

**DEPARTMENT OF HOMELAND SECURITY  
U.S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**REPORT OF INVESTIGATION**

**202112280**



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DEPARTMENT OF HOMELAND SECURITY  
U.S. Customs and Border Protection

REPORT OF INVESTIGATION

1. CASE NUMBER

202112280

PREPARED BY

2. REPORT NUMBER

Closing Report

3. TITLE

INCIDENT NEAR DEL RIO, TX, PORT OF ENTRY. SEPTEMBER 19, 2021/DEL RIO, VAL VERDE, TX

4. FINAL RESOLUTION

5. STATUS

Closing Report

6. TYPE OF REPORT

Investigative Findings

7. RELATED CASES

8. TOPIC

Allegations of Misconduct by Del Rio Sector Horse Patrol Unit Members

9. SYNOPSIS

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident on September 19, 2021, involving Border Patrol agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station (CAR), Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as the "boat ramp", approximately three tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas.

10. CASE OFFICER (Print Name & Title)

CBP OPR Special Agent

11. COMPLETION DATE

Digitally signed by [redacted]  
Date: 2022.04.15 15:17:03 -05'00'

14. ORIGIN OFFICE  
CBP OPR RAC DEL RIO

12. APPROVED BY (Print Name & Title)

CBP OPR Special Agent Supervisor

13. APPROVED DATE

Digitally signed by [redacted]  
Date: 2022.04.17 18:00:07 -04'00'

15. TELEPHONE NUMBER

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**SUMMARY OF FINDINGS:**

OPR self-initiated this investigation on September 20, 2021, after viewing media reporting depicting potential misconduct taking place the previous day on the part of BPAs assigned to the Del Rio Sector HPU. In accordance with Department of Homeland Security (DHS) policy, OPR referred this matter to DHS OIG on September 20, 2021. DHS OIG notified OPR it did not intend to investigate the matter the following day. During this investigation OPR personnel conducted over 30 interviews and reviewed videos, photographs, and documents related to the incident. OPR presented this matter to the United States Attorney's Office for the Western District of Texas on September 29, 2021, and received a prosecutorial declination on March 11, 2022. In reaching the findings contained in this report, OPR carefully considered the overall circumstances under which the incident took place.

The situation involving thousands of Haitian migrants that unfolded near the Del Rio POE in mid-September 2021 created unprecedented logistical, law enforcement, and humanitarian challenges that severely tested the resources and capabilities of the USBP. This report focuses on the investigation carried out by OPR into an incident that lasted approximately 30 minutes, and took place on Sunday, September 19, 2021. During this time, mounted BPAs and Troopers with the Texas Department of Public Safety (TXDPS) dispersed a large group of migrants gathered near a boat ramp located along the U.S. side of the Rio Grande River approximately three tenths of a mile east of the Del Rio POE and then attempted to stop the flow of all migrants crossing the river into the United States at that location.

While an initial effort to disperse the crowd already on shore and relocate them to the area adjacent to the Del Rio POE took place without incident, the second part of the effort resulted in a direct confrontation between mounted BPAs and migrants attempting to exit the Rio Grande River and make their way to the encampment underneath the Del Rio POE. During this confrontation, numerous migrants were forced back into the river or pursued by mounted BPAs, including one instance in which a BPA grabbed a migrant by the shirt and spun him around. Photographs and video taken by members of the media, who were observing the incident from within the river, raised questions as to whether BPAs struck or threatened migrants with their horses' reins during the incident. In addition, video captured by the media during the incident appeared to show a BPA using unprofessional language while addressing a migrant attempting to exit the river.

By September 19, 2021, approximately 15,000 Haitian migrants had crossed the border from Mexico into the United States and were concentrated in an encampment underneath the international bridge connected to the Del Rio POE and in the surrounding areas. Upon arrival at the encampment, migrants were issued numerically sequenced color-coded carnival style tickets which were used to call migrants for processing. USBP personnel then worked as quickly as possible to process these migrants and remove them from the site while attempting to address logistical challenges including providing food, water, adequate sanitation facilities, and maintaining order in the area around the Del Rio POE. Due to the lack of resources and extreme heat, USBP made an operational decision to allow the migrants to move back and forth across the Rio Grande River, as needed, to obtain food, water, and other necessities.

A multitude of local, state, and federal agencies ultimately assisted, coordinated, or worked in parallel with USBP in responding to this situation. Among them was TXDPS. While TXDPS and the USBP had complementary interests in maintaining public order and resolving the overall situation in Del Rio, the two agencies also answered to separate chains of command, had

different legal authorities, and may have had divergent interests on certain policy issues. While TXDPS was fully cooperative with OPR's investigation into the actions of the mounted BPAs, its personnel involved in the incident declined to provide any information when asked about the operational objectives of TXDPS.

During the week leading up to this incident, TXDPS personnel effectively blocked [REDACTED] a weir dam at the Rio Grande River just west of the Del Rio POE. While migrants can traverse the width of the river on top of the dam, it alters the flow characteristics of the river creating deadly conditions for anyone who falls in. TXDPS personnel prevented migrants from crossing in this area by placing marked law enforcement vehicles side by side along the riverbank. As a result of the weir dam being blocked, migrants wishing to cross the border in either direction were forced to cross the river on the east side of the Del Rio POE at an area where a public park was located on the Mexican side and a boat ramp was located on the U.S. side. This was the location of the incident on September 19, 2021.

