.C. § 1182(a). Lawful permanent residents traveling to the U.S. must comply with U.S. law but are generally not subject to noncitizen admissibility restrictions unless they fall within certain categories. 8 U.S.C. § 1101(a)(13)(C).

⁶GAO, *Aviation Security: TSA Should Assess Potential for Discrimination and Better Inform Passengers of the Complaint Process*, [GAO-23-105201](#) (Washington, D.C.: Nov. 7, 2022). TSA's specific responsibility within the aviation system includes the screening of passengers and property transported from and within the U.S. by commercial passenger aircraft.

to collect and analyze data on screening referrals, better inform the public about the discrimination complaint process, and improve its collection practices on complaints data. TSA concurred with the recommendations and identified some planned actions for addressing them. We are continuing to monitor TSA's actions in response to our recommendations.

You also asked us to review CBP's efforts to help prevent and address potential discrimination during its traveler inspection process. This report addresses: (1) CBP's mechanisms to help ensure that its inspection practices at air and land ports of entry do not result in discrimination against travelers based on race, ethnicity, religion, disability, and other characteristics; (2) DHS's and CBP's mechanisms for receiving complaints related to potential discrimination; and (3) DHS's and CBP's mechanisms for investigating complaints related to potential discrimination and the outcomes of those investigations.

To address all three objectives, we interviewed CBP headquarters officials, including officials from the Office of Field Operations, who oversee and manage admissibility and passenger programs and data collection and analysis; the Office of Professional Responsibility (OPR); the Office of Privacy and Diversity; the Office of Training and Development; the National Targeting Center; and the Information Center.⁷ We also interviewed officials from the DHS Office for Civil Rights and Civil Liberties (CRCL) and the DHS Traveler Redress Inquiry Program.⁸ In addition, we interviewed officials at seven selected ports of entry to obtain information about the traveler inspection process and efforts to prevent potential discrimination. They included three airports (Detroit Metropolitan Airport in Detroit, Michigan; Hartsfield-Jackson International Airport in

⁷ OPR investigates complaints of alleged misconduct involving CBP employees and contractors. The CBP Privacy and Diversity Office is responsible for developing and implementing policies, procedures and internal controls to ensure that CBP respects and protects the civil rights and civil liberties of the trade and traveling public, among other responsibilities. The CBP Office of Training and Development establishes standards and policies for designing, developing, delivering, and evaluating training. The CBP Office of Field Operations' National Targeting Center conducts traveler data matching against U.S. government databases to assess whether travelers are high-risk. And, the CBP Information Center receives, manages, and tracks general complaints and compliments submitted by the public.

⁸ CRCL investigates complaints of potential civil rights and civil liberties violations related to actions taken by DHS and components' officials, employees, contractors, or as a result of DHS programs or activities, which could include complaints involving CBP inspections. The DHS Traveler Redress Inquiry Program is a single point of contact for individuals who have had difficulties during travel screenings at transportation hubs such as airports or U.S. borders.

Atlanta, GA; and Los Angeles International Airport in Los Angeles, CA) and four land ports (Buffalo-Niagara, NY; Otay Mesa and San Ysidro, CA; and Progreso, TX).⁹

We selected these seven ports of entry to reflect variation in geographical location, port type, and traveler volume, as well as proximity to other ports. At each selected port, we conducted two group interviews; one with frontline, non-supervisory inspection officials, and the second with supervisory officials from the port and responsible CBP field office that oversees port operations. In addition, at four of the seven selected ports of entry, we conducted in-person observations of traveler inspections to gain firsthand knowledge of the traveler inspection process.¹⁰ While the information we obtained from these interviews and site visits cannot be generalized to all air and land ports of entry, it provides important context and insights into the traveler inspection process, including how CBP officers interact and communicate with the traveling public during this process.

Additionally, we interviewed representatives from the American Arab Anti-Discrimination Committee, the American Civil Liberties Union Texas Border Rights Center, the Council on American-Islamic Relations, the Disability Rights Education Defense Fund, the National Center for Transgender Equality, the National Disability Rights Network, the National Immigrant Justice Center, the Paralyzed Veterans of America, and the Sikh Coalition. We selected these organizations based on their work on addressing discrimination or immigration-related issues and prior interaction with CRCL to obtain various perspectives on experiences with CBP's inspection practices and the processes DHS and CBP use to receive and address traveler inspection complaints.¹¹

To address our first objective, we examined CBP policies and guidance documents related to conducting traveler inspections, such as CBP's directive on standards of conduct. We also reviewed guidance related to

⁹A single land port of entry may be composed of one or more crossings. For example, the Port of Buffalo-Niagara, headed by a port director, oversees operations at four separate land border crossings.

¹⁰These four ports are: Hartsfield-Jackson International Airport in Atlanta, Georgia; Los Angeles International Airport in Los Angeles, California; Otay Mesa land port in San Diego, California; and San Ysidro land port in San Ysidro, California.

¹¹We selected these organizations to obtain nationwide perspectives on CBP's inspection practices. As such, we did not select these organizations to obtain perspectives related to individual ports of entry.

helping prevent discrimination based on certain demographic characteristics during the inspection process, such as CBP's directive related to nondiscrimination for individuals with disabilities. In addition, we interviewed CBP headquarters officials and reviewed documents to determine what demographic information is available on travel documents (e.g., passports, visas) and what CBP collects and captures in its system of record.

We also interviewed these officials to determine what information CBP collects and maintains on referrals for further inspection, known as secondary inspection. We obtained summary data from CBP on referrals for secondary inspection at all air and lands ports of entry from fiscal years 2017 through 2021—the most complete fiscal year data available at the time of our analysis. We assessed the reliability of these data by reviewing documentation and interviewing CBP officials who are knowledgeable about the data. We found the data sufficiently reliable for the purpose of providing overall numbers on the reasons travelers were referred to secondary inspection during this time period.

In addition, we reviewed materials from CBP officer training programs and training-related activities that discuss aspects of preventing discrimination during the traveler inspection process. We also interviewed officials from CBP's Office of Training and Development to obtain information on how CBP assesses the effectiveness of its training. Further, we interviewed CBP headquarters and field office officials regarding activities related to oversight and monitoring of traveler inspections.

To address our second and third objectives, we analyzed documentation on the processes used by CRCL, the DHS Office for Traveler Redress Inquiry Program, the CBP Information Center, and OPR to receive and investigate complaints. To describe how these entities communicate to travelers about their respective complaint mechanisms, we interviewed DHS and CBP officials, reviewed documentation such as brochures and posters, and reviewed the agencies' websites for contact information or online tools. We also interviewed officials from these entities about their respective complaint mechanisms and processes to identify the entities directly responsible for investigating complaints of potential discrimination during traveler inspections and to identify the referral procedures used by entities not responsible for these investigations.

To address our third objective, we also analyzed data on investigations from the data systems of the entities primarily responsible for investigating these complaints: OPR's Joint Integrity Case Management

System and CRCL's Complaint Management System.¹² We analyzed these data for complaints received from fiscal years 2017 through 2021, the five most recent fiscal years for which data were available at the time of our review.¹³ We used a variety of methods to assess and narrow the categories of complaints within each entity's data set to identify those categories that were within the scope of our review.

In particular, we analyzed CRCL and OPR case management system documentation and interviewed responsible officials to identify the categories of complaints that might be related to potential discrimination during traveler inspections and requested record-level data for all cases within those categories. For CBP data, we reviewed summary narratives for each case within these selected categories to determine if each complaint was within the scope of our review. For CRCL's data, we requested data for cases pertaining to CBP Office of Field Operations. To confirm our initial selection of categories, we reviewed a sample of case narratives to ensure our selection of categories was appropriate.

Further categorizing these complaints allowed us to gain a better understanding of the types and nature of the complaints overall. More specifically, for OPR complaints, we requested and reviewed records related to complaints that occurred at CBP Office of Field Operations' land and air port of entry locations during fiscal years 2017 through 2021. Based on OPR's existing categories and consultations with OPR officials, we determined these locations and categories as relevant to potential discrimination during traveler inspections.

Of the 1,498 records we received from OPR, we further analyzed them by reviewing the case narrative summaries for each complaint and determined that 443 records were within the scope of our review. We then reviewed these 443 summaries to categorize them by type of potential discrimination. For the complaints received by OPR that we analyzed, we requested corresponding labor and employee data from CBP's Human Resources Business Engine system to describe the outcomes of each investigation, such as whether the complaint resulted in employee discipline (data as of August 2022). Additionally, we reviewed summary reports for all investigations that resulted in employee action to describe

¹²The DHS Office of the Inspector General (OIG) may also receive complaints related to potential discrimination in the traveler inspection process and refer such complaints to CBP. Data on OIG investigations referred to CBP is included in data maintained by OPR.

¹³We received these data from OPR in April 2022 and CRCL in March 2022.

the details of the complaints and investigative findings. To illustrate examples of investigations that did not result in employee action, we selected and reviewed three reports involving allegations of discrimination based upon different protected characteristics (e.g., national origin and religion).

For CRCL complaints, we consulted with CRCL officials to identify existing categories in their data system that might encompass complaints of potential discrimination during CBP's traveler inspections. We determined that all 479 records we received from CRCL were within the scope of our review. We analyzed the complaints to describe categories of complaints and types of investigations. For the complaints received and retained by CRCL for investigation, we interviewed CRCL officials and reviewed agency documentation to describe any outcomes, such as a policy recommendation to CBP documented in memoranda. Additionally, for those investigations that resulted in a policy recommendation, we reviewed these CRCL memoranda and related documentation to describe the details of the complaints, findings, and recommendations, and actions CBP took or plans to take to implement the recommendations.

We assessed the reliability of the OPR and CRCL data by reviewing documentation and interviewing agency officials about the relevant data systems and data collection methods. We determined that the data were sufficiently reliable for the purposes of describing categories of complaints of potential discrimination during traveler inspections and describing related investigations and outcomes (e.g., employee discipline, recommendation to revise policy, etc.) for complaints DHS and CBP received during fiscal years 2017 through 2021.

We conducted this performance audit from August 2021 to December 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Traveler Inspection Activities

Within CBP, officers in the Office of Field Operations are responsible for inspecting individuals arriving at U.S. ports of entry to determine their citizenship or nationality, immigration status, admissibility, and compliance with U.S. law. Travelers seeking entry to the U.S. at a port of entry are required to present valid travel documents.¹⁴ All travelers, both U.S. citizens and noncitizens, are required to present documents that denote identity and citizenship, such as a passport, when entering the U.S.¹⁵ A noncitizen seeking to come to the U.S. from abroad must obtain a visa or other authorization permitting them to travel to the U.S., and they must present those documents for inspection by a CBP officer at a U.S. port of entry.

