

GAO Highlights

Highlights of [GAO-24-105383](#), a report to congressional requesters

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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TRAVELER INSPECTIONS

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.