



# UNITED STATES CAPITOL POLICE OFFICE OF INSPECTOR GENERAL

## Follow-up of the United States Capitol Police Disciplinary Process

Investigative Number 2020-I-0007

February 2021

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**UNITED STATES CAPITOL POLICE**  
**WASHINGTON, DC 20003**



**INSPECTOR GENERAL**

**PREFACE**

The Office of Inspector General (OIG) prepared this report pursuant to the Inspector General Act of 1978, as amended. It is one of a series of audits, reviews, and investigative and special reports OIG prepares periodically as part of its oversight responsibility with respect to the United States Capitol Police (USCP) to identify and prevent fraud, waste, abuse, and mismanagement.

This report is the result of an assessment of the strengths and weaknesses of the office or function under review. Our work was based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

We developed our recommendations based on the best knowledge available to OIG and discussed the draft findings with those responsible for implementation. It is my hope that the recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to those contributing to the preparation of this report.

Michael A. Bolton  
Inspector General

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## Abbreviations and Acronyms

Calendar Year	CY
Chief of Police	Chief
Collective Bargaining Agreement	CBA
████████████████████	████████
Fraternal Order of Police, District of Columbia Lodge No. 1	FOP
████████████████████	████████
International Brotherhood of Teamsters Local Union No. 639	Teamsters
Merit Systems Protection Board	MSPB
Office of Inspector General	OIG
Office of Professional Responsibility	OPR
████████████████████	████████
United States Capitol Police	USCP or Department



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## EXECUTIVE SUMMARY

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In a previous report—*Evaluation of the United States Capitol Police Disciplinary Process*, Report Number OIG-2017-01, dated December 2016—the Office of Inspector General (OIG) reported that the United States Capitol Police (USCP or Department) had a discipline process that allowed for due process and fairness, but some areas needed improvement. In that evaluation, OIG found that the Department could improve its discipline process if it updated and formalized its discipline guidance, provided annual discipline-related training for supervisors, utilized all 12 Douglas Factors,<sup>1</sup> used a penalty table, discontinued forfeiture of leave as a penalty, and formalized its Disciplinary Review Task Force into a permanent office.

In accordance with our annual plan, OIG conducted a follow-up on the Department's implementation of the recommendations in Report Number OIG-2017-01. Our objective was to confirm the Department took appropriate corrective actions in implementing the recommendations. Our scope included existing controls related to implementation of the recommendations outlined in our previous report.

We conducted interviews and reviewed relevant documentation to gain an understanding of the Department's implementation of recommendations. Our analysis identified two conditions related to recommendations in the previous report. The Department's Table of Penalties had broad penalty parameters for many of the offenses listed in the table. Additionally, the Department continued its use of forfeiture of annual leave as a penalty. OIG issued new recommendations that the Department consider revising its Table of Penalties to include more precise penalty parameters and consider discontinuing use of forfeiture of annual leave as a penalty.

During follow-up work, OIG received stakeholder requests for additional analysis of the USCP discipline process. In response, OIG obtained Office of Professional Responsibility (OPR) discipline statistics, surveyed selected law enforcement agencies concerning best practices concerning discipline, and conducted a survey to gauge USCP employee knowledge and opinions concerning the discipline process. The additional analysis revealed opportunities for the Department to improve the perception and operation of its discipline process. Improvements included additional guidance for counseling and/or training prior to the issuance of a disciplinary penalty, additional training for supervisors and/or increasing OPR involvement in command level discipline, guidance requiring the timed removal of minor discipline records from

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<sup>1</sup> The Merit Systems Protection Board (MSPB) in its decision, *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), established criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct. The criteria consists of 12 factors commonly referred to as the *Douglas Factors*. As a legislative branch agency, USCP is not under the jurisdiction of the MSPB.

personnel files, and enhanced disciplinary penalties for Department officials. OIG issued new recommendations that the Department consider implementing the improvements. See Appendix A for a complete list of recommendations.

On December 18, 2020, we provided a draft report to the Department for comment and attached the response in its entirety in Appendix B. In its January 29, 2021, comments on the draft of this report, the Department disagreed with Recommendation 2 and requested closure of Recommendation 6. As stated in our comment section, OIG continues to believe that its findings, conclusions, and recommendations are valid, as discussed in this report.

## **BACKGROUND**

Section 1907, title 2 of the United States Code [2 U.S.C. §1907] authorizes the Chief of Police (Chief) to appoint, hire, suspend with or without pay, discipline, discharge, and set the terms, conditions, and privileges of employment of employees of the United States Capitol Police (USCP or Department), subject to and in accordance with applicable laws and regulations. That same United States Code also requires that the Chief provide notice and gain approval from the Capitol Police Board before terminating an employee. In addition, 2 U.S.C. §1907 requires that the Chief provide notice or receive approval, as required by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, as each Committee determines appropriate for the exercise of any authority listed above or the establishment of any new position for officers, members, or employees of the Department, for reclassification of existing positions, for reorganization plans, or for hiring, termination, or promotion for officers, members, or employees of the Department.

USCP Directive [REDACTED], dated November 19, 2012, serves as the professional standards governing USCP employee conduct. Directive [REDACTED] states that any Department employee found to be in violation of one or more rules listed in the Directive “will be subject to such disciplinary action as deemed appropriate by the Chief of Police.”

The Office of Accountability and Improvement is responsible for coordinating disciplinary matters, including responding to disciplinary appeals and assisting all other Department elements with imposing and handling discipline. The Office of Inspector General (OIG) and Office of Professional Responsibility (OPR) are responsible for documenting, registering, and investigating complaints pertaining to Department policies or procedures or alleged misconduct by any employee of the Department.

The Department’s discipline process must adhere to its Collective Bargaining Agreements (CBAs) with the Fraternal Order of Police, District of Columbia Lodge No. 1 (FOP) and International Brotherhood of Teamsters Local Union No. 639 (Teamsters) for bargaining unit employees. The Department’s discipline process for employees exempt from CBA coverage

typically mirrors coverage afforded under the CBA in terms of process, except for representation by a Union Representative and the ability to grieve rather than appeal a penalty.

According to [REDACTED], dated May 30, 2019, the [REDACTED] is a "Department form used to request formal discipline by a supervisor for a minor violation of Department's rules, regulations, policies, procedures, and/or applicable laws. A [REDACTED] may be accompanied by a written warning or may recommend a loss of time/pay up to 24 hours." The [REDACTED] is a "Department form used to request serious formal discipline recommending an employee's suspension without pay, demotion, or termination of employment resulting from a serious violation of the Department's rules, regulations, policies, procedures, and/or applicable laws. A [REDACTED] must accompany a suspension without pay, reduction in rank/grade, or termination of employment recommendation."

The Merit Systems Protection Board (MSPB) in its decision, *Douglas vs. Veterans Administration*, [5 M.S.P.R. 280 (1981)], established criteria supervisors must consider when determining an appropriate penalty to impose for an act of employee misconduct. The criteria consists of 12 factors that are commonly referred to as Douglas Factors. Those factors are:

- (1) Nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
- (2) Employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
- (3) Employee's past disciplinary record.
- (4) Employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.
- (5) Effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties.
- (6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses.
- (7) Consistency of the penalty with any applicable agency table of penalties.
- (8) Notoriety of the offense or its impact upon the reputation of the agency.
- (9) Clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question.
- (10) Potential for the employee's rehabilitation.
- (11) Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter.
- (12) Adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

In a previous report—*Evaluation of the United States Capitol Police Disciplinary Process*, Report Number OIG-2017-01, dated December 2016—the Office of Inspector General (OIG) reported that the Department had a discipline process that allowed for due process and fairness, but that some areas needed improvement. In that evaluation, OIG found that the Department could improve its discipline process if it updated and formalized its discipline guidance, provided annual discipline related training for supervisors, used all 12 Douglas Factors, used a penalty table, discontinued forfeiture of leave as a penalty, and formalized its Disciplinary Review Task Force into a permanent office.