CBP officers conduct their inspections to determine a person's admissibility by observing and questioning them, assessing their travel document(s) and the information contained therein, and considering any other relevant information, such as data contained in U.S. government systems. This inspection can lead to a traveler's admission or permission to enter the U.S., transfer or referral to another agency, or repatriation to their country of origin. The Office of Field Operations has 20 field offices nationwide that oversee 108 land and 213 air ports of entry.¹⁶

CBP officers are to complete a number of activities during the traveler inspection process at air and land ports of entry. These activities occur

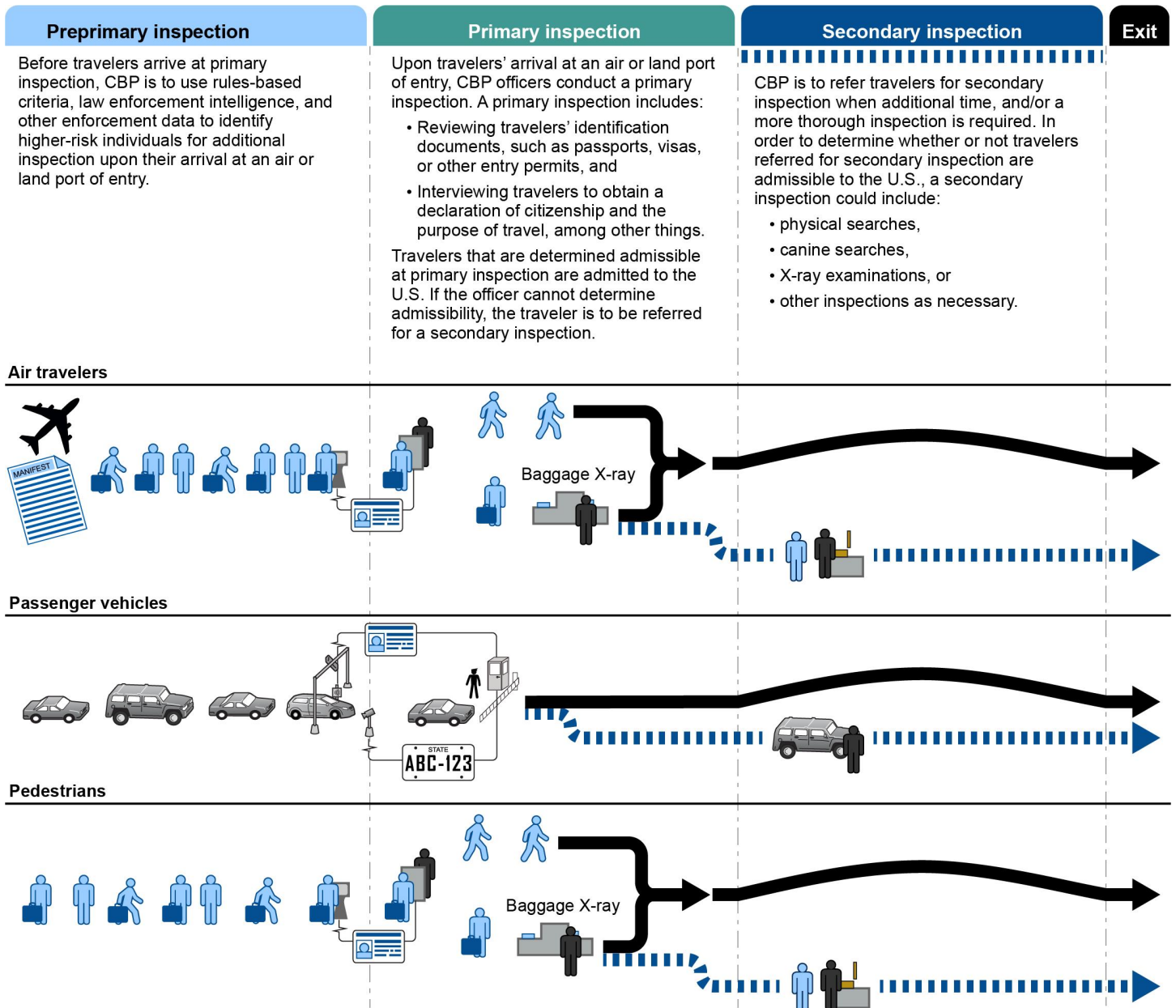
¹⁴8 U.S.C. §§ 1185 (travel control of citizens and aliens), 1225 (inspection of aliens arriving in the U.S. who are deemed applicants for admission); 8 C.F.R. pts. 215 subpt. A (alien departure controls), 235 (inspection of persons applying for admission).

¹⁵As we previously reported, these requirements came as a result of a recommendation from the 9/11 Commission and the Intelligence Reform and Terrorism Prevention Act of 2004, in response to which DHS and the Department of State implemented the Western Hemisphere Travel Initiative. See Pub. L. No. 108-458, title VII, subtitle B, § 7209, 118 Stat. 3638, 3823-24 (classified at 8 U.S.C. § 1185 note). GAO, *Land Ports of Entry: CBP Should Update Policies and Enhance Analysis of Inspections*, [GAO-19-658](#) (Washington, D.C.: Aug. 6, 2019). Foreign nationals may have particular travel document requirements, such as a visa or other entry permit, which vary based on such factors as nationality and the purpose of travel.

¹⁶The Office of Field Operations field offices oversee all types of ports of entry—air, sea, and land—within their designated geographic area of responsibility.

during three different phases of the inspection process: pre-primary inspection, primary inspection, and secondary inspection (see fig. 1).

Figure 1: Air Traveler, Passenger Vehicle, and Pedestrian Inspection Process at Air and Land Ports of Entry



Source: GAO analysis of Customs and Border Protection (CBP) information; GAO (clip art). | GAO-24-105383

Accessible Data for Figure 1: Air Traveler, Passenger Vehicle, and Pedestrian Inspection Process at Air and Land Ports of Entry

Category	Category information
Preprimary inspection	Before travelers arrive at primary inspection, CBP is to use rules-based criteria, law enforcement intelligence, and other enforcement data to identify higher-risk individuals for additional inspection upon their arrival at an air or land port of entry.
Primary inspection	<p>Upon travelers' arrival at an air or land port of entry, CBP officers conduct a primary inspection. A primary inspection includes:</p> <ul style="list-style-type: none"> • Reviewing travelers' identification documents, such as passports, visas, or other entry permits, and • Interviewing travelers to obtain a declaration of citizenship and the purpose of travel, among other things. <p>Travelers that are determined admissible at primary inspection are admitted to the U.S. If the officer cannot determine admissibility, the traveler is to be referred for a secondary inspection.</p>
Secondary inspection	<p>CBP is to refer travelers for secondary inspection when additional time, and/or a more thorough inspection is required. In order to determine whether or not travelers referred for secondary inspection are admissible to the U.S., a secondary inspection could include:</p> <ul style="list-style-type: none"> • physical searches, • canine searches, • X-ray examinations, or • other inspections as necessary.
Exit	not applicable

Source: GAO analysis of Customs and Border Protection (CBP) information; GAO (clip art). | GAO-24-105383

Pre-Primary Inspection

CBP uses law enforcement data, intelligence, and other relevant data and information, such as past CBP inspections, to help identify high-risk travelers before they arrive at an air or land port of entry. Specifically, CBP's National Targeting Center vets travelers primarily by conducting traveler data matching and analysis activities and rules-based targeting

using its Automated Targeting System. The Automated Targeting System is a computer-based enforcement and support system.¹⁷

- **Traveler data matching and analysis activities.** Using this system, the National Targeting Center conducts traveler data matching—assessing whether travelers are high-risk by matching their information against U.S. government databases including the Terrorist Screening Dataset, the Department of Justice’s National Crime Information Center, and the Social Security Administration Death Master File.¹⁸ These databases and their contents are owned and maintained by other federal agencies; therefore they are outside CBP’s purview, and CBP is not able to revise their contents.
- **Rules-based targeting.** In addition to these information sources, the Automated Targeting System compares traveler information against a set of targeting rules. CBP National Targeting Center officials are responsible for developing these rules to identify additional potentially high-risk travelers based on current law enforcement intelligence reporting and successful enforcement actions. Successful enforcement actions refer to cases in which CBP port officials successfully intercept contraband or travelers that are not permitted to enter the country. According to National Targeting Center procedures, high-risk travelers include travelers for whom U.S. government entities do not have available derogatory information directly linking them to terrorist activities or any other actions that would make them potentially inadmissible to the U.S. but who may present a threat and thus warrant additional scrutiny.

If traveler data matching or targeting rules identify a traveler with a “lookout,” a flag is placed on the traveler that notifies the CBP officer conducting the primary inspection that this individual should be selected for further interviewing and inspection. CBP officers may also apply lookouts to travelers based on recent enforcement actions at a local port of entry. For example, if CBP officials at a port have recently intercepted

¹⁷According to CBP documentation, CBP operates the Automated Targeting System to facilitate legitimate trade and travel while managing the shared threat to the homeland posed by individuals and cargo that may require additional scrutiny prior to entering or exiting the U.S. The Automated Targeting System supports CBP in identifying individuals and cargo that may require additional scrutiny across various transportation networks’ functionalities. For additional information about this system, see DHS, *Privacy Impact Assessment Update for the Automated Targeting System*, DHS/CBP/PIA-006(e) (Washington, D.C.: Jan.13, 2017).

¹⁸A more complete list of these databases can be found in the Privacy Impact Assessment for the Automated Targeting System. See DHS/CBP/PIA-006(e).

contraband from travelers coming from a particular location, officials may apply a lookout to others coming from that location. According to CBP officials, any such lookouts require supervisory approval.

Primary Inspection

During primary inspection, CBP officers inspect travelers and vehicles to determine compliance with U.S. law and admissibility to the country. A CBP officer is to interview the traveler to establish the purpose and intent of travel, ask about items acquired outside the U.S., examine travel documents, and determine admissibility. Travel documents, such as a passport or visa, include the traveler's name, date of birth, gender, and country of citizenship.

CBP officers assess information included on travel documents in conducting inspections. In particular, officers use Simplified Arrival to collect information from travelers based on their travel documents; review information about the traveler, such as recent border crossings and any lookouts that necessitate a mandatory referral for secondary inspection; and document the results of the primary inspection. Simplified Arrival also includes biometric facial recognition technologies, where implemented, that cross-reference a photograph of the traveler's face taken during the primary inspection with their identification documents to confirm the traveler's identity and to minimize processing time while enhancing travel security.¹⁹

According to CBP, primary inspections are interactions between CBP officers and travelers to determine admissibility to the country and compliance with U.S. laws. When CBP officers cannot determine admissibility during the primary inspection or when additional time is needed to determine admissibility, travelers, their baggage, and their vehicles, if any, are referred to secondary inspection to continue the inspection process. CBP officers may refer travelers to secondary inspection at any point during or at the conclusion of a primary inspection, as discussed in more detail below. If a CBP officer refers a traveler or

¹⁹As of May 2023, all but 18 air, sea, and land ports use Simplified Arrival. According to CBP officials, these 18 ports have not been fully converted to Simplified Arrival from the prior system—the Traveler Primary Arrival Client. Officials stated that this is due to issues related to bandwidth and connectivity but CBP is working to transition these locations to Simplified Arrival. For background on the biometric entry and exit system, see 8 U.S.C. §§ 1365a, 1365b. Also, see GAO, *Facial Recognition: CBP and TSA Are Taking Steps to Implement Programs, but CBP Should Address Privacy and System Performance Issues*, [GAO-20-568](#) (Washington, D.C.: Sept. 2, 2020).

vehicle for secondary inspection, the officer is required to enter information on the referral into Simplified Arrival.

Secondary Inspection

Secondary inspection is a continuation of the overall inspection process. Using Simplified Arrival, CBP officers make referrals under three broad categories that indicate the type of examination to be conducted during secondary inspection: (1) admissibility, (2) agricultural items, and (3) other baggage contents. Within these categories, CBP officers may make a referral for various reasons. Some of these reasons, such as lookouts or the need for travelers to complete required forms or report certain currency amounts, result in mandatory referrals for secondary inspection. Individuals may be referred for secondary inspection for more than one reason, and individuals may experience repeated referrals for secondary inspection. Reasons officers may make a referral for secondary inspection include when:

- the traveler cannot be readily identified as admissible;
- primary inspection officers need additional time to determine admissibility;
- the traveler's information matches law enforcement or other information that indicate a potential threat;
- the traveler reports currency and monetary instruments or customs duty declarations ("self-referrals");
- radiation is detected (either on the traveler or from his or her vehicle at land ports of entry);
- the officer suspects that the traveler is carrying contraband; or
- canines detect drugs, food, or agricultural goods in baggage or vehicles.

In addition, foreign visitors to the U.S. may be referred to secondary inspection to complete processing of their admission records, referred to as Form I-94s.²⁰

²⁰The I-94 form is the DHS arrival and departure record issued to travelers who are admitted to the U.S., who are adjusting status while in the U.S. or extending their stay, among other uses. The visitor must exit the U.S. on or before the departure date stamped on the I-94.

Biographic information, any fingerprints or facial images taken during primary inspection, the reason for referral, and CBP officer remarks from primary inspection are automatically transmitted to CBP's Unified Secondary system for secondary inspection.²¹ The officer responsible for the secondary inspection uses the Unified Secondary system to document the inspection, record the outcome, close out the inspection record.

Secondary inspection may include a CBP officer conducting further questioning of a traveler or additional examination of the traveler, the traveler's documents, a vehicle and its contents, baggage, or electronic devices.²²

In addition, CBP has other tools and processes that can be used during inspections at ports of entry, including:

- **Canines.** CBP has canines that can detect concealed humans, narcotics, currency, firearms, and agriculture products. Depending on availability, ports of entry may deploy officers with canines to walk among the vehicles or pedestrians in preprimary waiting to reach primary inspection at a land port of entry. CBP may also use canines with travelers in the air environment. For example, CBP officers may use canines to detect prohibited items such as controlled substances or restricted agriculture items in luggage. CBP may also use canines for some secondary searches.
- **Detection technologies.** CBP may use non-intrusive inspection X-ray, Gamma-ray, or radiation detection equipment; or physically examine the traveler, a vehicle, or baggage.

