

GAO Highlights

Highlights of [GAO-18-405](#), a report to congressional requesters

Why GAO Did This Study

Department of Homeland Security (DHS) component agencies CBP, ICE, and TSA are responsible for securing the nation's borders, enforcing immigration laws, and overseeing the security of transportation systems. Recent studies of these components' employee misconduct investigation and disciplinary processes have highlighted the importance of having appropriate internal controls.

GAO was asked to review CBP, ICE, and TSA employee misconduct investigation and adjudication processes. This report (1) summarizes data on misconduct cases that were opened from fiscal years 2014 through 2016 and closed by the time of GAO's review; (2) examines the extent to which CBP, ICE, and TSA implement internal controls in their employee misconduct and discipline processes; and (3) assesses how CBP, ICE, and TSA monitor the performance of their employee misconduct processes. For each component, GAO reviewed policies, guidance, and timeliness performance reports; analyzed case management information system data; and interviewed officials involved in investigation and adjudication processes.

What GAO Recommends

GAO is making 18 recommendations for CBP, ICE, and TSA to strengthen their employee misconduct internal controls and improve monitoring of the timeliness of the employee misconduct process (detailed on the following page). DHS concurred with GAO's recommendations.

View [GAO-18-405](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gambler@gao.gov.

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DEPARTMENT OF HOMELAND SECURITY

Components Could Improve Monitoring of the Employee Misconduct Process

What GAO Found

From fiscal years 2014 through 2016, U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA) collectively opened and had closed nearly 70,000 employee misconduct cases, as shown in the table below. The most common CBP and ICE cases were for general misconduct, such as failure to follow procedures or rude conduct, while half of TSA's misconduct cases related to time and attendance misconduct. The most common misconduct outcomes for CBP, ICE, and TSA were written reprimand, suspension, and counseling, respectively. More than half of CBP and more than two-thirds of ICE misconduct cases resulted in no action or were not referred for adjudication because they were unsubstantiated or for other reasons, such as the employee under investigation retired or resigned.

Number of Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and Transportation Security Administration (TSA) Employee Misconduct Cases Opened in Fiscal Years (FY) 2014 through 2016 and Closed at the Time of GAO's Review, and Total Onboard Staff

Component	FY 2014		FY 2015		FY 2016		Total cases, FY14-16
	Total cases	Total onboard staff	Total cases	Total onboard staff	Total cases	Total onboard staff	
CBP	6,786	59,544	6,831	59,472	6,716	59,221	20,333
ICE	1,285	18,931	1,148	18,939	792	19,276	3,225
TSA	13,451	60,982	14,688	58,977	17,014	60,652	45,153
Total misconduct cases	21,522		22,667		24,522		68, 711

Source: GAO analysis of CBP, ICE, and TSA data. | GAO-18-405SU

While CBP, ICE, and TSA have established internal controls related to handling misconduct cases, they have not consistently documented or monitored key control activities. Specifically:

- GAO analyzed random samples of misconduct cases for each component and found inconsistent documentation of control activities related to supervisory and legal review, case file data verification, and investigator recusal. For example, all three component agencies require supervisory review of criminal or serious misconduct investigations to help ensure that investigations are comprehensive and performed correctly, and they require evidence of this supervisory review in their case management systems. However, GAO estimates that less than 50 percent of ICE management inquiries (which are investigations conducted by local managers) had supervisory review documented. Regarding recusal, each component requires investigators to recuse themselves if they are unable to investigate alleged misconduct in an impartial manner. However, none of the components require documentation of recusals in their case management systems.

What GAO Recommends

GAO recommends that the Commissioner of CBP, Director of ICE, and Administrator of TSA

- revise policy or guidance to ensure documentation of required control activities—such as legal and/or supervisory review and data verification—in their case management systems;
- modify their annual self-inspection programs (CBP and TSA by including evaluation and testing of internal controls related to the employee misconduct process; ICE by tracking the status of related corrective actions to ensure timely implementation);
- monitor the duration of all cases beginning-to-end by stage and by case type;
- define and document the case management system data fields to be used for monitoring all established performance targets and provide related guidance to staff; and
- monitor the timeliness of misconduct cases against established targets using case management system data.

GAO also recommends that the Commissioner of CBP and Director of ICE require documentation of investigative findings in their case management systems (CBP by documenting whether an allegation is substantiated and documenting and disseminating referral procedures for adjudication; ICE by documenting case resolution codes of management inquiries).

GAO also recommends that the Administrator of TSA develop a method for more easily connecting cases between the databases used for employee misconduct cases.

- CBP and ICE do not consistently document the findings of misconduct investigations—for example, whether a misconduct allegation was found to be substantiated—in their case management systems.
- Components' use of oversight mechanisms to monitor internal control is limited. Specifically, CBP and TSA do not use their self-inspection programs to test control activities related to investigating employee misconduct, and ICE does not centrally track the status of corrective actions.
- TSA cannot easily track the outcome of investigations across its case management systems. Specifically, GAO found 581 TSA misconduct allegations that were recorded in the database used by the investigating office but not found in the databases of TSA's adjudicating offices because the offices assign different case numbers to the same case.

More consistent documentation and monitoring of internal controls at each component—including tracking the status of corrective actions—would provide components with greater assurance that key controls are implemented and that deficiencies are addressed in a timely manner. Further, consistently documenting the findings of misconduct investigations and ensuring the compatibility of associated data systems would allow managers to ensure that cases are adjudicated as appropriate.

CBP, ICE, and TSA assess the performance of their employee misconduct processes primarily using timeliness targets. While components monitor the timeliness of certain stages of misconduct cases, they do not monitor all established timeliness targets, including the duration of all cases beginning to end; or document how staff are to measure targets using case management system data. According to GAO's analysis, from fiscal year 2014 through the time of GAO's review, the average total duration of employee misconduct cases ranged from 19 to 434 days, depending on the component and case type, as shown in the table below. In addition, GAO found that each component met its established timeliness targets for the investigation and adjudication stages to varying degrees. For example, CBP met its target to complete criminal investigations within 1 year in 93 percent of cases, while it met its target to complete non-criminal investigations within 60 days in 40 percent of cases. Improved monitoring of timeliness targets and the total duration of misconduct cases could allow each component to produce reliable data and increase process efficiency.

GAO Analysis of the Average Total Duration of U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and Transportation Security Administration (TSA) Misconduct Cases Opened in Fiscal Years 2014 through 2016 and Closed by the Time of GAO's Review

Case type	Average number of days		
	CBP	ICE	TSA
Management inquiry (reported to central intake center)	153	307	n/a
Management inquiry (reported locally only)	85	186	19
Administrative inquiry	280	434	41
Non-criminal investigation	278	389	184
Criminal investigation	318	163	219
All case types	146	331	23

Legend: "n/a" = not applicable.

Source: GAO analysis of CBP, ICE, and TSA data. | GAO-18-405

Note: CBP and ICE allegations may be reported to a Joint Intake Center. TSA does not have a central intake center. Management inquiries are investigations of allegations by local managers. Administrative inquiries are investigations of allegations conducted by fact finders who are from or trained by each component's central office responsible for investigations.