OIG made six recommendations, of which the Department agreed to implement four. As of August 22, 2019, OIG had closed all six of the recommendations based on comments and documentation the Department provided.

### **OBJECTIVE, SCOPE, AND METHODOLOGY**

In accordance with our annual plan, OIG conducted a follow-up on the Department's implementation of recommendations contained in Report Number OIG-2017-01. Our objective was to confirm the Department took appropriate corrective actions in implementing the recommendations. Our scope included existing controls related to implementation of the recommendations outlined in our previous report.

To accomplish our objective, we interviewed Department officials. We reviewed Report Number OIG-2017-01 as well as correspondence between OIG and USCP related to closure of the recommendations in the report. Additionally, we reviewed relevant documentation as well as policies and procedures specific to discipline. At stakeholder requests, we obtained employee discipline statistical data from OPR, corresponded with other Federal agencies concerning discipline best practices, and conducted a survey to gauge USCP employee knowledge and opinions concerning the discipline process.

OIG conducted this analysis in Washington, D.C., from May through November 2020. We did not conduct an audit, the objective of which would be the expression of an opinion on Department programs. Accordingly, we did not express such an opinion. Had we performed additional procedures, other issues might have come to our attention that we would have reported. This report is intended solely for the information and use of the Department, the Capitol Police Board, and the USCP Oversight Committees and should not be used by anyone other than the specified parties.



## RESULTS

Our follow-up analysis identified two conditions related to recommendations in the previous report. Additionally, OIG identified opportunities for the Department to improve the perception and operation of its discipline process.

### Status of Previous Recommendations

In Report Number OIG-2017-01, OIG made six recommendations related to USCP's discipline process, of which the Department agreed to implement four. The Department did not concur with Recommendations 3 and 5. Prior to the course of our work, Department officials provided OIG with the status of corrective actions for six recommendations, and OIG subsequently closed them. Our follow-up work identified two conditions related to recommendations in the previous report. See the prior recommendations along with their status below:

**Previous Recommendation 1: We recommend that the United States Capitol Police immediately update and formalize its discipline policies and procedures in order to equip employees with the knowledge that will ensure compliance.**

According to Department responses to recommendations in Report Number OIG-2017-01, the Department updated and formalized its disciplinary process and published [REDACTED] on May 30, 2019. The Department stated that the interim guidance was effective immediately and had the authority of policy.

OIG obtained and reviewed [REDACTED] and confirmed the Department had updated and formalized its discipline policies and procedures into the interim policy. Although it was in an interim status, the Department stated the guidance has the authority of policy.

**Previous Recommendation 2: We recommend that the United States Capitol Police provide annual training to all managers related to correcting employee behavior through the performance or the misconduct adverse action systems, which have different standards and requirements.**

According to Department responses to recommendations in Report Number OIG-2017-01, USCP agreed with Recommendation 2 but did not believe it needed to provide such training on an annual basis. As of August 21, 2019, the Department implemented a revised Discipline Lesson Plan and PowerPoint presentation that it incorporated into its Senior Leadership Training Program. The responses stated that a portion of that instruction included discussions on improving performance, documenting performance, completing the required Performance Evaluation and Communication System evaluations, and implementing Performance Improvement Plans. The responses stated that the Department would use that instruction during

all of the supervisory training as well as provide it as refresher training to individual supervisors as needed.

OIG obtained and reviewed copies of the *Office of Accountability and Improvement USCP Discipline Process In-Service Training Lesson Plan* and *Disciplinary Process USCP New Supervisor Leadership Training Program*, both effective July 2019, which the Department stated it provides during its Supervisory Leadership Training Program and would provide as refresher training to individual supervisors as needed. OIG also obtained and reviewed updated training materials *Office of Accountability and Improvement USCP Discipline Process In-Service Training Lesson Plan*, effective January 2020 and *Disciplinary Process: USCP New Supervisor Leadership Training Program*, undated. Additionally, OIG obtained and reviewed a schedule for a Supervisory Leadership Training Program the Department conducted during February and March 2020 and confirmed the training was included in the schedule.

**Previous Recommendation 3: We recommend that the United States Capitol Police, in coordination with its Oversight Committees and employee unions, if applicable, consider all 12 of the Douglas Factors in its penalty determinations ensuring consistent, fair, and equitable treatment.**

According to Department responses to recommendations in Report Number OIG-2017-01, the Department did not concur with Recommendation 3. The Department stated that Douglas Factors, as a best practice, were established in executive branch case law based on statutory requirements for executive branch agencies. In its March 15, 2017, response, the Department stated that it considered implementing all 12 Douglas Factors, but determined that applying all 12 of the Douglas Factors would not increase the effectiveness or fairness of its disciplinary process. In its responses the Department also stated that it would continue to use the four Douglas Factors negotiated into its CBA with the FOP. The Department stated that no concerns had been raised in arbitration or in court opinions that the four factors agreed upon were too limiting for sworn bargaining unit employees, negatively impacted due process, or that there was a concern that the Department failed to consider the appropriate facts and circumstances. Additionally, the Chief and members of its Executive Team met with USCP's Oversight Committees and discussed this recommendation. The Department provided OIG with a copy of the memorandum detailing the dates and attendees for each meeting.

Although the Department did not concur with Recommendation 3, its actions met the intent. The Department considered implementing the 12 Douglas Factors in its penalty determinations. Review of the memorandum revealed that the Department also coordinated with its Oversight Committees (Committee on House Administration, March 7, 2017; House Committee on Appropriations, Subcommittee on Legislative Branch, March 13, 2017; Senate Committee on Rules and Administration, March 7, 2017; Senate Committee on Appropriations, Subcommittee on Legislative Branch, February 1, 2017).

**Previous Recommendation 4: We recommend that the United States Capitol Police, in coordination with its Oversight Committees and employee unions, if applicable, develop and use a table of penalties to reference in its penalty determinations ensuring that employees are consistently treated and fully informed of potential penalties for misconduct.**

According to Department responses to recommendations in Report Number OIG-2017-01, the Department developed a table of penalties that references ranges for possible penalty determinations, which it published and implemented on November 21, 2016. Additionally, the Chief and members of its Executive Team met with USCP's Oversight Committees and discussed Recommendation 4. The Department provided OIG with a copy of the memorandum detailing the dates and attendees for each meeting.

OIG obtained and reviewed the Department's Table of Penalties that it published and implemented on November 21, 2016. Review of the memorandum revealed that the Department also coordinated with its Oversight Committees (Committee on House Administration, March 7, 2017; House Committee on Appropriations, Subcommittee on Legislative Branch, March 13, 2017; Senate Committee on Rules and Administration, March 7, 2017; Senate Committee on Appropriations, Subcommittee on Legislative Branch, February 1, 2017). Review of the Department's Table of Penalties revealed broad penalty parameters for many of the offenses listed in the table. For example, 20 of the 54 (37 percent) offenses listed in the Table of Penalties have first violation penalty parameters of [REDACTED] Warning to Termination. Such broad penalty parameters may not fully inform USCP employees of potential penalties for misconduct. More precise penalty parameters would promote consistency within the Department's disciplinary process and better inform employees of potential penalties for misconduct. See new Recommendation 1 below.