²¹Unified Secondary is a consolidated inspection and immigration events processing tool that lists all travelers referred for secondary inspection at a specific port.

²² According to CBP policy, CBP may examine a traveler's electronic devices, such as computers, tablets, and mobile phones to determine if information in text messages or social media posts, for example, corroborate the traveler's reason for travel. CBP, *Border Search of Electronic Devices*, Directive Number 3340-049A (Washington, D.C.: Jan. 4, 2018). According to CBP, based on this policy, CBP may also examine a traveler's electronic devices to help detect evidence relating to terrorism and other national security matters, human and bulk cash smuggling, contraband, and child pornography. Further, examination of electronic devices can also reveal information about financial and commercial crimes, such as those relating to copyright, trademark, and export control violations. According to CBP, searches at the border are often integral to a determination of an individual's intentions upon entry and provide additional information relevant to admissibility under immigration law.

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- **Tactical Terrorism Response Teams.** These teams provide immediate counterterrorism response capabilities at some ports of entry. Members of Tactical Terrorism Response Teams receive counterterrorism training and are responsible for interviewing known and suspected terrorists at ports of entry to help determine admissibility and collect intelligence.

DHS Policy on Nondiscrimination

DHS policy prohibits the use of race or ethnicity as a criterion in conducting stops, searches, and other law enforcement, investigation, or screening activities in all but the most exceptional circumstances.²³ The policy, issued in 2013, notes racial profiling is premised on the erroneous assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity. DHS defines “ethnicity” as ancestry, language, culture or other similar characteristics.

The policy also includes implementation guidance for components in developing policies and procedures regarding the use of race, ethnicity, country of birth, or nationality for law enforcement, national security, and transportation security purposes. For example, according to the DHS policy and guidance, DHS personnel may use race or ethnicity only when a compelling governmental interest is present, and only in a way narrowly tailored to meet that compelling interest. In addition, DHS’s policy addresses the use of nationality, which it states is generally a relevant

²³Department of Homeland Security, *Memorandum for Department Heads: The Department of Homeland Security’s Commitment to Nondiscriminatory Law Enforcement and Screening Activities* (Washington, D.C.: Apr. 26, 2013).

factor in inspecting and determining admissibility of travelers at ports of entry.²⁴

In particular, DHS's policy notes that for antiterrorism, immigration, and customs activities, nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order, or in individualized discretionary use of nationality as a screening, investigation, or enforcement factor. In May 2023, the Secretary of Homeland Security issued a policy statement reaffirming the department's commitment to nondiscrimination in DHS activities. In the statement, the Secretary directed CRCL to lead a collaborative effort across the department to assess and propose updates by the end of fiscal year 2023 to the department's nondiscrimination policies, including the 2013 DHS policy.²⁵ According to CRCL, as of November 2023, that effort is ongoing.

In addition, a January 2021 executive order states that it is the policy of the presidential administration that the federal government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized,

²⁴According to DHS policy, although not required by the Constitution, "tools, policies, directives, and rules in law enforcement and security settings that consider, as an investigative or screening criterion, an individual's simple connection to a particular country, by birth or citizenship, should be reserved for situations in which such consideration is based on an assessment of intelligence and risk, and in which alternatives do not meet security needs, and such consideration should remain in place only as long as necessary. These self-imposed limits, however, do not apply to antiterrorism, immigration, or customs activities in which nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order, or in individualized discretionary use of nationality as a screening, investigation, or enforcement factor." Department of Homeland Security, *Memorandum for Component Heads: The Department of Homeland Security's Commitment to Nondiscriminatory Law Enforcement and Screening Activities* (Washington, D.C.: Apr. 26, 2013).

²⁵The policy statement notes that the Department of Justice issued guidance in May 2023 for federal law enforcement agencies regarding the use of race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, and disability. The statement notes that this 2023 guidance is the policy of DHS as it applies to federal law enforcement personnel and federal non-law enforcement personnel engaged in or supporting federal law enforcement and intelligence activity conducted by federal law enforcement agencies. The statement also notes that DHS's 2013 nondiscrimination policy remains in effect for interdiction activities at the border including ports of entry and related traveler and cargo vetting activities, as well as protective and inspection activities, non-law enforcement screening activities, and all activities that use country of birth or nationality as a security screening, enforcement, or investigative criterion. The Department of Justice guidance also notes that it does not apply to interdiction activities at the border. U.S. Department of Justice, *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, Gender Identity, and Disability*, May 2023.

and adversely affected by persistent poverty and inequality.²⁶ The order defines equity as the consistent and systematic fair, just, and impartial treatment of all individuals. In response to the order, DHS issued an Equity Action Plan in January 2022 that identified seven key programs areas with the greatest potential for advancing equity in agency operations. These areas included filing complaints in DHS programs.

CBP Has Policies, Training, and Monitoring Activities Intended to Help Prevent Discrimination

CBP's Policies and Guidance Intended to Help Prevent Discrimination in the Traveler Inspection Process

CBP has issued a variety of policies and guidance to help prevent and address aspects of potential discrimination in the traveler inspection process. CBP officials we spoke with from the seven selected ports of entry stated that these policy and guidance documents guide their activities as part of the inspection process.

Consistent with the DHS nondiscrimination policy, CBP issued a 2014 policy memorandum on its commitment to fair, impartial and respectful treatment of all members of the trade and traveling public. More specifically, CBP's policy prohibits the consideration of race or ethnicity in law enforcement, investigation, and screening activities, in all but the most exceptional circumstances—when a compelling government interest is present and its use is narrowly tailored to that interest. According to CBP policy, national security is a compelling interest, but use of race and ethnicity to serve compelling interest must still be narrowly tailored. CBP policy notes that race or ethnicity-based information that is specific to particular suspects or incidents or ongoing criminal activities, schemes, or enterprises may be considered. This CBP policy distinguishes between the use of race and ethnicity from considerations of nationality. CBP's policy states that use of nationality, where it is expressly relevant to the administration or enforcement of a statute, regulation or executive order to trigger screening, inspection, or investigative steps is entirely appropriate

²⁶Advancing Racial Equity and Support for Underserved Communities through the Federal Government, Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021) (issued Jan. 20).

and requires no additional justification.²⁷ CBP also issued a 2014 directive stating that CBP officials shall treat all individuals in a nondiscriminatory manner. The directive also prohibits discrimination with respect to all forms of protected status under federal law, regulation, executive order, or policy.²⁸ CBP officials noted that the agency has been working with CRCL in its efforts to update DHS's nondiscrimination policy. It will be important to ensure that CBP's policy continues to be consistent with departmentwide policy, as these policies help to guide CBP officers' activities as part of the inspection process.

In addition, we found that CBP has issued guidance documents that describe the agency's expectations for officers interacting with the public. Such guidance documents include directives on officers' standards of conduct and specific policies regarding conduct and reasonable modifications for individuals with disabilities. CBP officials we spoke with at the seven ports of entry stated they used these documents to guide their work.

CBP Directive on Standards of Conduct. CBP's Standards of Conduct, last updated in December 2020, includes a section on bias-motivated conduct. Specifically, according to the standards, in official activities including traveler inspections, CBP employees should not improperly take into consideration an individual's race, color, age, sexual orientation,

²⁷The policy states that "[u]sing nationality for antiterrorism, customs, or immigration activities in which nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order to trigger screening, inspection, or investigative steps is entirely appropriate and needs no further justification. In addition, the policy does not in any way limit the individualized discretionary use of nationality as a screening, investigation, or enforcement factor. Therefore, the use of nationality is appropriate for the vast majority of situations encountered by front-line CBP personnel and those supporting them in their day to day operations." CBP, *Memorandum: CBP Policy on Nondiscrimination in Law Enforcement Activities and all other Administered Programs* (Washington, D.C.: Feb. 6, 2014).

²⁸In this directive, civil rights and civil liberties are defined as the rights enumerated in the U.S. Constitution, federal statutes, and regulations, including freedom from discrimination on the grounds of race, sex, religion, national origin, age, disability, or genetic information, freedom of speech, free exercise of religion, due process of law, appropriate conditions of confinement, and protection from excessive force, unreasonable searches and seizures, and unlawful intrusions into personal privacy. CBP, *Roles and Responsibilities of U.S. Customs and Border Protection Component Offices and Employees Regarding Civil Rights and Civil Liberties Matters*, Directive Number: 2130-021 (Washington, D.C. June 2014).

religion, sex, national origin, disability, union membership, or union activities.²⁹

CBP Directive on Nondiscrimination for Individuals with Disabilities in CBP-Conducted Services, Programs, and Activities. This directive, most recently updated in July 2021, addresses expected conduct for CBP officers when interacting with individuals with disabilities. In the directive, CBP states its policy is that officers not discriminate against members of the public because of a disability and should help ensure individuals equal access, physical access, program accessibility, and effective communication, among other things. The directive also requires that CBP offer a reasonable modification to a traveler with a disability, even if the individual does not request it, when a disability may interfere with the individual's ability to make such a request.³⁰

Personal Search Handbook. This document, last updated in April 2021, establishes the Office of Field Operations policy for CBP officers conducting searches of a person using border search authority.³¹ This document includes guidelines for conducting searches in a way that respects a traveler's gender identity.³²

CBP Training Programs Address Aspects of Nondiscrimination and Related Agency Policies and Guidance

CBP does not have specific training programs focused solely on preventing discrimination during traveler inspections, but we found that its various training programs and related activities discuss aspects of preventing discrimination and promoting diversity awareness. Specifically, CBP training programs include relevant concepts as part of other training

²⁹CBP, *U.S. Customs and Border Protection Standards of Conduct*, Directive Number: 51735-013B, (Washington, D.C.: Dec. 9, 2020).

³⁰CBP, *Nondiscrimination for Individuals with Disabilities in CBP-Conducted Services, Programs, and Activities (Non-Employment)*, Directive Number: 2130-033 (Washington, D.C.: July 8, 2021).

³¹See, e.g., 8 U.S.C. § 1357, 19 U.S.C. §§ 482, 1467, 1581, 1582.

³²CBP Office of Field Operations, *Personal Search Handbook*, CIS HB 3300-04C, (Washington, D.C.: Apr, 2021). GAO previously reported on personal searches by the former U.S. Customs Service. See GAO, *U.S. Customs Service: Better Targeting of Airline Passengers for Personal Searches Could Produce Better Results* [GAO/IGD-00-38](#), (Washington, D.C.: Mar. 17, 2000).

topics, such as professionalism and interview techniques, which are required or provided at various points in an officer’s career. CBP provides training programs to officers when they join the agency, at regular or periodic points in time throughout officers’ careers, and for advanced or elective purposes.

Examples of relevant trainings for newly hired CBP officers

As shown in table 1, we found that CBP provides newly hired officers several training courses that include concepts related to preventing discrimination.

Table 1: Examples of U.S. Customs and Border Protection (CBP) Training Courses for New Officers that Address Preventing Discrimination in the Traveler Inspection Process

Training course name	Course concepts related to preventing discrimination in the traveler inspection process
Introduction to Law Enforcement Professionalism	This course establishes the manner in which CBP officers are expected to treat all members of the public. It discusses, among other things, the expectation that officers use respectful, calm, and courteous verbal and non-verbal communication with the traveling public to avoid unprofessional behavior that might be perceived as discriminatory.
Unconscious Bias	This course provides information on how an officer can self-identify when they are using bias that might inform their opinion of a person or situation. Specifically, it includes discussion regarding how unconscious bias can influence an officer’s perspective and create an “us versus them” mindset. This course is also intended to help officers identify instances when they may be making assumptions based on a traveler’s similarities or differences to themselves including, but not limited to, race, gender, and culture.
Cultural Diversity and Law Enforcement	This course provides information and tools to increase officers’ awareness of the diverse populations they interact with, and identify and properly react to culturally diverse situations through a series of cross-cultural scenarios. In creating such awareness, this course is intended to help officers avoid discriminatory conduct, according to officials.
Disability Access Training for Law Enforcement Professionals	This training informs officers who may serve or encounter travelers with a disability of their roles and responsibilities to comply with Section 504 of the Rehabilitation Act of 1973, as amended. Specifically, this course includes lessons on applying federal law and CBP policy during interactions with travelers with disabilities; communicating effectively in law enforcement settings with travelers with disabilities; addressing reasonable modification requests from travelers based on disability needs; and recognizing possible indicators of disabilities and using tips for effective interactions with travelers with disabilities. CBP requires officers to complete this training every 2 years.
Simplified Arrival technology (various courses)	This training teaches officers how to use this technology to support and document a narrow, fact-based focus during the interview an officer conducts during primary inspection, which is intended to help reduce the potential for lines of questioning that could be discriminatory in nature, according to officials.

