# DHS EMPLOYEE MISCONDUCT

## Actions Needed to Better Assess Differences in Supervisor and Non-Supervisor Discipline

## Why GAO Did This Study

Employee misconduct can detract from an agency's mission, negatively impact employee morale, and damage an agency's reputation. DHS is the third-largest cabinet-level department, employing more than 240,000 staff in a broad range of jobs. As such, it is important for DHS to effectively address misconduct, while also respecting employees' due process rights.

The National Defense Authorization Act for Fiscal Year 2022 includes a provision for GAO to review DHS's disciplinary outcomes for supervisors and non-supervisors. This report examines the extent that (1) selected DHS components have controls to ensure consistent and equitable adjudication of misconduct cases for employees and (2) DHS has assessed for any differences in disciplinary outcomes for supervisors and non-supervisors. GAO selected four DHS components based on factors such as mission type, variation in workforce size, unionization, and hiring authorities. GAO reviewed their disciplinary processes, interviewed officials, and analyzed data on disciplinary outcomes for fiscal years 2020 through 2022.

## What GAO Recommends

GAO is making six recommendations, including that CBP document its disciplinary process for all employees; that USCIS periodically monitor and analyze misconduct data; and that DHS clarify guidance for reporting misconduct data, require components to report data on supervisory status, and analyze data by supervisory status. DHS concurred with the recommendations.

View GAO-24-105820. For more information, contact Christopher P. Currie at (404) 679-1875 or CurrieC@gao.gov.
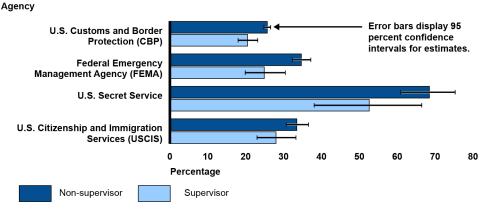
## What GAO Found

Selected Department of Homeland Security (DHS) components have some controls in place to ensure consistent adjudication of employee misconduct, but gaps exist. GAO assessed selected components' controls for (1) documenting the disciplinary adjudication process, (2) training employees responsible for the disciplinary adjudication process, (3) evaluating these employees' performance, and (4) monitoring misconduct data. Of the four selected DHS components, the Federal Emergency Management Agency and U.S. Secret Service have implemented all four controls. U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS) have not. GAO found that CBP policies do not fully detail the disciplinary process for all employees. USCIS lacks a process to periodically monitor and analyze misconduct data. By strengthening these controls, the agencies can better ensure consistent and fair adjudication of employee discipline cases.

DHS has not assessed disciplinary outcomes between supervisors and non-supervisors. However, GAO's analysis of selected DHS components' data for cases of alleged misconduct found that supervisors were less likely to be disciplined than non-supervisors. DHS officials noted possible explanations, including that allegations brought against supervisors may not be substantiated or may be unfounded. Although DHS requires components to provide data to the department on whether an allegation was substantiated, the components did not report complete or consistent information on this to DHS. Because DHS also does not require components to report data on supervisory status, it is not positioned to analyze substantiation to better identify and address reasons for the differences in disciplinary outcomes. By clarifying guidance for reporting misconduct data, DHS could better position components to report complete and consistent information. By also requiring components to report data on supervisory status and analyzing these data, DHS would be positioned to better identify the reasons for any differences in disciplinary outcomes.

**Estimated Average Chance of Discipline by Supervisory Status at Selected Department of Homeland Security (DHS) Components, Fiscal Years 2020–2022**



Source: GAO analysis of CBP, FEMA, Secret Service, and USCIS data. | GAO-24-105820