**Previous Recommendation 5: We recommend that the United States Capitol Police, in coordination with its Oversight Committees and employee unions, if applicable, consider discontinuing use of forfeiture of annual leave as a penalty because it does not accomplish the objective of correcting employee deficiencies and would better align the Department's penalties with those of other Federal agencies.**

According to Department responses to recommendations in Report Number OIG-2017-01, the Department did not concur with Recommendation 5. The Department stated it did not believe discontinuing use of forfeiture of annual leave as a penalty would improve the effectiveness or efficiency of its discipline process and it would continue with the practice. The Department stated that a review of disciplinary cases with forfeiture of leave issued between October 2014 and October 2016 reflected very few instances of repeated misconduct. As well, the Chief and members of its Executive Team met with USCP's Oversight Committees and discussed the recommendation. The Department provided OIG with a copy of the memorandum detailing the dates and attendees for each meeting.

The Department considered discontinuing use of forfeiture of annual leave as a penalty. Review of the memorandum revealed that the Department also coordinated with its Oversight Committees (Committee on House Administration, March 7, 2017; House Committee on Appropriations, Subcommittee on Legislative Branch, March 13, 2017; Senate Committee on Rules and Administration, March 7, 2017; Senate Committee on Appropriations, Subcommittee on Legislative Branch, February 1, 2017). In Report Number OIG-2017-01, OIG reported that of the 12 organizations reviewed for best practices, only 4 used forfeiture of annual leave as a penalty. Multiple Department officials stated they did not believe forfeiture of annual leave was an effective deterrent and that a 2013 USCP Discipline Task Force recommended that the Department no longer use forfeiture of leave as a penalty. The task force recommended that the Department use four types of discipline: written reprimands, suspensions, demotions, and terminations. The Department should further consider discontinuing use of forfeiture of annual leave as a penalty. See new Recommendation 2 below.

**Previous Recommendation 6: We recommend that the United States Capitol Police, in coordination with the Board and its Oversight Committees, formalize the Disciplinary Review Task Force into a permanent office for discipline, providing a streamlined clearinghouse for all disciplinary matters and oversight of the discipline process while ensuring fairness and accountability.**

According to Department responses to recommendations in Report Number OIG-2017-01, effective January 1, 2018, the Office of Accountability and Improvement, which was formerly the Disciplinary Review Task Force, was now its own office under the Chief. The responses stated the Capitol Police Board verbally endorsed reorganization at the September 20, 2017, Capitol Police Board Meeting and its Oversight Committees approved the reorganization structure as well.

OIG obtained and reviewed a copy of the Department's organizational structure effective January 1, 2018, as well as correspondence coordinating the reorganization with its Oversight Committees. OIG also obtained and reviewed a copy of the Department's most recent organizational structure effective October 20, 2019, and confirmed the Office of Accountability and Improvement existed as its own office under the Chief.

## **Conclusion**

Our follow-up analysis identified two conditions related to recommendations in the previous report. The Department's Table of Penalties had broad penalty parameters for many of the offenses listed in the table. Additionally, the Department continued its use of forfeiture of annual leave as a penalty. Therefore, OIG makes the following recommendations.

**Recommendation 1: We recommend that the United States Capitol Police consider revising its Table of Penalties to include penalty parameters that more specifically**

ensure employees are consistently treated and clearly informed of potential penalties for misconduct.

**Recommendation 2:** We recommend that the United States Capitol Police consider discontinuing use of forfeiture of annual leave as a penalty because doing so would better align the Department's penalties with those of other Federal agencies.

## Other Analysis

During follow-up work, OIG received stakeholder requests for additional analysis of the USCP discipline process. In response, OIG obtained OPR Discipline Statistics, surveyed selected law enforcement agencies concerning best practices concerning discipline, and conducted a survey to gauge USCP employee knowledge and opinions concerning the discipline process.

### Office of Professional Responsibility Statistics

During the course of our work, at stakeholder requests, we obtained discipline statistics from OPR for Calendar Years (CYs) 2018, 2019, and 2020 through June 30. The sources, outcomes, and disciplinary penalties for CY 2018 cases are shown in Table 1 through Table 4.

**Table 1 – CY 2018 Case Sources**

Category	No. of Cases	No. of Separate Charges / Allegations
Citizen Complaints	39	44
Internal Complaints	212	222
Outside Law Enforcement	2	4
Anonymous	-	-
<b>Total</b>	<b>253</b>	<b>270</b>

Source: OPR.

**Table 2 – CY 2018 Case Outcomes**

Rule of Conduct	Sustained	Not Sustained	Unfounded	Exonerated	Dismissed	Suspended	Pending	Total
A1: Knowledge of Laws and Regulations		1						1
A2: Conformance to Laws	1	3				1		5
A3: Compliance with Directives	61	18	5	5	5		12	106
A6: Insubordination	1	7	1					9
A7: Truthfulness	1	2						3



B1: Unsatisfactory Performance	6	6			1			13
B3: Absence from Duty (AWOL)	16	3	1	18	2	1		41
B5: Carrying of Credentials and Identification	1				1			2
B7: Duty Post	4			3				7
B9: Courtesy	2	13			1			16
B10: Neglect of Duty	11	4						15
B12: Operating Vehicles	1	1						2
B13: Use of Force	1	1				1		3
C1: Conduct Unbecoming	17	12	1			2		32
C4: Use of Alcohol	1							1
C10: Improper Remarks	1	2			1			4
C11: Retaliation		1						1
E1: Abuse of Process	2	1						3
E4: Dissemination of Information		1						1
E6: Public Appearances	1							1
Miscellaneous/ No Allegation					3	1		4
<b>Total</b>	<b>128</b>	<b>76</b>	<b>8</b>	<b>26</b>	<b>14</b>	<b>6</b>	<b>12</b>	<b>270</b>

Source: OPR.

**Table 3 – CY 2018 Disciplinary Penalties**

Discipline		
Total No. of Cases Issued	27	18
No. with Loss of Time/Pay	9	N/A
No. Suspended without Pay	N/A	16
No. Reduction in Rank	N/A	-
No. Terminations	N/A	2

Source: OPR.

**Table 4 – CY 2018 Reinstatements, Appeals/Grievances**

No. of Reinstatements	0
No. of Cases Appealed / Grievd	74

Source: OPR.

The sources, outcomes, and disciplinary penalties for CY 2019 cases are shown in Table 5 through Table 8.



**Table 5 – CY 2019 Case Sources**

Category	No. of Cases	No. of Separate Charges / Allegations
Citizen Complaints	33	39
Internal Complaints	188	199
Outside Law Enforcement	7	12
Anonymous	-	-
<b>Total</b>	<b>228</b>	<b>250</b>

Source: OPR.

**Table 6 – CY 2019 Case Outcomes**

Rule of Conduct	Sustained	Not Sustained	Unfounded	Exonerated	Dismissed	Suspended	Pending	Total
A2: Conformance to Laws	1	7				1		9
A3: Compliance with Directives	88	24		6	9	1	1	129
A6: Insubordination	3	1						4
A7: Truthfulness	1	1						2
B1: Unsatisfactory Performance	7	4			1			12
B3: Absence from Duty (AWOL)	2			1				3
B4: Reporting for Duty	1							1
B6: Malingering		1						1
B7: Duty Post	6							6
B8: Meals and Other Relief Periods					1			1
B9: Courtesy	2	7		1	5			15
B10: Neglect of Duty	8	3						11
B14: Use of Weapons	1							1
C1: Conduct Unbecoming	13	4	6					23
C3: Possession and/or Use of Drugs or a Cont. Substance	1							1
C4: Use of Alcohol	1							1
C7: Improper Associations	1							1
C10: Improper Remarks	4	2						6
C11: Retaliation		1			1			2
E1: Abuse of Process	2	1						3
E4: Dissemination of Information		1						1
E7: Testimonials	1							1
Miscellaneous/ No Allegation					12	4		16
<b>Total</b>	<b>143</b>	<b>57</b>	<b>6</b>	<b>8</b>	<b>29</b>	<b>6</b>	<b>1</b>	<b>250</b>

Source: OPR.