Source: GAO analysis of CBP training course documents. | GAO-24-105383

Examples of relevant annual or regularly occurring trainings

As shown in table 2, we found that CBP provides training courses that address concepts related to preventing discrimination that officers are required to take regularly throughout their careers.

Table 2: Examples of U.S. Customs and Border Protection (CBP) Training Courses for Current Officers that Address Preventing Discrimination in the Traveler Inspection Process

Training course name	Officer requirement for taking course	Course concepts related to preventing discrimination in the traveler inspection process
Firearms training (de-escalation portion)	Quarterly each year	This course is intended to re-emphasize an officer’s firearms training but also includes information and techniques on de-escalating conflict. During this portion of the training, officers discuss and practice de-escalation techniques in a variety of scenarios and emphasize the behavior and actions that an officer should take to decrease tension and conflict. This course content is intended to help officers think critically about their immediate and unconscious reactions to stressful, and/or escalating interactions with travelers. It may also help officers resolve potential conflict with travelers who believe they experienced discrimination, according to CBP officials.
Unscripted Conversations	Annually, beginning the fourth quarter of fiscal year 2023.	This training course is to help officers develop interview techniques to obtain fact-based information from travelers to make a determination of whether the traveler should be referred for secondary inspection or admitted to the country. It is also intended to help officers avoid lines of questioning that could be perceived as discriminatory in nature.
Annual Personal Search Handbook recertification	Annually	This course covers information regarding interacting with the traveling public with respect to personal search procedure, among other things. This course emphasizes respectful conduct with the traveling public and reminds officers that they are prohibited from engaging in discriminatory and other unprofessional behaviors.

Source: GAO analysis of CBP training course documents. | GAO-24-105383

Examples of relevant elective or advanced trainings

As shown in table 3, we found that CBP offers several elective or advanced training programs for officers that include concepts related to preventing discrimination.

Table 3: Examples of U.S. Customs and Border Protection (CBP) Elective or Advanced Training Courses that Address Preventing Discrimination in the Traveler Inspection Process

Training course name	Course concepts related to preventing discrimination in the traveler inspection process
Detecting Deception and Eliciting Responses	This training offers additional advanced scenario-based practice for officers on interviewing the traveling public, including building rapport to gather accurate and reliable information to ensure travelers and their belongings may be safely admitted to the country. This course content includes discussions of how officers can identify cultural factors that could affect eliciting information and avoiding behaviors that could be considered culturally insensitive or discriminatory in nature.
All Sides Heard	This program includes training on the implicit bias an employee may have that might shape their interactions with travelers. According to CBP officials, CBP will pilot this training during fiscal year 2023 in select field offices and ports of entry. With regard to preventing discrimination, this course is designed to help employees identify biases, including those that may have a discriminatory facet in an effort to prevent such bias from affecting their interactions and decision-making with the traveling public.
Advanced Supervisory Leadership Training: Bias and Attribution	This course includes material on identifying bias and inference, as well as strategies to avoid the negative effects of bias in decision-making, including those that may be discriminatory in nature.

Source: GAO analysis of CBP training course documents. | GAO-24-105383

Officials we spoke to during our seven port of entry interviews stated that they believe the training they receive is sufficient to help prevent discrimination while they execute their duties during traveler inspections. They also stated that officers are trained to conduct traveler inspections using facts and interview techniques that do not rely on race, religion, and other potentially discriminatory factors. Further, they stated that they are trained to refer travelers for secondary inspection based on travel documents and lookouts applied to the traveler, or inconsistencies in the traveler’s responses during an interview, among other things.³³

CBP officials from the Office of Training and Development stated that the agency evaluates the effectiveness of all of its trainings by administering course evaluation surveys. They stated that after officers complete a training, the agency also conducts surveys of supervisors to determine if officers are able to demonstrate through their performance that they have transferred the skills taught in the training to their work on the job. Specifically, the agency surveys the officers and their supervisors regarding officers’ performance and analyzes the results. CBP officials may identify areas of improvement for training based on this information.

³³A lookout is a flag that will notify the officer conducting the primary inspection that this individual should be selected for further interviewing and inspection.

Training-related activities that promote cultural awareness

In addition to formal training programs and courses, CBP officials we spoke to during our seven port of entry interviews told us about diversity events and initiatives at each port. According to officials, these kinds of events and initiatives are helpful in bridging gaps in cultural understanding between officers and the travelers they encounter during the course of their duties, in the hope of preventing accidental cultural missteps and misunderstanding. Officials at all seven ports we spoke with told us each port holds periodic events including lunches and other events with speakers from different cultures.

Further, officials described other kinds of activities and sessions that are sponsored at various ports of entry and offices that are also aimed at increasing cultural awareness. For example, officials at one port provided a document that was distributed to officers during Arab American Heritage Month that included information on the local Arab American communities and a description of how CBP port officials are engaging these local community leaders to build greater trust and understanding. In another example, officials at another port provided a flyer for a CBP-wide virtual celebration of Asian American, Native Hawaiian and Pacific Islander Heritage Month. Port officials told us that these types of events and activities create opportunities for officers to gain exposure to different cultures and facilitate informal conversations that help prevent culturally disrespectful or discriminatory behavior in the workplace, as well as with the traveling public.

CBP Has Mechanisms to Review and Monitor Its Traveler Inspection Activities to Help Prevent Discrimination and Ensure Implementation of Policies

Based upon our discussions with CBP officials, our observations at ports of entry, and analysis of CBP documentation, we found that CBP reviews and monitors its traveler inspection processes to oversee implementation of the agency's inspection policies and to help prevent discrimination, among other objectives. More specifically, CBP has developed and implemented processes to review its pre-primary targeting rules, and CBP officers and supervisors collect, review, and monitor data and information related to primary and secondary inspections conducted at ports of entry.

Review of pre-primary targeting rules

Consistent with DHS's nondiscrimination policy and implementation guidance, DHS and CBP have developed mechanisms for reviewing and monitoring targeting rules. As previously noted, CBP National Targeting Center officials are responsible for developing these rules to identify potentially high-risk travelers. If targeting rules identify a traveler with a "lookout," a flag is placed on the traveler that notifies the CBP officer conducting the primary inspection that this individual should be selected for further interviewing and inspection.

CBP's National Targeting Center, along with other offices such as CRCL and the CBP Privacy and Diversity Office, review targeting rules as they are developed and on a regular basis thereafter. The specific offices involved in the review of a rule depends on the nature of the review. For example, according to standard operating procedures, on a quarterly basis, various DHS offices review counterterrorism targeting rules that create automated lookouts. Offices doing so include the DHS Office of General Counsel, DHS Privacy Office, and CRCL. On a biannual basis, CBP's Privacy and Diversity Office and Office of the Chief Counsel review non-counterterrorism CBP targeting rules.

According to National Targeting Center officials, CBP conducts these reviews to ensure each rule meets its intended purpose, is supported by current law enforcement or intelligence information, and does not impose an unjustifiable impact on legitimate travelers. According to officials, any rule that does not meet these criteria is either modified or deactivated. This action may also happen when a rule was previously implemented but is no longer supported by current law enforcement or intelligence information. This review process does not include the other information sources to which the Automatic Targeting System compares traveler information, such as the Terrorist Screening Dataset, the Department of Justice's National Crime Information Center or the Social Security Administration's Master Death File.³⁴ These systems are owned by their respective agencies, and therefore any lookouts that are generated from these sources are not within the purview of CBP to modify or deactivate.

³⁴We have ongoing working work on the Terrorist Screening Dataset, also known as the terrorist watchlist, including processes to prevent, mitigate, and address misidentifications; and the potential for inclusion of persons who do not, or no longer meet watchlisting criteria. We plan to report on this work in 2024.

In addition, National Targeting Center officials stated that on a weekly-basis they monitor the frequency that each targeting rule identifies travelers for a potential “lookout” and the number of travelers it identifies. The system is designed to automatically shut off and identify any rule that is identifying too many individuals for a potential lookout, so National Targeting Center officials can make any needed adjustments to help ensure the rule does not have an unjustifiable impact on legitimate travelers.

In the context of potential discrimination against travelers, National Targeting Center officials stated that religion and disability are never used as part of a targeting rule. With regard to nationality, CBP officials define a traveler’s nationality as their documented country of origin. Consistent with DHS and CBP policies, targeting rules may be based on a traveler’s documented country of origin if supported by intelligence information or law enforcement information, the same standard used for other criteria.³⁵ According to DHS policy, DHS personnel may use race or ethnicity only when a compelling governmental interest is present, and only in a way narrowly tailored to meet that compelling interest.³⁶ In instances where

³⁵CBP, *Memorandum: CBP Policy on Nondiscrimination in Law Enforcement Activities and all other Administered Programs*, (Washington, D.C.: Feb. 6, 2014).

³⁶According to the DHS policy memorandum, “...race- or ethnicity-based information that is specific to particular suspects or incidents, or ongoing criminal activities, schemes or enterprises, may be considered, as stated in the Department of Justice Guidance [Department of Justice, *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity by Law Enforcement Agencies*, (Washington, D.C.: Dec. 2014)]. Except as noted below, it is DHS policy, although not required by the Constitution, that tools, policies, directives, and rules in law enforcement and security settings that consider, as an investigative or screening criterion, an individual’s simple connection to a particular country, by birth or citizenship, should be reserved for situations in which such consideration is based on an assessment of intelligence and risk, and in which alternatives do not meet security needs, and such consideration should remain in place only as long as necessary. These self-imposed limits, however, do not apply to antiterrorism, immigration, or customs activities in which nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order, or in individualized discretionary use of nationality as a screening, investigation, or enforcement factor.” Department of Homeland Security, *Memorandum for Component Heads: The Department of Homeland Security’s Commitment to Nondiscriminatory Law Enforcement and Screening Activities*, (Washington, D.C.: Apr. 26, 2013).

ethnicity may be part of a rule, CBP officials stated that CRCL is always part of the rule review process.³⁷

Monitoring activities related to primary and secondary traveler inspections

Based upon our review of CBP documents, discussions with CBP officials, and observations at ports of entry, CBP officers and supervisors use technological tools and take other steps to facilitate, document, and monitor primary and secondary inspections to oversee implementation of the agency's inspection policies and procedures and to help prevent potential discrimination during inspections.

With regard to technological tools, CBP uses the Simplified Arrival and Unified Secondary systems to enter and record information on travelers, referrals to secondary inspections, and the outcomes of all inspections. As previously mentioned, during primary inspections, officers collect each traveler's name, date of birth, gender, citizenship, and travel document type, including the document number and issuing country. Officers also review any lookouts or other information indicating that a traveler should be referred to secondary inspection. Officers do not collect or record any other demographic information on travelers during the primary inspection, such as race, ethnicity, or religion. According to CBP officials, such information is not included on travel documents or generally relevant to or used as part of an officer's determinations of an individual's admissibility and compliance with U.S. law. There have been some complaints submitted by travelers and stakeholder groups to DHS and CBP regarding inspection processes, including allegations related to such characteristics. We discuss such complaints later in this report.

During primary inspection, for any referrals to secondary inspection, officers are to select or note the reasons for the referral in Simplified Arrival and record any notes the primary officer believes will be helpful for the officer conducting the secondary inspection. This information is then available to CBP officers conducting secondary inspections in the Unified Secondary system. As previously noted, referrals could be related to admissibility (e.g., passport, visa, or other travel or immigration

³⁷The Officer for Civil Rights and Civil Liberties reports directly to the Secretary, and is responsible for, among other things, assisting the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities. See 6 U.S.C. § 345.

documentation), baggage (e.g. currency declarations), or agriculture (e.g. restricted food items due to disease concerns). Within these categories, primary inspection officers document additional information for a referral to secondary inspection. Within the category of admissibility, examples of reasons for referrals officers may document could include that the traveler had a lookout, expired documents, or needed to complete the I-94 form. Within the category of baggage, the primary inspection officer could select or document the reason for referral as, for example, the traveler needing to declare currency because the traveler indicated they were carrying currency over \$10,000.

According to CBP data, in fiscal years 2017 through 2021, officers referred approximately 4 percent of all travelers for a secondary inspection at an air or land port of entry. Of these referrals, 41 percent were for admissibility, 40 percent were for baggage, and 19 percent were for agriculture. As a result of these secondary inspections, travelers could be found either admissible or inadmissible to the U.S. Secondary inspections could also result in the identification of other traveler violations, such as smuggling of contraband, failure to make required currency declarations, or bringing prohibited agricultural products into the U.S.

