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Customs and Border Protection Abuses at Ports of Entry Along the U.S.–Mexico Border

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INTRODUCTION

With over 60,000 employees, Customs and Border Protection (CBP) is one of the largest federal law enforcement organizations in the world and the largest in the United States. CBP is entrusted with protecting the U.S. border by combating terrorism and transnational crime, advancing border security and management, and facilitating lawful and legitimate trade and travel. While still a relatively young agency—it was created in 2003—CBP has experienced unprecedented organizational growth in both its Office of Field Operations and Border Patrol. But not all is well with CBP.

ALLEGATIONS OF ABUSE

In CBP's short history, there have been frequent allegations of human and civil rights abuses by individual agents. Some have reportedly abused their power by using racial profiling, excessive force, unjustified detentions and arrests, denial of due process, unlawful stops, humiliating and invasive personal searches, harassment tactics, or even physical, verbal, or sexual abuse.¹ The U.S.–Mexico border region seems to have been particularly problematic in this regard. There have been instances of individuals legally crossing the border—U.S. citizens, legal permanent residents, and visa-holding individuals—who have claimed abuse at the hands of CBP agents

(although most of the accounts of abuses of undocumented residents reportedly point to Border Patrol agents rather than to CBP field operations officers).²

Every day over 600,000 land travelers legally enter the United States through ports of entry along the U.S.–Mexico border.³ These cross-border commuters and travelers—made up of U.S. citizens, permanent residents, and individuals with authorization to enter the United States—cross in order to attend school, work, shop, do business, tour and entertain, or visit family and friends. Recent surveys on social media of border users' experiences with CBP indicate that allegations of misconduct and abuses of power continue, as do criticisms about how CBP receives and processes these complaints.⁴



DUE PROCESS AND HUMAN RIGHTS

The American Civil Liberties Union (ACLU) and its border affiliates have submitted complaint letters to the Department of Homeland Security's Office of Inspector General and requested investigations of CBP agent conduct at ports of entry along the U.S.–Mexico border.⁵ These letters from the ACLU document individual stories from legal residents and U.S. citizens that paint a picture of the alleged abuse, which includes coercion, abuse of power, unlawful confiscation of property, and excessive force.

Moreover, in July 2016, CBP was ordered to pay a record settlement of \$475,000 to a 54-year-old woman for

FIGURE 1. CBP PLEDGE TO TRAVELERS**Our 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.

SOURCE CBP website

illegally subjecting her to highly invasive physical searches, and the University Medical Center of El Paso agreed to pay a \$1.1 million settlement for its complicity in the searches, according to the ACLU.⁶ The organization's records show that the CBP and the University Medical Center of El Paso subjected this U.S. citizen to some six hours of bodily searches, never once obtaining a warrant or her consent to search her. When they did not find any contraband, they asked her to sign a medical consent form for the searches. She refused to sign. She was later billed by the Medical Center and the Texas Tech University Health Sciences Center \$5,488.51 for the cost of the searches.⁷

Border security tactics today can include fear, intimidation, and unrestrained scrutiny of those entering the United States, according to data collected by the American Immigration Council.⁸ While greater inspection is justified in the aftermath of the September 11 attacks, abuses are not. And CBP still seems to be seeking a balance.⁹ It appears increasingly unaccountable under the justification that it is "protecting" our borders. Although CBP has grown enormously in resources, personnel, and technology, it seems to disregard the idea of being humane and holding itself accountable for its behavior.¹⁰ At the

bottom of the border–security complex are border crossers, who understand the security needs and inspections in the name of national security, but their voices are often lost when there apparently exists a lack of accountability.¹¹

REDRESSING COMPLAINTS

Individuals who allege CBP agent abuse have some venues to file complaints. Those venues, however, are provided by CBP, which thereby becomes both the subject and adjudicator of these complaints. Moreover, there are questions regarding how complaints are handled because there often is no acknowledgement or response, according to Rep. Raúl M. Grijalva, D–AZ.¹² It is not known how many would like to file a complaint but do not, for various reasons. Through documents obtained by a Freedom of Information Act (FOIA) request, the American Immigration Council found that out of 809 complaints of alleged abuse by Border Patrol agents between January 2009 and January 2012, 97 percent resulted in "No Action Taken."¹³ In most other complaints reviewed by the Council, only minor administrative punishment was assessed.¹⁴

It is important to note that the majority of CBP agents serve and comply with CBP's mission and core values. A few may be responsible for most of the abuses, but the reputation of the entire agency is at stake. The agency itself has recognized that the misuse and abuse of power threatens CBP's mission and purpose.¹⁵ CBP's lack of proper documentation, tracking, and publishing of complaints call into question the agency's record for upholding its core values of vigilance, service to country, and integrity, while showing a welcoming and humane face to those entering the United States.

BEYOND A "CUSTOMER SERVICE" PROBLEM

A 2014 U.S. Government Accountability Office report found that while CBP border security inspection standards are easily made available to the public (Figure 1), CBP

neither measures performance against those standards nor includes performance targets and goals.¹⁶ Furthermore, CBP fails to provide a clear definition or description of what they mean by “courtesy, dignity, and respect” or “reasonable assistance.”¹⁷ At present, the agency has four programs that address what are called “customer” complaints and compliments. Yet an independent review commissioned by CBP found that “there are incongruent processes and sub-processes across multiple offices and in multiple geographic locations” that can make the process confusing.¹⁸

Equally important, and troubling, is the claim that CBP agents retaliate against citizens or legal residents for trying to submit a complaint against them. For example, a case brought forward by the ACLU demonstrates how individuals are reportedly treated as they exercise their right to register complaints against agents: A U.S. citizen who alleged abusive treatment asked for the agent’s name so that she could submit an anonymous complaint on CBP’s website. The agent refused to give his full name, as she reported to the ACLU. She further alleged that a CBP supervisor told her “If you submit a complaint against us, I’m going to submit a complaint against you.” This incident discouraged her from submitting a complaint. A week later, when she tried to cross the border, her SENTRI pass was taken away, according to the ACLU report. She recovered her SENTRI pass but only after she contacted the office of Rep. Beto O’Rourke, D–TX, and submitted a complaint through his office.¹⁹ Ultimately, when your “customer base” fears retribution for their complaints, comments, or suggestions, the problem is much bigger than one of customer service—it may be a violation of the law.

CONCLUSION

By many measures, the CBP discipline system is broken, with an average case involving allegations of serious misconduct taking more than a year and a half to resolve.²⁰ This issue requires attention. Greater emphasis on addressing alleged

misconduct of individual agents is also a must, because inaction compromises the reputation and the legitimacy of the organization. CBP must review its internal accountability measures and encourage feedback, whether positive or negative. CBP should also receive, document, and process complaints in a timely fashion and track and publish alleged instances of abuse and misconduct and its response to such allegations. Tracking the number, nature, and disposition of complaints at a national, state, local, or specific port-of-entry level and making these numbers available to the public would protect the mission of CBP and contribute to the agency’s efforts to improve its image by improving its relations with border residents.

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