**Table 7 – CY 2019 Disciplinary Penalties**

Discipline		
Total No. of Cases Issued	34	31
No. with Loss of Time/Pay	15	N/A
No. Suspended without Pay	N/A	31
No. Reduction in Rank	N/A	-
No. Terminations	N/A	-

Source: OPR.

**Table 8 – CY 2019 Reinstatements, Appeals/Grievances**

No. of Reinstatements	2
No. of Cases Appealed / Grievied	62

Source: OPR.

The sources, outcomes, and disciplinary penalties for 2020 cases through June 30 are shown in Table 9 through Table 12.

**Table 9 – CY 2020 through June 30 Case Sources**

Category	No. of Cases	No. of Separate Charges / Allegations
Citizen Complaints	3	3
Internal Complaints	45	56
Outside Law Enforcement	1	1
Anonymous	0	0
<b>Total</b>	<b>49</b>	<b>60</b>

Source: OPR.

**Table 10 – CY 2020 through June 30 Case Outcomes**

Rule of Conduct	Sustained	Not Sustained	Unfounded	Exonerated	Dismissed	Suspended	Pending	Total
A2: Conformance to Laws		1						1
A3: Compliance with Directives	9	1			2		10	22
B1: Unsatisfactory Performance	2	1						3
B3: Absence from Duty (AWOL)			1				1	2



B6: Malingering							1	1
B7: Duty Post	1						2	3
B9: Courtesy	1						5	6
B10: Neglect of Duty	3	3						6
B13: Use of Force				1			2	3
C1: Conduct Unbecoming	3	2					4	9
C2: Discrimination and/or Harassment							2	2
C4: Use of Alcohol		1						1
C7: Improper Associations	1							1
<b>Total</b>	<b>20</b>	<b>9</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>27</b>	<b>60</b>

Source: OPR.

**Table 11 – CY 2020 through June 30  
Disciplinary Penalties**

Discipline		
Total No. of Cases Issued	10	8
No. with Loss of Time/Pay	5	N/A
No. Suspended without Pay	N/A	8
No. Reduction in Rank	N/A	-
No. Terminations	N/A	-

Source: OPR.

**Table 12 – CY 2020 through June 30  
Reinstatements, Appeals/Grievances**

No. of Reinstatements	0
No. of Cases Appealed / Grieved	13

Source: OPR.

### Demographic Best Practices

At stakeholder requests, OIG surveyed selected law enforcement agencies about best practices concerning discipline. Specifically, OIG inquired about practices with the retention and reporting of demographic information with employees involved in their discipline process. As shown in Table 13, our survey revealed that none of the selected law enforcement agencies retained and reported demographic information.

**Table 13 – Agency Demographic Information Retained and Reported**

Agency	Demographic Information Retained and Reported
████████████████████	No
████████████████████	No
████████████████████	No
████████████████████	No

Source: OIG Generated.

OPR uses the ████████████████████ as its repository for cases. Numerous state, local, and Federal law enforcement agencies also use ██████████. Within the Federal sector, USCP, the Bureau of Alcohol, Tobacco and Firearms, Bureau of Indian Affairs, Department of Agriculture, and United States Park Police use ██████████. The system has an ad-hoc capability to generate reports if the specified information is available. OPR provided discipline statistics arrayed by race and gender for CY 2018, 2019, and 2020 through June 30.

The USCP Office of Inclusion, Diversity, Equity and Action provided race and gender statistics for all USCP sworn and civilian employees as of June 27, 2020, which are shown in Table 14 through Table 17.

**Table 14 – USCP Sworn Employees as of June 27, 2020 by Gender**

Gender	Employees	Percentage
Female	338	17.90%
Male	1,550	82.10%
<b>Total Workforce</b>	<b>1,888</b>	<b>100%</b>

Source: Office of Inclusion, Diversity, Equity and Action.

**Table 15 – USCP Sworn Employees as of June 27, 2020 by Race**

Ethnicity/Race	Employees	Percentage
American Indian or Alaska Native	6	0.32%
Asian	59	3.13%
Black or African American	545	28.87%
Hispanic or Latino	145	7.68%
Native Hawaiian or Other Pacific Islander	3	0.16%
Two or more	9	0.48%
White	1,121	59.38%
<b>Total Workforce</b>	<b>1,888</b>	<b>100%</b>

Source: Office of Inclusion, Diversity, Equity and Action.



**Table 16 – USCP Civilian Employees as of June 27, 2020 by Gender**

Gender	Employees	Percentage
Female	165	44.96%
Male	202	55.04%
<b>Total Workforce</b>	<b>367</b>	<b>100%</b>

Source: Office of Inclusion, Diversity, Equity and Action.

**Table 17 – USCP Civilian Employees as of June 27, 2020 by Race**

Ethnicity/Race	Employees	Percentage
American Indian or Alaska Native	1	0.27%
Asian	20	5.45%
Black or African American	163	44.41%
Hispanic or Latino	9	2.45%
Native Hawaiian or Other Pacific Islander	1	0.27%
Two or more	1	0.27%
White	172	46.87%
<b>Total Workforce</b>	<b>367</b>	<b>100%</b>

Source: Office of Inclusion, Diversity, Equity and Action.

Discipline statistics broken down by race and gender for CY 2018 cases are shown in Table 18 through Table 20. Of the 250 cases in CY 2018, 241 cases involved sworn employees and 9 cases involved civilian employees.

**Table 18 – CY 2018 Case Sources**

Category by Gender and Race	No. of Cases	No. of Separate Charges / Allegations
<b>Citizen Complaint</b>	<b>36</b>	<b>41</b>
Female	5	5
African American	2	2
Caucasian	3	3
Male	31	36
African American	5	7
Asian	2	2
Asian/Pacific Islander	3	3
Caucasian	18	21
Hispanic	3	3
<b>Internal Complaint</b>	<b>212</b>	<b>245</b>
Female	29	33
African American	15	17
Caucasian	11	13
Hispanic	3	3
Male	183	212
African American	53	66
Asian	1	1

Asian/Pacific Islander	2	2
Caucasian	112	125
Hispanic	15	18
Outside Law Enforcement	2	4
Male	2	4
Caucasian	2	4
<b>Grand Total</b>	<b>250</b>	<b>290</b>

Source: OPR.

**Table 19 – CY 2018 Case Outcomes**

Disposition by Gender and Race	No. of Cases	No. of Separate Charges / Allegations
<b>Dismissed</b>	<b>16</b>	<b>16</b>
Female	3	3
African American	1	1
Caucasian	2	2
Male	13	13
African American	3	3
Asian	1	1
Asian/Pacific Islander	1	1
Caucasian	7	7
Hispanic	1	1
<b>Exonerated</b>	<b>31</b>	<b>31</b>
Female	5	5
African American	2	2
Caucasian	2	2
Hispanic	1	1
Male	26	26
African American	10	10
Asian/Pacific Islander	1	1
Caucasian	14	14
Hispanic	1	1
<b>Not Sustained</b>	<b>71</b>	<b>79</b>
Female	10	11
African American	5	6
Caucasian	4	4
Hispanic	1	1
Male	61	68
African American	14	16
Asian	1	1
Caucasian	40	44
Hispanic	6	7
<b>Suspended</b>	<b>2</b>	<b>4</b>
Male	2	4
Caucasian	2	4
<b>Sustained</b>	<b>137</b>	<b>154</b>
Female	16	18
African American	8	9
Caucasian	7	8
Hispanic	1	1
Male	121	136
African American	36	43
Asian	1	1
Asian/Pacific Islander	3	3
Caucasian	71	77



Hispanic	10	12
<b>Unfounded</b>	<b>5</b>	<b>6</b>
<b>Female</b>	<b>1</b>	<b>1</b>
African American	1	1
<b>Male</b>	<b>4</b>	<b>5</b>
African American	1	1
Caucasian	3	4
<b>Grand Total</b>	<b>250</b>	<b>290</b>

Source: OPR.