In addition to the information captured during primary inspection, the Unified Secondary system contains more detailed information on any lookouts for the traveler, such as arrest records and criminal history, among other relevant information, that officers use as part of secondary inspection. CBP officers also enter additional information into the Unified Secondary system related to the outcome of the secondary inspection such as whether the inspection resulted in a determination that the traveler is admissible or not to the U.S.

According to CBP officials, officers are not required to collect demographic information, such as information about a traveler's race or ethnicity, in the Unified Secondary System.³⁸ CBP officials stated that such information is not generally relevant to determining a traveler's admissibility or compliance with U.S. law. CBP officials stated that

³⁸CBP officers may be required to enter demographic information such as race and ethnicity into other data systems if an individual is charged with a federal crime or subject to a contraband seizure. Prior to December 2021, CBP officers were also required to record this type of information for individuals deemed inadmissible. However, according to CBP officials, CBP removed this requirement as this information is not relevant for determining a traveler's admissibility.

because such characteristics are not contained in travel documents, they cannot be used to confirm a traveler's identity as it relates to deciding a traveler's admissibility.

Once the inspection is completed, officers are to close out the inspection record documenting their notes and the outcome of their inspection. For travelers referred for secondary inspection, determinations of admissibility require supervisory review and approval. If an officer determines a traveler is inadmissible, the officer is required to obtain the approval of both the immediate supervisor and the next level supervisor to help ensure that determinations of inadmissibility are made and documented consistent with policy.

CBP supervisors then use the data and information collected during primary and secondary inspections to help monitor inspection activities at ports of entry. For example, through our interviews and observations at seven ports of entry, we found that supervisors monitor traveler inspection tasks in real-time by reviewing computer-based records and logs of inspections in the Unified Secondary system once inspections are completed. Officials that we spoke with at all seven ports of entry also used mobile devices that contained this information, or had a supervisory officer stationed at a computer terminal reviewing the Unified Secondary system in real-time to monitor the completion of inspections. Officials stated that supervisors review these records and logs to help ensure inspection records have been completed and closed out properly. According to officials, if a supervisor finds records that have not been completed or closed out properly, they contact the officer who completed the inspection and ensure the issues are resolved.

In addition, based upon our discussions with CBP officials and our observations at ports of entry, CBP supervisors also monitor primary and secondary inspections by observing inspections as they occur and interacting with officers and travelers to ensure officers' compliance with policies and guidance. For example, during one of our seven visits to a port of entry, we observed a supervisor walking around the secondary baggage inspection area to observe inspections as they were occurring. This supervisor stated that supervisors are also available to answer any questions travelers may have regarding the inspection process. For example, supervisors we spoke with at the seven ports of entry told us travelers may ask a supervisor why they were selected for secondary inspection. CBP officers and supervisors at those ports of entry told us, and we observed at two of the four ports of entry we visited in person,

that supervisors answered questions about the inspection process from travelers.

DHS and CBP Have Various Mechanisms for Receiving Complaints of Potential Discrimination during Traveler Inspections

Based upon our discussions with CBP officials, our observations at ports of entry, and analysis of CBP documentation, we found that DHS and CBP have various mechanisms to receive complaints of potential discrimination related to the traveler inspection process. DHS's complaint mechanisms include (1) the DHS OIG, which receives complaints of misconduct involving DHS and components' employees and contractors; (2) CRCL, which receives complaints of potential civil rights and civil liberties violations related to actions taken by DHS and components' officials, employees, contractors, or as a result of DHS programs or activities; and (3) the DHS Traveler Redress Inquiry Program, which receives inquiries related to repeated referrals for secondary inspection, among other things.

CBP's mechanisms for receiving complaints include the CBP Information Center, which receives, manages, and tracks general complaints and compliments submitted by the public. These complaints or compliments are related to, among other things, the traveler's experience with the inspection process at ports of entry. In addition, OPR receives complaints of misconduct involving CBP employees and contractors.

DHS and CBP entities have various methods at ports of entry and through other communication means to address concerns raised by travelers and to share information about the complaint mechanisms. For example, at ports of entry, if a traveler raises a concern about potential discrimination, it is generally agency practice for CBP supervisory officers on site to first try to address it immediately by speaking with the traveler, according to CBP headquarters and port of entry officials. Officials also stated that travelers may request to speak with a CBP supervisor at any time during the inspection process, and the supervisor can provide the traveler with additional information about the inspection process and answer any questions. Representatives from four of the nine stakeholder organizations we met with told us that some travelers have expressed concerns to them regarding not knowing why they were referred for a secondary inspection, and representatives from one stakeholder

organization noted that travelers have expressed concerns about experiencing repeated referrals for secondary inspection. Generally, CBP officials are not permitted to provide specific details regarding reasons a traveler is referred for secondary inspection if that referral is based upon law enforcement and other sensitive information, according to CBP officials.

Each port of entry also is to have a CBP professionalism service manager who serves as the primary point of contact to address any concerns or comments travelers may have about their experiences with the inspections process. According to port officials we spoke with, such conversations with a supervisor or professionalism service manager may address travelers' concerns of perceived discrimination in real time. Additionally, at the four ports of entry that we visited in person, we observed contact information for both the port director and professionalism service manager posted visibly for travelers. Travelers may contact the port director or professionalism service manager directly at any time during or after their inspection.

Furthermore, according to CBP headquarters and port of entry officials, CBP also provides travelers with information on mechanisms for submitting complaints related to the inspection process through various means. We observed CBP posters and contact cards in the inspection areas at each of the ports of entry we visited that included instructions and contact information for some of these mechanisms. For example, CBP has posters and brochures that encourage travelers to provide comments or compliments via phone, mail, or online forms to the CBP Information Center.³⁹ Figure 2 shows examples of posters.

³⁹The CBP Information Center provides information about CBP regulations and procedures to the public, CBP employees and other government agencies. The center receives, manages, and tracks general complaints submitted by the public related to, among other things, their experience with the inspection process at ports of entry. The CBP Information Center may refer these complaints, as appropriate, to other DHS or component entities for investigation.

Figure 2: U.S. Customs and Border Protection (CBP) Information Center Posters Located at an Air Port of Entry



Source: GAO. | GAO-24-105383

Accessible Data for Figure 2: U.S. Customs and Border Protection (CBP) Information Center Posters Located at an Air Port of Entry

US. Customs and Border Protection signage:

Sign title	Sign information
U.S. Customs and Border Protection: CBP Welcomes Your Comments	<ul style="list-style-type: none"> Contact us at CBP.gov and select Questions/Complaints Ask to speak with a Supervisor CBP Info Center (800) CBP-5511 or (202) 325-8000
U.S. Customs and Border Protection: CBP wants to hear from you!	<ul style="list-style-type: none"> Have compliments or complaints? Tell us how we are doing. Give us Feedback: help.cbp.gov Contact us: <ul style="list-style-type: none"> Within the U.S.: 877-227-5511 International Callers: 202-325-8000 TTY: www.federalrelay.us/tty






Source: GAO (photos). | GAO-24-105383

Based on our interviews with CBP officials and observations at four ports of entry that we visited in person, CBP also has brochures in inspection areas that may be helpful to travelers who believe they have experienced discrimination during the inspection process. The brochure notes CBP's commitment to treating travelers in a courteous, dignified, and professional manner during inspections and explains various aspects of the inspection process, among other things. For example, the brochure describes what a traveler should expect during an inspection and reasons why an officer might select a traveler for additional inspection or search. Reasons for inspection selection cited in the brochure include a traveler having incomplete or improper travel documents, a traveler having previously violated one of the U.S. laws CBP enforces, and a traveler's name matching a person of interest in a government database.




The brochure also provides CBP Information Center contact information for travelers who have questions about CBP's regulations and procedures as related to their travel needs. This brochure also includes information for travelers who have concerns about how they were treated by CBP officers or questions about their inspection. In addition, the brochure includes information on the DHS Traveler Redress Inquiry Program for individuals who have inquiries or seek resolution regarding difficulties they have experienced during their travel at ports of entry. This includes information for travelers who have experienced repeated referrals for secondary inspection or who believe CBP officers denied them boarding or entry into the U.S. because of inaccurate information in law enforcement databases. While observing a secondary inspection during one of our site visits, we saw a CBP officer provide this brochure to a traveler who asked questions about repeated referrals for secondary inspection. See appendix I for a copy of the brochure.

In addition to information available at ports of entry, DHS and CBP entities that receive complaints provide information through other means on ways travelers and the public can contact them. For example, each entity provides instructions and contact information on how to submit a complaint on their websites. Figure 3 shows the various entities that receive complaints about traveler inspections and the methods they use to communicate to the public regarding how to file a complaint.

Figure 3: Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) Entities that Receive Complaints and How They Inform Travelers about Submitting Complaints

Entity	Methods of communication and submission
CBP Information Center	 <p>DHS and CBP websites include information on how to submit a complaint or compliment to the CBP Information Center via online submission form, telephone or U.S. mail.</p> <p>CBP has posters and brochures in ports of entry inspection areas that provide information on the CBP Information Center and include cards with a QR code linked to the CBP Information Center website so travelers can also take these cards with them and submit a complaint or compliment at a later time.</p>
Joint Intake Center²/ CBP Office of Professional Responsibility (OPR)	 <p>DHS and CBP websites include information on how to report a complaint to OPR regarding employee misconduct via telephone, fax, email or U.S. mail.</p>
DHS Office for Civil Rights and Civil Liberties (CRCL)	 <p>DHS and CBP websites include information on how to submit a civil rights complaint to CRCL via telephone, fax, email or U.S. mail.</p>
DHS Traveler Redress Inquiry Program	 <p>DHS and CBP websites include information on how to submit a redress inquiry to DHS Traveler Redress Inquiry Program via online form.</p> <p>CBP has posters, brochures, and handout cards in ports of entry areas that provide information on DHS Traveler Redress Inquiry Program, including a link to the website where inquiries can be submitted via online form.</p>
DHS Office of Inspector General (OIG)	 <p>DHS and CBP websites include information on how to submit a complaint regarding fraud, waste, abuse, or misconduct to the OIG via telephone, fax, U.S. mail or online form.</p>

Legend

 Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) websites
  Brochure/card
  Poster

Source: GAO analysis of DHS and CBP documentation; GAO (clip art). | GAO-24-105383

Accessible Data for Figure 3: Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) Entities that Receive Complaints and How They Inform Travelers about Submitting Complaints

Entity	Methods of communication and submission	Methods of communication and submission information
CBP Information Center	<ul style="list-style-type: none"> • Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) websites • Brochure/card • Poster 	<p>DHS and CBP websites include information on how to submit a complaint or compliment to the CBP Information Center via online submission form, telephone or U.S. mail.</p> <p>CBP has posters and brochures in ports of entry inspection areas that provide information on the CBP Information Center and include cards with a QR code linked to the CBP Information Center website so travelers can also take these cards with them and submit a complaint or compliment at a later time.</p>
Joint Intake Center ^a /CBP Office of Professional Responsibility (OPR)	Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) websites	DHS and CBP websites include information on how to report a complaint to OPR regarding employee misconduct via telephone, fax, email or U.S. mail.
DHS Office for Civil Rights and Civil Liberties (CRCL)	Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) websites	DHS and CBP websites include information on how to submit a complaint regarding fraud, waste, abuse, or misconduct to the OIG via telephone, fax, U.S. mail or online form.
DHS Traveler Redress Inquiry Program	<ul style="list-style-type: none"> • Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) websites • Brochure/card • Poster 	<p>DHS and CBP websites include information on how to submit a redress inquiry to DHS Traveler Redress Inquiry Program via online form.</p> <p>CBP has posters, brochures, and handout cards in ports of entry areas that provide information on DHS Traveler Redress Inquiry Program, including a link to the website where inquiries can be submitted via online form.</p>
DHS Office of Inspector General (OIG)	Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) websites	DHS and CBP websites include information on how to submit a complaint regarding fraud, waste, abuse, or misconduct to the OIG via telephone, fax, U.S. mail or online form.

Source: GAO analysis of DHS and CBP documentation; GAO (clip art). | GAO-24-105383

^aThe Joint Intake Center is the central processing center responsible for receiving, documenting, and referring allegations of employee misconduct for investigation.

DHS and CBP Investigations and Outcomes of Complaints Related to Potential Discrimination during Traveler Inspections

DHS and CBP Have Various Mechanisms for Investigating Complaints Related to Potential Discrimination during Traveler Inspections

While there are various DHS and CBP entities that can receive complaints about traveler inspections, certain DHS and CBP entities have specific roles and responsibilities for investigating complaints of discrimination during the traveler inspection process. These entities can receive complaints from other DHS entities and employees and travelers related to a variety of matters and issues involving DHS programs and activities, including fraud, waste, and abuse; allegations of civil rights and civil liberties violations; and employee misconduct (see table 4).⁴⁰ CRCL and OPR can also receive complaints from stakeholder organizations who submit complaints on behalf of individual or groups of travelers. Representatives from five of the nine stakeholder organizations we met with told us they had filed complaints with CRCL or CBP. For example, representatives noted filing complaints on behalf of travelers with disabilities who experienced issues related to accessibility as well as complaints regarding secondary inspection referrals based solely on nationality or country of birth.

⁴⁰The DHS Traveler Redress Inquiry Program and the CBP Information Center may receive complaints of potential discrimination submitted by the public related to the traveler inspection process, among other things. However, officials stated that they refer all complaints of discrimination to either CRCL or OPR for further investigation.

Table 4: Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) Entities with Responsibilities for Investigating Complaints of Discrimination during the Traveler Inspection Process

Entity	Description of responsibilities
DHS Office of Inspector General	Investigates allegations of potential fraud, waste, abuse, and mismanagement, including complaints of misconduct involving DHS and components' employees and contractors, which could include complaints of discrimination against travelers during the inspection process.
DHS Office for Civil Rights and Civil Liberties	Investigates complaints of potential civil rights and civil liberties violations related to actions taken by DHS and components' officials, employees, contractors, or as a result of DHS programs or activities, which could include complaints involving CBP inspections.
CBP Office of Professional Responsibility	Investigates complaints of alleged misconduct involving CBP employees and contractors, which could include discrimination against travelers during the inspection process.

Source: GAO analysis of DHS and CBP information. | GAO-24-105383

For complaints involving alleged violations of civil rights and civil liberties in particular, DHS and CBP have established policies for investigating such complaints, including those involving potential discrimination during the traveler inspection process. These policies define the roles, responsibilities, and case management process for each participating office—namely DHS’s OIG, CRCL, and CBP’s OPR.

While the DHS OIG has the right of first refusal to investigate all complaints submitted to CRCL or OPR, CRCL and OPR are the two offices that primarily investigate complaints related to potential discrimination during the traveler inspection process.⁴¹

DHS Office for Civil Rights and Civil Liberties

According to CRCL officials, if the DHS OIG declines to investigate a complaint related to potential traveler discrimination, CRCL may investigate the complaint based on whether it considers the complaint a

⁴¹Based on our analysis of DHS and CBP data, for complaints related to potential traveler discrimination that the DHS OIG chose to investigate, the office conducted its investigation and forwarded information on the cases to OPR. For fiscal years 2017 through 2021, the OIG investigated 4 complaints related to potential discrimination during the traveler inspection process. Outcomes of the OIG investigations are included in the overall CBP outcome data described later in this report. For those complaints the DHS OIG chooses not to investigate, the office refers those complaints to CRCL or OPR for investigation and action.

policy matter or an ongoing systemic issue.⁴² If CRCL chooses to investigate a case, it notifies OPR. If CRCL does not retain a case for investigation, CRCL is to refer the complaint to OPR for investigation and request a record of the completed investigation within 180 days.

According to CRCL officials, when CRCL retains a case for investigation, staff and subject matter experts in the office engage in fact-finding to the extent necessary to make an informed decision on the merit of a complaint. Upon completion of its investigation, CRCL can reach several conclusions or outcomes. For example, CRCL may determine that an investigation highlights a systemic issue warranting recommendations for CBP to revise departmental or agency policy, procedures, or training. In other cases, CRCL may conclude that a complaint of discrimination is best addressed through informal advice to CBP.⁴³ The office is to communicate its findings, informal advice, and any relevant recommendations to CBP.

In conducting and completing its investigation, CRCL is to send an acknowledgment letter informing the complainant that an investigation has begun and includes information about the complaint process, the Privacy Act, and a prohibition on retaliation. Subsequently, CRCL may send complainants an interim letter indicating that CRCL is investigating a complaint or has referred the complaint to OPR for investigation (which also notes that OPR is to report its investigative findings to CRCL). Finally, CRCL is to send a letter to the complainants after the investigation is complete, which may describe the outcome, such as no action, issuance of informal advice, or formal policy recommendation to CBP.

According to our analysis of CRCL data, from fiscal years 2017 through 2021, CRCL received 479 complaints related to potential discrimination in the traveler inspection process, of which it completed 378 investigations

⁴²CRCL officials stated that, depending on the information in a complaint, they may conduct initial information gathering to better understand if a complaint, or multiple complaints, point to a broader policy or systemic issue before deciding to retain or refer the complaint for investigation. CRCL may also initiate investigations related to civil rights and civil liberties violations during the traveler inspection process in instances when there is no complaint, such as in response to information reported by news media.

⁴³According to CRCL officials, informal advice is information related to a concern or request that is best addressed operationally by communication directly from CRCL to the involved DHS component. These communications explain the issue or concern found by CRCL and may offer suggested actions that remain outside the formal recommendation process.

as of March 2022. Of those completed investigations, CRCL retained 324 (about 85 percent) of these cases for its own investigation—296 of which were information requests to CBP (short-form investigations)—and referred 33 (about 9 percent) of these cases to OPR for investigation.⁴⁴ We provide information on the outcomes of these investigations later in this report.

CBP Office of Professional Responsibility

In addition to CRCL, OPR is the other main investigative office for complaints of potential discrimination during CBP's traveler inspection process. After an initial review, OPR can choose to investigate complaints or refer them to the relevant Office of Field Operations field office. According to agency procedures, OPR is to retain cases that are potentially more egregious and refer less egregious cases to CBP Office of Field Operations field offices and local port management for investigation (e.g., complaints related to non-discriminatory, unprofessional or rude behavior). For those complaints that OPR chooses to investigate, OPR is to complete a report after obtaining evidence such as witness statements or other items to support the investigation. Then, OPR is to forward the report of investigation to CBP Human Resources Management to decide the outcome such as employee discipline. For less egregious complaints of employee misconduct, OPR typically refers them to the relevant Office of Field Operations field office for management inquiry, according to CBP officials.⁴⁵ In these cases, OPR also is to send the complaints to the local CBP port management where the incident occurred. The relevant CBP field office or port of entry may then conduct further inquiries to obtain evidence such as witness statements or other items to support the inquiry.

After a complaint is investigated, CBP has a process to evaluate if a complaint is substantiated. This process involves the collection of evidence and making a determination whether the complaint is supported by results of the investigation. For those complaints that are substantiated, a delegated official or group of officials proposes any

⁴⁴A short-form investigation is a CRCL investigation that entails CRCL requesting documents from CBP to facilitate the investigation. For these investigations, CBP provides the information to CRCL within 60 days. For 21 of the cases (about 6 percent), the CRCL complaint data did not identify the office that conducted the investigation.

⁴⁵CBP officials also stated that OPR officials may work with field offices to coordinate evidence collection for other entities such as CRCL. A management inquiry is a complaint that is referred to local program managers for investigation.

action or discipline for the relevant employee or employees. According to CBP policy, discipline ranges in severity, depending on the findings and circumstances of each investigation. Under the advisement of their respective labor and employee relations offices, these officials can also determine that an allegation is unsubstantiated and warrants no disciplinary action.⁴⁶

We reviewed all employee misconduct cases that OPR received from fiscal years 2017 through 2021, including cases in which the complaint was initially submitted directly to OPR or submitted initially to another entity and then referred to OPR. Among those cases, we identified 443 cases involving potential discrimination during the traveler inspection process. OPR referred the majority of cases to the field as management inquiries. More specifically, of the 443 complaints OPR received from fiscal years 2017 through 2021, the office retained and conducted investigations of 29 (about 7 percent) of these cases, and referred 319 (about 72 percent) to the appropriate field office for local management to conduct inquiries.⁴⁷

DHS and CBP Offices Investigated Hundreds of Complaints from Fiscal Years 2017 through 2021, Resulting in Some Recommendations and A Small Number of Employee Actions

From fiscal years 2017 through 2021, CRCL and OPR received and investigated hundreds of complaints related to potential discrimination during traveler inspections. During that time period, CBP inspected over 1.5 billion arriving travelers at land and air ports of entry.

⁴⁶According to OPR officials, the office does not typically inform complainants about the outcome of an investigation due to the privacy of information related to potential employee discipline. OPR can provide the status of a complaint to a complainant by way of a Congressional inquiry or Freedom of Information Act request.

⁴⁷The remaining 95 cases (21 percent) received by OPR were (1) information-only communication, such as information requests from CRCL to facilitate CRCL's investigation (16 percent), (2) cases that did not contain information identifying the investigative office (4 percent), or (3) cases already investigated by the OIG, and forwarded to OPR to record in its case management system and manage any additional needed actions, such as employee discipline (1 percent).

DHS Office for Civil Rights and Civil Liberties

From fiscal year 2017 through 2021, CRCL received 479 complaints related to potential discrimination during the traveler inspection process. Of the 378 cases completed as of March 2022, CRCL retained 324 for investigation.⁴⁸ For complaints CRCL investigates, CRCL may issue a memorandum to CBP with recommendations to revise or supplement existing procedures or policy. According to CRCL, recommendation memoranda to DHS components recommend broad, systemic changes, such as the creation or revision of policies, alteration to practices and procedures, and modifications to training.

Based on investigations related to complaints it received from fiscal year 2017 through 2021, CRCL identified findings and issues, which it summarized in seven memoranda issued to CBP. These memoranda included 20 recommendations to CBP to address those findings and issues. As shown in table 5, the seven memoranda related to various topical areas, including three in the area of physical disability and one each in the areas of nationality or country of birth, personal searches of transgender individuals, mental health, and service animals.⁴⁹

As of August 2023, CBP has taken action in response to most of the recommendations to help address the findings and issues CRCL identified. In particular, CBP concurred or partially concurred with 17 of the 20 recommendations CRCL made in those memoranda, and it developed an action plan with time frames for responding to the recommendations with which the agency concurred. CBP had completed planned actions for all but one of these recommendations, as of August 2023, and it expects to implement the remaining planned action by February 2024. For the three recommendations with which CBP did not concur, it provided CRCL with the rationale for its determination.

⁴⁸The 378 investigations include 296 short-form investigations.

⁴⁹In addition to these memoranda, CRCL issued memoranda addressing other topical areas such as the religious questioning of travelers. Three stakeholder organizations we interviewed noted concerns regarding religious questioning of travelers. These memoranda were based on complaints CRCL received prior to fiscal year 2017; thus, we did not include them in our analysis. CRCL maintains a library of redacted memos and other documents related to its investigations on its website. See (<https://www.dhs.gov/publications-library/collections/crcl-recommendation-and-investigation-memos>).

Table 5: Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) Recommendations to U.S. Customs and Border Protection (CBP) Based on Investigations of Complaints Related to Potential Traveler Discrimination Received between Fiscal Years 2017 and 2021

Topical area and summary of complaint(s)	Summary of CRCL findings and recommendation(s)	Status of CBP's recommendation responses and actions
<p>Physical disability CRCL received a complaint from an individual who alleged that CBP denied the individual's request for reasonable accommodation while waiting in line at a port of entry.</p>	<p>CRCL found that CBP discriminated against the complainant on the basis of the individual's disability. In particular, CRCL found that in this instance, the CBP officer did not believe the complainant, who was using a cane, was disabled and did not follow the relevant CBP muster (written or oral instruction) on this topic. CRCL noted that if an officer legitimately has questions or concerns regarding an individual's reported disability that is relevant to an accommodation request, CBP's Reasonable Accommodation for Persons with Non-Obvious Disabilities in CBP Public Facing Program and Activities muster instructs an officer as follows:</p> <p>"If in doubt, accept the requester's word, ask a supervisor for guidance, or as appropriate, contact your local Office of Chief Counsel." CRCL found that the officer did not take any of these steps.</p> <p>CRCL recommended in June 2020 that CBP:</p> <ul style="list-style-type: none"> develop, implement, and train frontline employees on policy that requires CBP to provide appropriate accommodations to individuals with disabilities who indicate they have difficulty standing in line for extended periods, and develop, implement, and train frontline employees on policy related to instances when officers may have credible doubt as to the nature of an individual's disability. 	<p>CBP concurred and implemented the recommendations by issuing a muster to the specific port of entry on how to implement the CBP disability access policy as it relates to individuals with disabilities who indicate they have difficulty standing in line for extended periods of time. CBP also issued its disability access directive in July 2021 and communicated the directive to CBP personnel via a muster.</p>
<p>Physical disability CRCL received a complaint from an individual who alleged that CBP denied the individual's request for a reasonable accommodation of a sign language interpreter.</p>	<p>CRCL found that CBP discriminated against the complainant on the basis of the individual's disability. In particular, CRCL found that in this instance, CBP did not follow applicable guidance for individuals who may require a sign language interpreter. This guidance instructs officers to evaluate whether a sign language interpreter may be necessary to ensure effective communication and notes the provision of sign-language interpreters in-person and through remote video as a possible accommodation for individuals who are deaf or hard of hearing.</p> <p>CRCL recommended in June 2020 that CBP:</p> <ul style="list-style-type: none"> consider adopting DOJ's "Model Policy for Law Enforcement on Communicating with People Who Are Deaf or Hard of Hearing." contract for on-call remote video sign-language interpretive services that can be used at ports of entry when CBP identifies a need to provide sign language interpretation. 	<p>CBP concurred with these recommendations and implemented them by including relevant content from the DOJ policy into its disability access directive and contracting for on-call remote video sign-language interpretive services for use at ports of entry.</p>

Physical disability
CRCL received several complaints regarding CBP separating children with physical disabilities from their parents or legal guardians.