**Table 20 – CY 2018 Disciplinary Penalties**

Discipline by Gender and Race	Time	Warning	
<b>Female</b>	<b>2</b>	<b>3</b>	<b>9</b>
African American	0	1	6
Caucasian	2	2	3
Hispanic	0	0	0
<b>Male</b>	<b>21</b>	<b>22</b>	<b>52</b>
African American	5	6	20
Asian	1	0	0
Asian/Pacific Islander	1	0	1
Caucasian	12	15	24
Hispanic	2	1	7
<b>Grand Total</b>	<b>23</b>	<b>25</b>	<b>61</b>

Source: OPR.

Discipline statistics broken down by race and gender for CY 2019 cases are shown in Table 21 through Table 23. Of the 222 cases in CY 2019, 210 cases involved sworn employees and 12 cases involved civilian employees.

**Table 21 – CY 2019 Case Sources**

Category by Gender and Race	No. of Cases	No. of Separate Charges / Allegations
<b>Citizen Complaint</b>	<b>33</b>	<b>33</b>
<b>Female</b>	<b>3</b>	<b>3</b>
African American	1	1
Caucasian	2	2
<b>Male</b>	<b>30</b>	<b>30</b>
African American	8	8
Asian	2	2
Asian/Pacific Islander	2	2
Caucasian	17	17
Hispanic	1	1
<b>Internal Complaint</b>	<b>181</b>	<b>199</b>

<b>Female</b>	<b>32</b>	<b>35</b>
African American	21	24
Caucasian	8	8
Hispanic	3	3
<b>Male</b>	<b>149</b>	<b>164</b>
African American	45	50
Asian	3	4
Asian/Pacific Islander	4	5
Caucasian	85	93
Hispanic	12	12
<b>Outside Law Enforcement</b>	<b>8</b>	<b>15</b>
<b>Female</b>	<b>2</b>	<b>4</b>
Caucasian	2	4
<b>Male</b>	<b>6</b>	<b>11</b>
African American	3	6
Caucasian	2	3
Hispanic	1	2
<b>Grand Total</b>	<b>222</b>	<b>247</b>

Source: OPR.

**Table 22 – CY 2019 Case Outcomes**

<b>Disposition by Gender and Race</b>	<b>No. of Cases</b>	<b>No. of Separate Charges / Allegations</b>
<b>Dismissed</b>	<b>24</b>	<b>25</b>
<b>Female</b>	<b>5</b>	<b>6</b>
African American	3	3
Caucasian	2	3
<b>Male</b>	<b>19</b>	<b>19</b>
African American	7	7
Asian	1	1
Asian/Pacific Islander	1	1
Caucasian	9	9
Hispanic	1	1
<b>Exonerated</b>	<b>7</b>	<b>8</b>
<b>Female</b>	<b>2</b>	<b>2</b>
African American	1	1
Caucasian	1	1
<b>Male</b>	<b>5</b>	<b>6</b>
Asian/Pacific Islander	1	1
Caucasian	4	5
<b>Not Sustained</b>	<b>46</b>	<b>54</b>
<b>Female</b>	<b>7</b>	<b>8</b>
African American	4	4
Caucasian	2	3
Hispanic	1	1
<b>Male</b>	<b>39</b>	<b>46</b>
African American	13	18
Asian	3	4
Caucasian	21	22
Hispanic	2	2
<b>Pending</b>	<b>2</b>	<b>3</b>
<b>Male</b>	<b>2</b>	<b>3</b>
African American	1	1
Caucasian	1	2
<b>Suspended</b>	<b>6</b>	<b>7</b>



<b>Male</b>	<b>6</b>	<b>7</b>
African American	2	2
Caucasian	3	3
Hispanic	1	2
<b>Sustained</b>	<b>132</b>	<b>144</b>
<b>Female</b>	<b>23</b>	<b>26</b>
African American	14	17
Caucasian	7	7
Hispanic	2	2
<b>Male</b>	<b>109</b>	<b>118</b>
African American	31	34
Asian	1	1
Asian/Pacific Islander	4	5
Caucasian	63	68
Hispanic	10	10
<b>Unfounded</b>	<b>6</b>	<b>6</b>
<b>Male</b>	<b>6</b>	<b>6</b>
African American	2	2
Caucasian	4	4
<b>Grand Total</b>	<b>222</b>	<b>247</b>

Source: OPR.

**Table 23 – CY 2019 Disciplinary Penalties**

<b>Discipline by Gender and Race</b>	<b>Time</b>	<b>Warning</b>	
<b>Female</b>	<b>0</b>	<b>7</b>	<b>8</b>
African American	0	3	7
Caucasian	0	3	1
Hispanic	0	1	0
<b>Male</b>	<b>18</b>	<b>13</b>	<b>39</b>
African American	5	4	13
Asian	1	0	0
Asian/Pacific Islander	3	1	0
Caucasian	5	8	23
Hispanic	4	0	3
<b>Grand Total</b>	<b>18</b>	<b>20</b>	<b>47</b>

Source: OPR.

Discipline statistics broken down by race and gender for CY 2020 cases through June 30 are shown in Table 24 through Table 26. Of the 49 cases in CY 2020 through June 30, 46 cases involved sworn employees and 3 cases involved civilian employees.

**Table 24 – CY 2020 through June 30 Case Sources**

Category by Gender and Race	No. of Cases	No. of Separate Charges / Allegations
<b>Citizen Complaint</b>	<b>3</b>	<b>3</b>
Male	3	3
African American	1	1
Caucasian	2	2
<b>Internal Complaint</b>	<b>45</b>	<b>57</b>
Female	8	11
African American	5	8
Caucasian	3	3
Male	37	46
African American	15	21
Asian/Pacific Islander	1	1
Caucasian	16	18
Hispanic	5	6
<b>Outside Law Enforcement</b>	<b>1</b>	<b>1</b>
Male	1	1
Caucasian	1	1
<b>Grand Total</b>	<b>49</b>	<b>61</b>

Source: OPR.

**Table 25 – CY 2020 through June 30 Case Outcomes**

Disposition by Gender and Race	No. of Cases	No. of Separate Charges / Allegations
<b>Dismissed</b>	<b>2</b>	<b>2</b>
Male	2	2
Caucasian	2	2
<b>Exonerated</b>	<b>1</b>	<b>1</b>
Male	1	1
Caucasian	1	1
<b>Not Sustained</b>	<b>10</b>	<b>12</b>
Female	1	2
African American	1	2
Male	9	10
African American	5	6
Caucasian	3	3
Hispanic	1	1
<b>Pending</b>	<b>22</b>	<b>24</b>
Female	4	6
African American	3	5
Caucasian	1	1
Male	18	18

African American	5	5
Caucasian	10	10
Hispanic	3	3
<b>Sustained</b>	<b>16</b>	<b>20</b>
<b>Female</b>	<b>2</b>	<b>2</b>
African American	1	1
Caucasian	1	1
<b>Male</b>	<b>14</b>	<b>18</b>
African American	6	10
Asian/Pacific Islander	1	1
Caucasian	5	5
Hispanic	2	2
<b>Unfounded</b>	<b>2</b>	<b>2</b>
<b>Female</b>	<b>1</b>	<b>1</b>
Caucasian	1	1
<b>Male</b>	<b>1</b>	<b>1</b>
African American	1	1
<b>Grand Total</b>	<b>49</b>	<b>61</b>

Source: OPR.

**Table 26 – CY 2020 through June 30 Disciplinary Penalties**

Discipline by Gender and Race	Time	Warning	
<b>Female</b>	<b>1</b>	<b>0</b>	<b>0</b>
African American	1	0	0
Caucasian	0	0	0
<b>Male</b>	<b>1</b>	<b>2</b>	<b>3</b>
African American	0	1	3
Asian/Pacific Islander	0	0	0
Caucasian	1	0	0
Hispanic	0	1	0
<b>Grand Total</b>	<b>2</b>	<b>2</b>	<b>3</b>

Source: OPR.

### USCP Employee Discipline Survey

At stakeholder requests, OIG conducted a survey to gauge USCP employee knowledge and opinions concerning the discipline process. OIG, working closely with the Office of Information Systems, utilized the Survey Monkey application to send the questionnaire, collect, and analyze common themes. The survey was open to all USCP employees, both sworn and civilian, and 867



employees ultimately participated in the survey. The survey questions and results are shown in Table 27.

**Table 27 – Survey Questions and Results**

Question 1. What gender do you identify as?		
Answer Choices	Responses	
Male	71.49%	617
Female	23.87%	206
I choose not to identify	4.63%	40
	Answered	863
	Skipped	4
Question 2. What is your age?		
Answer Choices	Responses	
18-20	0.00%	0
21-29	13.54%	117
30-39	25.23%	218
40-49	37.96%	328
50-59	20.02%	173
60 or older	3.24%	28
	Answered	864
	Skipped	3
Question 3. Please specify if you are Hispanic or Latino.		
Answer Choices	Responses	
Yes, I am Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish culture or origin, regardless of race)	8.54%	73
No, I am not Hispanic or Latino	91.46%	782
	Answered	855
	Skipped	12
Question 4. Please specify your ethnicity.		
Answer Choices	Responses	
White - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.	62.78%	484
Black or African American - A person having origins in any of the black racial groups of Africa.	28.79%	222
American Indian/Alaskan Native - A person having origins in any of the original peoples of North America and South America (including Central America), and who maintains tribal affiliation or community attachment.	0.39%	3



Asian - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.	2.98%	23
Native Hawaiian or Other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.	0.26%	2
Two or More Races - All persons who identify with two or more racial categories named above.	4.80%	37
	<b>Answered</b>	<b>771</b>
	<b>Skipped</b>	<b>96</b>
Question 5. Please select your employee category.		
Answer Choices	Responses	
Sworn	78.27%	670
Civilian	21.73%	186
	<b>Answered</b>	<b>856</b>
	<b>Skipped</b>	<b>11</b>
Question 6. Years as a USCP officer		
Answer Choices	Responses	
Less than 1 year	2.26%	15
1- 3 Years	12.37%	82
4-10 years	14.93%	99
10 or more years	70.44%	467
	<b>Answered</b>	<b>663</b>
	<b>Skipped</b>	<b>204</b>
Question 7. Years of experience in law enforcement		
Answer Choices	Responses	
Less than 1 year	2.57%	17
1- 3 Years	9.98%	66
4-10 years	15.28%	101
10 or more years	72.16%	477
	<b>Answered</b>	<b>661</b>
	<b>Skipped</b>	<b>206</b>
Question 8. If you were hired after May 30, 2019, during orientation or basic training, were you informed of USCP's disciplinary process?		
Answer Choices	Responses	
Yes	4.55%	30
No	4.40%	29
Not applicable	91.05%	600
	<b>Answered</b>	<b>659</b>

	Skipped	208
Question 9. If you were hired before May 30, 2019, are you aware of the Interim Guidance: Discipline and Accountability, which formalized the updated discipline process?		
Answer Choices	Responses	
Yes	55.39%	365
No	33.84%	223
Not applicable	10.77%	71
	Answered	659
	Skipped	208
Question 10. How familiar are you with the Department's Disciplinary Process?		
Answer Choices	Responses	
Familiar	39.67%	263
Somewhat familiar	50.08%	332
Not familiar	10.26%	68
	Answered	663
	Skipped	204
Question 11. Do your duties include the supervision of other officers?		
Answer Choices	Responses	
Yes	28.36%	188
No	71.64%	475
	Answered	663
	Skipped	204
Question 12. Have you received specific supervisory training related to the handling of officers involved with the disciplinary process?		
Answer Choices	Responses	
Yes	52.66%	99
No	47.34%	89
	Answered	188
	Skipped	679
Question 13. As a supervisor, is it difficult to enforce disciplinary actions?		
Answer Choices	Responses	
Easy	9.44%	17
Neither easy nor difficult	72.22%	130
Difficult	18.33%	33
	Answered	180
	Skipped	687
Question 14. Overall, do you perceive the Department's disciplinary process as fair?		
Answer Choices	Responses	
Fair	18.94%	122

Somewhat fair	53.42%	344
Not fair	27.64%	178
	Answered	644
	Skipped	223
Question 15. Overall, do you view the disciplinary process is consistent with all officers?		
Answer Choices	Responses	
Consistent	13.24%	85
Somewhat consistent	32.09%	206
Not consistent	54.67%	351
	Answered	642
	Skipped	225
Question 16. Are you a member of the FOP Union?		
Answer Choices	Responses	
Yes	46.90%	303
No	52.17%	337
I don't know	0.93%	6
	Answered	646
	Skipped	221
Question 17. Is your position covered under the Collective Bargaining Agreement (CBA)?		
Answer Choices	Responses	
Yes	53.57%	345
No	41.30%	266
I don't know	5.12%	33
	Answered	644
	Skipped	223
Question 18. Have you received disciplinary action against you?		
Answer Choices	Responses	
Yes	40.87%	264
No	59.13%	382
	Answered	646
	Skipped	221
Question 19. Did the FOP Union represent your interests during the process?		
Answer Choices	Responses	
Yes	53.94%	137
No	37.01%	94
Not applicable	9.06%	23
	Answered	254
	Skipped	613
Question 20. Did you feel like your case was handled differently from others?		

Answer Choices		Responses	
Yes		51.03%	124
No		48.97%	119
If yes, please comment			96
		Answered	243
		Skipped	624
Question 21. In your opinion, does the disciplinary process impact officer morale in the Department?			
Answer Choices		Responses	
Yes		89.02%	543
No		10.98%	67
Please Comment			305
		Answered	610
		Skipped	257
Question 22. What alternative forms of discipline would you like to see the Department offer? Please explain.			
		Answered	327
		Skipped	540
Question 23. Do you believe there are times when employees should be terminated for egregious behavior? (The survey defines egregious behavior as shocking or appalling). Please explain.			
Answer Choices		Responses	
Yes		88.41%	534
No		11.59%	70
Please explain			303
		Answered	604
		Skipped	263
Question 24. Years as a USCP civilian employee			
Answer Choices		Responses	
Less than 1 year		9.47%	18
1- 3 Years		14.74%	28
4-10 years		17.37%	33
10 or more years		58.42%	111
		Answered	190
		Skipped	677
Question 25. Years of experience in a law enforcement setting			
Answer Choices		Responses	
Less than 1 year		2.15%	4
1- 3 Years		10.75%	20
4-10 years		17.20%	32
10 or more years		69.89%	130
		Answered	186



	Skipped	681
Question 26. If you were hired after May 30, 2019, were you informed of USCP's disciplinary process during your orientation?		
Answer Choices	Responses	
Yes	6.25%	12
No	12.50%	24
Not applicable	81.25%	156
	Answered	192
	Skipped	675
Question 27. If you were hired before May 30, 2019, are you aware of the Interim Guidance: Discipline and Accountability, which formalized the updated discipline process?		
Answer Choices	Responses	
Yes	52.36%	100
No	30.37%	58
Not applicable	17.28%	33
	Answered	191
	Skipped	676
Question 28. How familiar are you with the Department's Disciplinary Process?		
Answer Choices	Responses	
Familiar	34.02%	66
Somewhat familiar	42.78%	83
Not familiar	23.20%	45
	Answered	194
	Skipped	673
Question 29. Do your duties include the supervision of other employees?		
Answer Choices	Responses	
Yes	29.17%	56
No	70.83%	136
	Answered	192
	Skipped	675
Question 30. Have you received specific supervisory training related to the handling of employees involved with the disciplinary process?		
Answer Choices	Responses	
Yes	42.11%	24
No	57.89%	33
	Answered	57
	Skipped	810
Question 31. As a supervisor, is it difficult to enforce disciplinary actions?		
Answer Choices	Responses	