CRCL found that existing CBP measures and guidelines did not fully address the factors that CBP should consider when separating a child with a disability from his or her parent or guardian, and that CBP documentation of the events that were the subject of the complaints was incomplete.

CRCL made recommendations aimed at reinforcing existing CBP policy as stated in CBP's National Standards on Transportation, Escort, Detention, and Search (TEDS) to maintain family unity to the greatest extent operationally feasible.

CRCL recommended in September 2020 that CBP: provide training to ensure that front-line employees and medical contractors continue to document children with disabilities in its information systems.

craft guidance regarding family separation when a minor has a disability to ensure that CBP's actions are consistent with its obligations under law for providing accommodations for individuals with disabilities.

implement the CBP Disability Access Plan and deliver related training.

take extra care in processing family units and verifying documents, especially in cases in which a child with a disability cannot speak or communicate effectively, or otherwise articulate their needs, to include senior management review and approval of any separations.

attempt to maintain the unity of families that include a minor who has a disability to the greatest extent possible.

fully and accurately document the basis for the separation in the appropriate electronic system(s) of record and processing documentation.

if separating a family unit absent an affirmative finding that "the parent is unfit or presents a danger to the child," facilitate contact between a parent or legal guardian and child while both parent or legal guardian and child are in CBP custody.

on a quarterly basis, identify and review the number of children with disabilities that are separated from their parents and coordinate with receiving agencies as needed.

CBP concurred with four recommendations, partially concurred with three others, and non-concurred with one recommendation.

CBP partially concurred with the first recommendation. In its response to CRCL, CBP noted its policy and general practice to record any known history of current known reported medical or mental health issues in the appropriate systems of record. CBP issued a muster to remind staff about this policy. CBP non-concurred with providing training to medical contractors, for reasons related to CBP systems access.

CBP non-concurred with the second recommendation, indicating that existing guidance applies to all family units. CBP stated it would continue to adhere to existing legal requirements and policies related to family separation guidance.

CBP concurred with the third recommendation and integrated the Disability Access Plan's training elements into basic academy training and developed a course on policies and procedures for requests for accommodations from individuals with disabilities.

CBP concurred with the fourth recommendation, noting that it would continue to implement its existing policy on processing family units.

CBP partially concurred with the fifth recommendation, noting the CBP-wide TEDS policy, as well as Office of Field Operations guidance, stating that family unity should be maintained to the greatest extent permitted by law and operational feasibility, pending any criminal or immigration proceedings. CBP noted that these standards apply to all family units and that a different standard does not exist for children who have a disability.

CBP concurred with the sixth recommendation stating that CBP is required to document the reasons for the separation in its electronic systems of record.

CBP concurred with the seventh recommendation stating that it will continue to facilitate contact between a parent or legal guardian and the child while both are in CBP custody to the greatest extent operationally feasible, absent a legal

Topical area and summary of complaint(s)	Summary of CRCL findings and recommendation(s)	Status of CBP's recommendation responses and actions
<p>Nationality or country of birth</p> <p>CRCL received numerous complaints from a stakeholder organization and individual complainants alleging that one CBP field office and port of entry referred U.S. citizens and noncitizens to secondary inspection solely based on their nationality or country of birth.</p>	<p>CRCL found that the CBP field office misconstrued guidance from CBP headquarters. This guidance had called for field offices to maintain heightened vigilance and to increase security awareness at facilities to safeguard employees. CRCL found that in interpreting the headquarters guidance, the field office created vetting criteria directing individuals to be referred to secondary based upon their country of birth and nationality. CRCL found that doing so was inconsistent with DHS's nondiscrimination policy and guidance. CRCL recommended in July 2021 that CBP:</p> <ul style="list-style-type: none"> make changes related to development of locally-created policies and resources related to screening and other law enforcement work. provide additional training on DHS's nondiscrimination policy and guidance for all personnel within the specific field office. make changes to CBP's nondiscrimination policy related to use of nationality. 	<p>requirement or an articulable safety or security concern.</p> <p>CBP partially concurred with the eighth recommendation. CBP noted that while CBP has mechanisms to identify the number of children who are separated from parents and legal guardians, there is no mechanism to identify a child with a known or reported disability who was separated from their parent or legal guardian without a manual search through medical record forms. CBP also noted that where any medical issues are noted at the time of referral, CBP shares known or reported information, including those regarding disabilities, with the agency to which a family or child is referred.</p> <p>In addition, CBP noted that it may develop additional guidance in response to any policies that may be developed pursuant to an executive order on family reunification and any recommendations from an interagency task force on the reunification of families on which CBP and CRCL participate.</p> <p>CBP concurred with the recommendation to provide additional training and issued a memo and muster to the field office on DHS's and CBP's nondiscrimination policies.</p> <p>CBP did not concur with the other two recommendations for operational reasons or indicating that issues were already addressed through existing policies.^a</p> <p>In its response to CRCL, CBP also noted that its nondiscrimination policy is consistent with DHS's policy.</p>

Topical area and summary of complaint(s)	Summary of CRCL findings and recommendation(s)	Status of CBP's recommendation responses and actions
<p>Personal searches involving transgender individuals</p> <p>CRCL received a complaint via the CBP Information Center. The complaint was from a transgender woman regarding a personal search conducted during a secondary inspection.</p>	<p>CRCL found that the CBP officers followed CBP's Personal Search Handbook in conducting the search as two female officers conducted the search above the waist and two male officers conducted the search below the waist.</p> <p>However, CRCL concluded that the Handbook provision conflicted with CBP's more recent TEDS standards. TEDS requires that "whenever operationally feasible, officers/agents conducting a search or that are present at a medical examination, must be of the same gender, gender identity, or declared gender as the detainee being searched."</p> <p>CRCL recommended in September 2018 that CBP:</p> <ul style="list-style-type: none"> update its Personal Search Handbook and other relevant policies or guidance to be consistent with TEDS, and after updating the Handbook, release a muster instructing officers on the appropriate way to search transgender individuals. 	<p>CBP concurred with the recommendations.</p> <p>CBP updated its Personal Search Handbook in April 2021, including a provision on personal search of transgender individuals consistent with TEDS and released a muster on this topic.</p>
<p>Mental health</p> <p>CRCL received a complaint from an individual who alleged that CBP harassed the individual and denied the individual's request for a reasonable accommodation during a secondary inspection.</p>	<p>CRCL determined that CBP did not discriminate against the complainant.</p> <p>In this case, the complainant requested to take medication during a secondary inspection personal search. CRCL concluded that CBP completed the process by offering the complainant an alternative accommodation of taking medication after the personal search and concluded that there was no medical necessity for the complainant to take medication immediately. However, CRCL noted there may be instances that could require another person to take medication immediately. Furthermore, CRCL acknowledged that some circumstances may require CBP to ask questions about mental health status, such as when it has concerns about admissibility under public health grounds. However, in this case, the complainant was a U.S. citizen, and a question of her admissibility was not relevant.</p> <p>CRCL recommended in June 2020 that CBP:</p> <ul style="list-style-type: none"> develop and implement training for its frontline workforce about interacting with people with known or expressed mental health conditions, and amend the "Secure Detention Procedures at Ports of Entry" directive, during its next update, to include guidance regarding the provision of medication to individuals who request it during temporary detention. 	<p>CBP concurred with both recommendations.</p> <p>For the first recommendation, CBP distributed a muster to all field locations related to addressing the issues of relevancy to mental health conditions to inspection and displaying sensitivity when discussing mental health conditions.</p> <p>For the second recommendation, CBP is in the process of amending its policy with guidance for officers on handling requests by individuals for access to their medication, including instructions on how to assess when a health matter is urgent. CBP expects to issue the revised policy by February 2024.</p>

Topical area and summary of complaint(s)	Summary of CRCL findings and recommendation(s)	Status of CBP's recommendation responses and actions
<p>Service animals CRCL received a complaint from an individual alleging that CBP officers discriminated against the individual on the basis of the individual's disability and made inappropriate comments about the individual's reported service animal.</p>	<p>CRCL determined that CBP did not discriminate against the complainant on the basis of the individual's disability. In particular, CRCL found that the complainant's dog was an emotional support animal, not a qualified service animal, and thus not subject to the limitations on questioning that apply to service animals. However, as it is not always obvious whether a dog is a qualified service animal, CRCL noted that it is a best practice for DHS personnel to presume any dog could be a service animal and limit their questioning about the dog to the specific questions allowable by DHS policy.</p> <p>CRCL recommended in November 2019 that CBP develop guidance for CBP officers that explains the allowable questions when it is not obvious what service an animal provides.</p>	<p>CBP concurred with the recommendation and issued a reminder of current policy, including allowable questions when interacting with an individual accompanied by a reported service animal.</p>

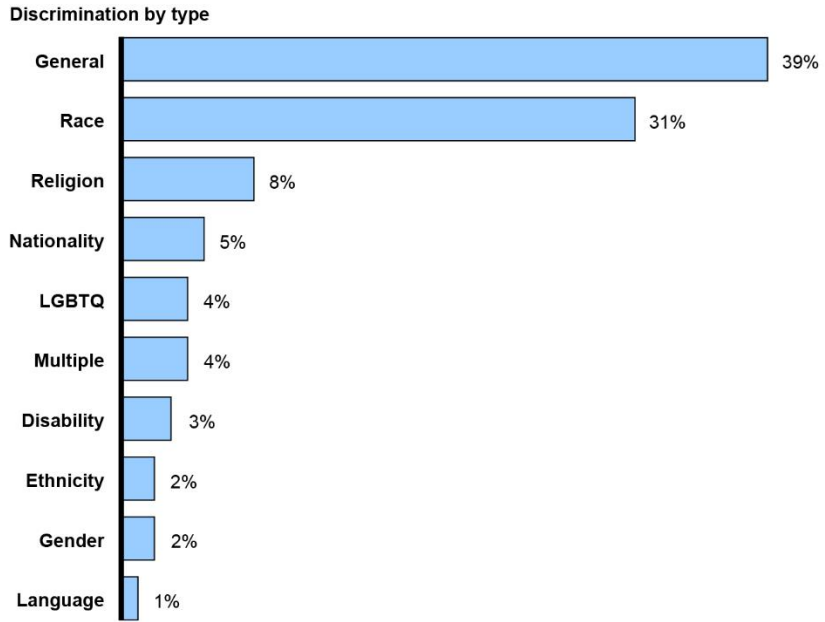
Source: GAO analysis of DHS and CBP information. | GAO-24-105383

^aIn May 2023, the Secretary of Homeland Security issued a policy statement reaffirming the department's commitment to nondiscrimination in DHS activities. In the statement, the Secretary directed CRCL to lead a collaborative effort to assess and propose updates by the end of fiscal year 2023 to the department's nondiscrimination policies, including the 2013 DHS policy. According to CRCL, as of November 2023, that effort is ongoing.