Easy	13.21%	7
Neither easy nor difficult	62.26%	33
Difficult	24.53%	13
	Answered	53
	Skipped	814
Question 32. Overall, do you perceive the Department's disciplinary process as fair?		
Answer Choices	Responses	
Fair	41.62%	77
Somewhat fair	41.08%	76
Not fair	17.30%	32
	Answered	185
	Skipped	682
Question 33. Overall, do you view the disciplinary process is consistent with all employees?		
Answer Choices	Responses	
Consistent	26.09%	48
Somewhat consistent	39.67%	73
Not consistent	34.24%	63
	Answered	184
	Skipped	683
Question 34. Are you a member of the Teamsters Union?		
Answer Choices	Responses	
Yes	4.76%	9
No	89.42%	169
I don't know	5.82%	11
	Answered	189
	Skipped	678
Question 35. Is your position covered under the Collective Bargaining Agreement (CBA)?		
Answer Choices	Responses	
Yes	8.51%	16
No	68.62%	129
I don't know	22.87%	43
	Answered	188
	Skipped	679
Question 36. Have you received disciplinary action against you?		
Answer Choices	Responses	
Yes	20.43%	38
No	79.57%	148
	Answered	186



	Skipped	681
Question 37. Did the Teamsters Union represent your interests during the process?		
Answer Choices	Responses	
Yes	15.79%	6
No	47.37%	18
Not applicable	36.84%	14
	Answered	38
	Skipped	829
Question 38. Did you feel like your case was handled differently from others?		
Answer Choices	Responses	
Yes	50.00%	18
No	50.00%	18
If yes, please explain		16
	Answered	36
	Skipped	831
Question 39. In your opinion, does the disciplinary process impact morale in the Department?		
	Answered	134
	Skipped	733
Question 40. What alternative forms of discipline would you like to see the Department offer? Please explain		
	Answered	100
	Skipped	767
Question 41. Do you believe there are times when employees should be terminated for egregious behavior? (The survey defines egregious behavior as shocking or appalling). Please explain.		
Answer Choices	Responses	
Yes	84.08%	132
No	15.92%	25
Please explain		100
	Answered	157
	Skipped	710
Question 42. What can be improved with the disciplinary process?		
	Answered	511
	Skipped	356

Source: OIG Survey Results.

Survey Questions 20 through 23 and 38 through 42 allowed survey participants the opportunity to provide narrative answers, comments, and/or explanations. We analyzed the responses to those questions to gain a better understanding of how USCP employees perceived the Department's discipline process. Our analysis revealed certain themes and opportunities for the Department to improve the perception and operation of its discipline process.

One theme that emerged from the survey responses was that employees felt the Department should provide more opportunities for counseling and/or training for performance and minor disciplinary issues prior to the issuance of a disciplinary penalty. [REDACTED] states that a supervisor should initiate a [REDACTED] for infractions of the Rules of Conduct that are "too serious or repetitious to be corrected through training and/or counseling," but the guidance does not provide any further clarification for supervisors to determine when training and/or counseling could correct certain infractions. However, USCP Directive [REDACTED] dated March 14, 2003, does provide supervisors with such guidance when an employee is late reporting for duty. Directive [REDACTED] states that on the first, second, and/or third instance of tardiness, the supervisor should:

- Instruct and train the subject employee on the content and purpose of the Department's punctuality policy
- Provide counseling and/or advice as appropriate, to aid the subject employee in resolving any personal difficulties that might be interfering with punctuality
- Document the details of the instance of tardiness, the instruction, training and counseling provided, as well as the comments or observations of the employee, in the subject employee's Personnel Performance Notes

Directive [REDACTED] states that on the fourth, fifth, sixth, and/or seventh instance of tardiness, the supervisor should repeat the actions previously identified as well as initiate a [REDACTED]. Providing supervisors with similar guidance to Directive [REDACTED] for other performance and minor disciplinary issues would allow more opportunities for counseling and/or training prior to issuance of a disciplinary penalty.

Another theme that emerged from the survey responses was that employees felt supervisors responsible for command-level discipline needed additional training. [REDACTED] states that Division supervisors may handle certain violations including but not limited to complaints or observations of inadequate police services and minor violations of Department rules, regulations, or policies that would normally result in a [REDACTED]. Although [REDACTED] requires that OPR provide assistance to supervisors as needed and review completed [REDACTED] to ensure consistency, employees still felt inconsistency existed in the Department's administration of command discipline. Designating certain supervisors with responsibility for command-level discipline and providing them with additional training on the subject and/or increasing OPR involvement in the process could aid in promoting greater consistency in the Department's administration of command-level discipline.

An additional theme that emerged from the survey responses was that employees felt there should be timed removal of discipline records from personnel files. A prior Department policy

since rescinded, USCP Directive [REDACTED] dated March 14, 2003, required removal of a [REDACTED] from an employee's unit personnel file after 1 year if filed with a warning and after 18 months if filed with forfeiture of time or pay. The policy also stated, "When a subsequent event related to a previously issued [REDACTED] results in the issuance of a new [REDACTED], the previously issued [REDACTED] will be retained until the latest one reaches the purging deadline." [REDACTED] does not include any requirements for timed removal of discipline records from personnel files. Guidance requiring the timed removal of minor discipline records from personnel files could aid in improving employee perception of the Department's discipline process.

A final theme emerging from survey responses was that employees felt disciplinary penalties for Department officials were less severe than disciplinary penalties issued to lower-level employees. [REDACTED] states that penalties listed in the Department's penalty recommendation table vary in severity based on whether an employee has a previous record of discipline and the nature and seriousness of the infraction. The guidance also states that when consulting the penalty recommendation table, the Department looks to four factors, which include the nature and seriousness of the conduct, employee's record, penalties imposed on other similarly situated employees for the same or similar conduct, and any mitigating circumstances. The four factors are essentially Douglas Factors 1, 4, 6, and 11. As a legislative branch agency, USCP is not under the jurisdiction of the MSPB and many laws and regulations that apply to executive branch agencies do not apply to USCP. We believe, however, that those laws and regulations represent appropriate guidance and industry best practices. Douglas Factor 2 requires consideration of an "Employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position." Considering enhanced penalties for officials similar to Douglas Factor 2 would better align the Department with industry best practices and reduce employee perception that officials receive favorable treatment in the Department's discipline process.

## Conclusion

In response to stakeholder requests, OIG obtained OPR discipline statistics, surveyed selected law enforcement agencies about best practices concerning discipline, and conducted a survey to gauge USCP employee knowledge and opinions concerning the discipline process. The additional analysis revealed opportunities for the Department to improve the perception and operation of its discipline process. Improvements included additional guidance for counseling and/or training prior to issuance of a disciplinary penalty, additional training for supervisors, and/or increasing OPR's involvement in command-level discipline, guidance requiring the timed removal of minor discipline records from personnel files, and enhanced disciplinary penalties for Department officials. Therefore, OIG makes the following recommendations.

**Recommendation 3:** We recommend that the United States Capitol Police consider implementing additional guidance for counseling and/or training prior to the issuance of a disciplinary penalty.

**Recommendation 4:** We recommend that the United States Capitol Police consider additional training for supervisors and/or increasing the Office of Professional Responsibility's involvement in command level discipline.

**Recommendation 5:** We recommend that the United States Capitol Police consider implementing guidance requiring the timed removal of minor discipline records from personnel files.

**Recommendation 6:** We recommend that the United States Capitol Police consider enhanced disciplinary penalties for Department officials.

## **Department Comments and OIG Analysis**

We provided a draft of this report to the Department for review and comment. OIG continues to believe that its findings, conclusions, and recommendations are valid. In written comments reprinted in Appendix B, the Department agrees with Recommendation 5. In its written responses to Recommendations 1 and 3, the Department states that it is continuing to review, update, and formalize its Table of Penalties and counseling initiatives. In its written response to Recommendation 4, the Department states that it is exploring additional regular disciplinary training for its supervisors.

In its written response to Recommendation 2, the Department states that it has considered the recommendation previously and disagrees that it will improve the effectiveness or efficiency of the discipline process. The Department states it will continue with its current practice for the issuance of [REDACTED] discipline process, which may deduct leave as a disciplinary action. In Report Number OIG-2017-01, OIG reported that multiple Department officials stated they did not believe forfeiture of annual leave was an effective deterrent and a 2013 USCP Discipline Task Force recommended that the Department no longer use forfeiture of leave as a penalty. The task force recommended that the Department use four types of discipline: written reprimands, suspensions, demotions, and terminations. Additionally, only 4 of 12 organizations reviewed for best practices used forfeiture of annual leave as a penalty. Thus, we concluded that forfeiture of annual leave as a penalty was not an industry best practice.

In its written response to Recommendation 6, the Department states that it “has repeatedly relied upon the long-settled principle that supervisory law enforcement officials should be held to a higher standard of conduct than that of rank and file officers”. The Department also states that holding its “officials to this higher standard of conduct has consistently resulted in enhanced disciplinary penalties for Department officials” and respectfully requests closure of the

recommendation. However, during our follow-up work OIG could not find any Department guidance that explicitly communicated enhanced disciplinary penalties for Department officials.

██████████ states that penalties listed in the Department's penalty recommendation table vary in severity based on whether an employee has a previous record of discipline and the nature and seriousness of the infraction. The guidance also states that when consulting the penalty recommendation table, the Department looks to four factors, which include the nature and seriousness of the conduct, employee's record, penalties imposed on other similarly situated employees for the same or similar conduct, and any mitigating circumstances. The four factors are essentially Douglas Factors 1, 4, 6, and 11. Douglas Factor 2 requires consideration of an "Employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position."

As we state in our report, a theme that emerged from survey responses was the perception that disciplinary penalties for Department officials were less severe than disciplinary penalties issued to lower-level employees. As a legislative branch agency, USCP is not under the jurisdiction of the MSPB and many laws and regulations that apply to executive branch agencies do not apply to USCP. We believe, however, that those laws and regulations represent appropriate guidance and industry best practices. Thus, we concluded enhanced penalties for officials similar to Douglas Factor 2 would better align the Department with industry best practices and reduce employee perception that officials receive favorable treatment in the Department's discipline process.

# APPENDICES



## ***Listing of Recommendations***

**Recommendation 1:** We recommend that the United States Capitol Police consider revising its Table of Penalties to include penalty parameters that more specifically ensure employees are consistently treated and clearly informed of potential penalties for misconduct.

**Recommendation 2:** We recommend that the United States Capitol Police consider discontinuing use of forfeiture of annual leave as a penalty because doing so would better align the Department's penalties with those of other Federal agencies.

**Recommendation 3:** We recommend that the United States Capitol Police consider implementing additional guidance for counseling and/or training prior to the issuance of a disciplinary penalty.

**Recommendation 4:** We recommend that the United States Capitol Police consider additional training for supervisors and/or increasing the Office of Professional Responsibility's involvement in command level discipline.

**Recommendation 5:** We recommend that the United States Capitol Police consider implementing guidance requiring the timed removal of minor discipline records from personnel files.

**Recommendation 6:** We recommend that the United States Capitol Police consider enhanced disciplinary penalties for Department officials.

## DEPARTMENT COMMENTS



## UNITED STATES CAPITOL POLICE

OFFICE OF THE CHIEF  
119 D STREET, NE  
WASHINGTON, DC 20510-7218

January 29, 2021

PHONE: 202-224-2500

COP 210101

MEMORANDUM

**TO:** Michael Bolton  
Inspector General

**FROM:** Yogananda D. Pittman  
Acting Chief of Police

**SUBJECT:** Response to Office of Inspector General (OIG) draft report *Follow-up of the United States Capitol Police Disciplinary Process* (Report No. OIG-2020-I-0007)

The purpose of this memorandum is to provide the United States Capitol Police response to the recommendations contained within the OIG's draft report *Follow-up of the United States Capitol Police Disciplinary Process* (Report No. OIG-2020-I-0007).

**Recommendation 1:** We recommend that the United States Capitol Police consider revising its Table of Penalties to include penalty parameters that more specifically ensure employees are consistently treated and clearly informed of potential penalties for misconduct.

**USCP Response:** The Department is continuing to review, update, and formalize its Table of Penalties.

**Recommendation 2:** We recommend that the United States Capitol Police discontinue the use of forfeiture of annual leave as a penalty because doing so would better align the Department's penalties with those of other Federal agencies.

**USCP Response:** The Department has considered this recommendation previously. Please see the January 23, 2017, Department response to the Evaluation of the United States Capitol Police Disciplinary Process (Report No. OIG-2017-01). The Department disagrees that the recommendation will improve the effectiveness or efficiency of the discipline process. Therefore, the Department will continue with its current practice for the issuance of [REDACTED] which may deduct leave as a disciplinary action. We respectfully request closure of this recommendation.

**Recommendation 3:** We recommend that the United States Capitol Police consider implementing additional guidance for counseling and/or training prior to the issuance of a disciplinary penalty.

**USCP Response:** The Department provides counseling through the issuance of [REDACTED] in accordance with Directive [REDACTED] relative to minor conduct

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**DEPARTMENT COMMENTS**

issues. The Department is continuing to review, update, and formalize counseling initiatives and agrees that more discipline could be handled through coaching, counseling and mentoring.

**Recommendation 4:** We recommend that the United States Capitol Police consider additional training for supervisors and/or increasing the Office of Professional Responsibility's involvement in command level discipline.

**USCP Response:** The Department provides detailed Supervisor Leadership Training through the Training Services Bureau to all new supervisors, which includes guidance on how to evaluate and handle both conduct and performance issues. The Department is exploring additional regular disciplinary training for its supervisors.

**Recommendation 5:** We recommend that the United States Capitol Police consider implementing guidance requiring the timed removal of minor discipline records from personnel files.

**USCP Response:** The Department agrees with this recommendation and continues to urge Department supervisors to update personnel files in accordance SOP [REDACTED]

**Recommendation 6:** We recommend that the United States Capitol Police consider enhanced disciplinary penalties for Department officials.

**USCP Response:** Regarding this recommendation, please note that the Department has repeatedly relied upon the long-settled principle that supervisory law enforcement officials should be held to a higher standard of conduct than that of rank and file officers. See *Friedrick v. Dep't of Justice*, 52 M.S.P.R. 126, 135 (1991), aff'd, 980 F.2d 742 (Fed. Cir. 1992) (law enforcement personnel are "obligated to conform to a higher standard of conduct than other employees are"); and *Cantu v. Department of the Treasury*, 88 M.S.P.R. 253, 257 (2001) (the obligation to conform to a higher standard of conduct is even more marked where law enforcement personnel hold supervisory positions.). Holding Department officials to this higher standard of conduct has consistently resulted in enhanced disciplinary penalties for Department officials. We respectfully request closure of this recommendation.

Thank you for the opportunity to respond to the OIG's recommendations and to provide information on the actions taken or planned in response to the recommendations contained in the report. Your continued support of the men and women of the United States Capitol Police is greatly appreciated.

Very respectfully,

  
Yogananda Pittman  
Acting Chief of Police

Attachments

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