CBP Office of Professional Responsibility

Our analysis of CBP data showed that from fiscal year 2017 through 2021, OPR received 443 complaints related to potential discrimination during the traveler inspection process. We reviewed the case summaries of all 443 complaints and found that some noted a specific type of discrimination—for example, discrimination based on race or religion. As shown in figure 4, almost 40 percent of the case summaries did not indicate a specific type of potential discrimination, which we categorized as “general.” OPR officials noted that the information contained in the case summaries reflects the level of detail provided by the complainant. For example, one summary of a traveler’s complaint stated that “the inspection officer displayed discriminatory behavior.”

Figure 4: U.S. Customs and Border Protection (CBP) Office of Professional Responsibility Investigations of Alleged Discrimination by Type, Fiscal Years 2017 through 2021



Source: GAO analysis of CBP data.. | GAO-24-105383

Accessible Data for Figure 4: U.S. Customs and Border Protection (CBP) Office of Professional Responsibility Investigations of Alleged Discrimination by Type, Fiscal Years 2017 through 2021

Category	Percentage
General	39
Race	31
Religion	8
Nationality	5
LGBTQ	4
Multiple	4
Disability	3
Ethnicity	2
Gender	2
Language	1

Source: GAO analysis of CBP data.. | GAO-24-105383

Note: Number of complaints by travelers related to potential discrimination totaled 443. “General” means that the CBP case summaries did not indicate a specific type of potential discrimination, which likely reflects that the complainants did not provide additional details on the type of potential discrimination associated with the complaint according to CBP officials.

OPR investigations can result in one of the following outcomes for the employee who is the subject of the investigation:

Corrective/Non-disciplinary action. This is an administrative or nondisciplinary action, such as a letter of counseling or a letter of guidance and direction, that informs an employee about unacceptable performance or conduct that should be corrected or improved.

Disciplinary action. This includes action that can range from a letter of reprimand to a suspension of 14 days or less. A letter of reprimand describes the unacceptable conduct that is the basis for a disciplinary action and represents the least severe form of disciplinary action. Suspensions in this category are a type of adverse action involving the placement of an employee in a nonduty, nonpay status for up to and including 14 days.⁵⁰

Adverse action. For example, this may involve a suspension of more than 14 days, including an indefinite suspension, or reduction in grade or pay, among other actions.⁵¹

As of August 2022, OPR had completed work on 425 of 443 complaints it received in fiscal years 2017 through 2021. Of the 425 completed cases, CBP did not take any action (corrective, disciplinary, or adverse action) in 410 (96 percent) of the cases due to, according to CBP officials, insufficient evidence of misconduct. Of the remaining 15 cases, 12 employees received verbal or written counseling, one employee received a written reprimand, and two employees received suspensions.

We reviewed closing reports of investigation and other documentation for four cases investigated by OPR, including two cases that resulted in employee action, as summarized below.

- In one case referred by the CBP Information Center, a traveler alleged that in March of 2019 CBP staff exhibited rude behavior toward a family member who was hard of hearing. Based on its closing report

⁵⁰See 5 U.S.C. §§ 7501-02.

⁵¹Adverse actions covered by 5 U.S.C. § 7512 are as follows: removals, suspensions for more than 14 days, reductions in grade, reductions in pay, and furloughs of 30 days or less. Section 7512 also defines the actions to which subchapter 75 of title 5 U.S. Code does not apply.

of investigation, OPR found that the employee had exhibited unprofessional conduct, resulting in a 14-day suspension.

- In another case referred by the CBP Information Center, a traveler alleged that in January 2018 CBP searched baggage and used excessive force based on the traveler's race. Based on its closing report of investigation, OPR found that CBP officers did not use excessive force, discriminate, or abuse their authority. However, OPR also found that a CBP officer used profane language when communicating with the traveler, and CBP provided written counseling to the officer.
- In one case referred by CRCL, a traveler alleged in June 2018 that CBP referred the traveler to secondary inspection based on their nationality and then conducted a personal search inappropriately. According to its closing report of investigation, OPR found that system records used for background checks indicated a narcotics-related lookout for this traveler. OPR also found that the personal search was appropriate and in compliance with CBP policy. In this case, CBP did not take action against any employees.
- In another case referred by CRCL, a traveler alleged in July 2019 that CBP targeted them and made them pay a fine (failure to declare a prohibited agricultural product) based on the traveler's race. According to its closing report of investigation, OPR found that the traveler did not declare the prohibited product as required during primary or secondary inspection, and that CBP's action was not based on the traveler's race. CBP did not take action against the employees.

For the remaining 13 cases that resulted in employee action, OPR referred these cases to local management for investigation. In one case, a CBP supervisory inspection officer filed a complaint to the Joint Intake Center alleging that in December 2016 a fellow officer exhibited rude behavior toward a traveler due to the traveler's inability to speak English. Port management found that the officer had exhibited unprofessional conduct, resulting in a 1-day suspension.

In another complaint first received by the CBP Information Center and referred to local management for investigation, a traveler alleged that in June 2018 CBP harassed and discriminated against the traveler based on his nationality and appearance. The traveler also alleged that CBP officers asked inappropriate questions and were unprofessional. Port management found that the officer had exhibited unprofessional conduct, resulting in a written reprimand.

In some cases where CBP provided written or verbal counseling to its employees, the results of the investigations did not substantiate the allegations. However, CBP provided counseling including reaffirming procedures or treating travelers with courtesy and respect. For instance, one traveler alleged harassment and discrimination involving a personal body search in April 2018. Local management's investigation did not substantiate these allegations. However, CBP did counsel the officer on the requirement for appropriately recording information on personal searches.

Agency Comments

We provided a draft of this report to DHS for review and comment. The department did not provide formal written comments, but did provide technical comments on the draft, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Secretary of Homeland Security, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.



Rebecca Gambler
Director, Homeland Security and Justice

Appendix I: Brochure on CBP Inspection Process

Appendix I: Brochure on CBP Inspection Process

Figure 5: U.S. Customs and Border Protection Office Brochure: “Securing America’s Borders”.

Customer Service Contacts

For all inquiries, please provide as much information as available. This will assist with effective processing of your request. Include your full name, address, date of birth, and all United States government-issued travel documentation (provide only the photo page and biographic page), along with a detailed explanation of your inquiry.

1. Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

DHS TRIP provides a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at ports of entry, including either delayed or denied boarding on commercial air carriers that operated within U.S. Airspace; delayed or denied entry into the United States via airport, border crossing, or seaport; or who are repeatedly subject to additional screening. The DHS TRIP Program Office is responsible for managing the process for intake, inquiry review, and determination as well as for responding to the applicant.

For more information on DHS TRIP or to submit an inquiry, please visit the DHS TRIP website at: <http://www.dhs.gov/trip>.

If you are uncertain about the source of the information or the agency responsible for maintaining the information which you believe is the cause of your travel concern, you should begin your inquiry with DHS TRIP.

2. CBP INFO Center

The CBP INFO Center is able to provide travelers with accurate uniform information about CBP's regulations and procedures to help them with their travel needs. You may contact the CBP INFO Center in one of three ways:

- **Telephone** – If calling within the United States, call (877) 227-5311. International callers should call (703) 526-4200. Calls will be processed between the hours of 8:30 a.m. and 5 p.m. Eastern Time.
- **Online** – Through the “Questions” tab at <http://www.cbp.gov>

• Mail

U. S. Customs and Border Protection
 CBP INFO Center (Roslyn VA)
 1300 Pennsylvania Avenue, NW
 Washington, DC 20229

If you have concerns about how you were processed or treated, please provide your full name and a detailed description of your concerns. Include the date, time, and location of your CBP screening.

3. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests

If you would like to request that CBP provide you with a copy of the record that pertains to you, then you may submit a FOIA or PA request to CBP at the following address:

United States Customs and Border Protection
 1300 Pennsylvania Avenue, NW
 Attn: Must Annex Building, FOIA Division
 Washington, DC 20229

For more information on FOIA, visit the website at: <http://cbp.gov/xp/cgov/admin/1/foia/>

When submitting a FOIA or PA request for records that pertain to you, you must provide your full name, current address, date and place of birth, and either a notarized statement or a statement signed under penalty of perjury stating that you are the person that you claim to be. In addition, you should provide any other personally identifying information you believe might be helpful in locating your record(s). If someone is requesting these records on your behalf, they must submit documentation signed by you naming them as your designated representative.

After receiving your request, the CBP FOIA Office will process the request and respond with copies of those records that may be disclosed. Please note that FOIA and PA requests are only intended to provide access to CBP records.

If you have questions concerning, for example, the reason why your entry into the United States was denied, delayed, or other screening related issues then you should contact DHS TRIP.

www.cbp.gov
 CBP Publication No. 0102-0809
 August 2009





Authority to Search

The Congress of the United States has authorized U.S. Customs and Border Protection (CBP) to enforce homeland security-related laws and laws of other Federal agencies at the ports of entry and to conduct searches and inspections necessary to assure compliance with those laws. CBP's broad authority therefore allows CBP officers to conduct searches of people and their baggage, cargo, and means of transportation to ensure all requirements for entry into and exit from the United States are met.

The laws and regulations we enforce include, but are not limited to:

- Admissibility of aliens;
- Importation of agriculture, plant, and animal products;
- Importation of goods, animals, and produce;
- Transportation and reporting of currency and other monetary instruments;
- Preventing the importation of illegal drugs and other contraband; and
- Exportation of weapons and items subject to defense trade controls.

Why You May Be Selected for a CBP Inspection

You may be selected for an inspection for a variety of reasons including, but not limited to:

- Your travel documents are incomplete or you do not have the proper documents or visa.
- You have previously violated a U.S. law that CBP enforces.
- You have a name that matches a person of interest.
- Your name is included on the national registry for sex offenders.
- You have prior convictions or a criminal record for crimes.
- You have been selected for a random inspection.

An inspection may not be made on any discriminatory basis (e.g., solely based on race, gender, religion, or ethnic background).

What to Expect During a CBP Inspection

The CBP officer may request specific, detailed information about your travels, may inspect your baggage, and/or may conduct a personal search.

When being inspected, you should be treated in a courteous, dignified, and professional manner. However, please keep in mind that this is a law enforcement environment, and travelers who are intent on breaking the law will attempt to find out what the officer is doing in order to avoid detection. For this reason, our CBP officers may not answer specific questions regarding an inspection. You may always ask to speak with a CBP supervisor.

Collection of Personal Information

CBP collects information about people traveling into and out of the United States including basic biographic data; information from any travel documents; details about where the traveler is staying in the United States, and the planned purpose for the traveler's visit. This information may be collected from a traveler at a port of entry. In the case of international air and sea travel, it may be collected before a traveler's arrival in or departure from the United States. This information is used to assess the admissibility of aliens and to enforce United States laws at the ports of entry effectively and efficiently. CBP also collects pertinent data about businesses, vehicles, aircraft, and vessels related to the laws we enforce.

CBP receives and may share this type of information, as appropriate, with other Federal, State, and local agencies as well as with foreign authorities. CBP may query its record systems to ensure compliance with United States customs, immigration, agriculture, and other Federal laws. For example, our border enforcement systems provide officers with access to information on outstanding warrants; stolen vehicles, vessels or firearms; license information; criminal histories; and previous Federal inspections.

CBP Pledge to Travelers

- We pledge to cordially greet and welcome you to the United States.
- We pledge to treat you with courtesy, dignity, and respect.
- We pledge to explain the CBP process to you.
- We pledge to have a supervisor listen to your comments.
- We pledge to accept and respond to your comments in written, verbal, or electronic form.
- We pledge to provide reasonable assistance due to delay or disability.

Privacy Protection

CBP maintains all data we collect in secure computer systems on a secure network. CBP is committed to protecting travelers' personal data consistent with U.S. laws. We have privacy protections in place to safeguard this data properly. We also have policies in place to prevent misuse of personal information, and those policies are regularly evaluated and updated to ensure continued security and protection. In place to prevent misuse and those policies are regularly evaluated and updated to ensure continued security and protection.



Source: CBP. | GAO-24-105383

Accessible Data for Figure 5: U.S. Customs and Border Protection Office Brochure:
“Securing America’s Borders”.

**Securing America’s Borders
The CBP Screening Process**

www.cbp.gov
CBP Publication No. 0102–0809
August 2009

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Source: CBP pamphlet. | GAO-24-105383

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

Rebecca Gambler, (202) 512-8777, gablerr@gao.gov

Staff Acknowledgments

In addition to the contact named above, Kirk Kiester (Assistant Director), Mike Tropauer (Analyst-in-Charge), Eric Hauswirth, Michelle Loutoo, Sasan J. “Jon” Najmi, Kevin Reeves, and Terry Richardson made key contributions to this report.

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