While the USBP Incident Commander (IC) informed OPR investigators that USBP had asked TXDPS to secure the area on the west side of the Del Rio POE earlier in the week, at no time on September 19, 2021, was it the operational objective of the USBP to prevent migrants from moving freely in either direction across the Rio Grande River near the boat ramp. However, based on interviews and evidence gathered for this investigation, OPR determined that is precisely what happened for approximately 15 minutes that afternoon. This investigation sought to understand the facts and circumstances surrounding this incident and to determine whether all CBP involved personnel followed the applicable law and agency policy. OPR's review assessed the broader command structure, communications and direction given to agents, while also reviewing specific actions by those involved to determine whether individual agents acted within the scope of their training and CBP policies.

In reaching the findings contained in this report, OPR also carefully reviewed whether any migrants were forced to return to Mexico during this incident. This was a significant factor given the legal framework applicable to the border at this location and the due process rights of migrants who arrive in the United States and present themselves to an immigration officer. A matter of equal importance to this investigation was to clearly illustrate the exact position of the U.S. – Mexico border. In accordance with Article V of the Treaty of Guadalupe Hidalgo of 1848, the international border between Mexico and the United States is the deepest channel of the Rio Grande River, meaning that individuals who have reached the shore on the U.S. side are already well within the United States. In accordance with Title 8 U.S.C. § 1225, Inspection by Immigration Officers, "An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission." The same U.S. Code section states that all applicants for admission shall be inspected by an immigration officer. During this incident, instead of processing migrants for admission or directing them to an area where thousands of individuals already awaited, multiple mounted BPAs used force, or threats of force, to coerce or compel individuals to return to Mexico. For this reason, OPR presented the case to the United States Attorney's Office for the Western District of Texas which eventually declined prosecutorial interest.

OPR's investigation into this incident included interviews of USBP management officials, BPAs, TXDPS troopers and others who were present during the incident, as well as USBP personnel

associated with the Horse Patrol program. OPR also reviewed documentation including a court filing by migrants involved in this incident, as well as videos and photos of the incident captured by CBP Air and Marine Operations and members of the media who were present during the incident. Based on OPR's review of this data, the following is a summary of what occurred:

On September 18, 2021, the Chief of the USBP instructed Del Rio Sector senior leadership to deploy the CAR HPU to the Del Rio POE to join other HPU members assigned to the local area who had already been on site for several days. CAR HPU BPAs and their two supervisors deployed the next day with their horses, despite not having conducted mounted duties for several months due to being assigned to processing and transport duties. Upon arriving, they were given a cursory operational briefing and instructed to help where needed. While members of the CAR HPU were conducting mounted patrol, at least one of their supervisors remained behind in the incident command post. None of the personnel were briefed on the USBP operational objectives for the day or given specific instructions on how to handle requests for assistance from other agencies.

At approximately 12:30 PM, TXDPS troopers who were on site at the boat ramp asked members of the Del Rio Station (DRS) HPU to assist with attempts to disperse a large crowd of migrants who were gathered in the area, and then stop all migrants from crossing into the United States at that location. A member of the Del Rio HPU broadcast a request for assistance over the radio and members of the CAR HPU responded to the boat ramp within minutes.

Over the next 10-15 minutes, TXDPS and HPU personnel were able to push most of the crowd that was gathered around the boat ramp away from the area and towards the Del Rio POE. At some point around this time, a member of the CAR HPU called his HPU supervisor, who was at the incident command post, and asked whether members of the HPU should assist TXDPS with their effort to stop all migrants from crossing into the United States at the boat ramp. The supervisor told OPR investigators that after being unable to get any additional guidance from the USBP chain of command, he told the HPU members they should proceed because they had been generally instructed to help where needed.

During the next phase of the effort which lasted about 15 minutes, CAR HPU members rode their horses to the base of the boat ramp at the river's edge and actively attempted to prevent migrants from exiting the river on the U.S. side. At this point a confrontation ensued between HPU members and these migrants. At least two members of the CAR HPU used their horses to forcibly block migrants from exiting the river and chased migrants who had successfully exited the river including grabbing one by the shirt and spinning him around. One of the HPU agents informed OPR investigators he was aware several of the migrants were in possession of tickets USBP had issued to migrants awaiting processing at the Del Rio POE. One of the BPAs used profanity while yelling at a migrant and then pursued him along the river's edge forcing his horse to narrowly maneuver around a small child. As the situation escalated, one of the two HPU agents involved in the confrontation repeatedly sought guidance from the USBP incident command post via a USBP unrecorded radio channel and was eventually told to allow all the migrants to enter. At this point the HPU agents backed off and allowed the migrants to pass.

The USBP IC informed OPR investigators that at no time on September 19, 2021, was it an operational objective to block migrants from crossing back and forth across the Rio Grande River at the boat ramp.

Based on the foregoing and the totality of information reviewed during this investigation, OPR finds:

As a result of a lack of command, control, and communications, HPU personnel carried out an operation at the request of TXDPS which directly contravened USBP operational objectives and resulted in the unnecessary use of force against migrants who were attempting to reenter the United States with food. They did so with authorization from their supervisor who was unable to obtain additional guidance from higher in the USBP chain of command at the time of the request.

USBP's utilization of an unmoderated and unrecorded tactical radio frequency to manage this incident contributed to command-and-control deficiencies and impeded OPR's ability to investigate this matter.

One BPA acted in an unprofessional manner by yelling comments related to a migrant's national origin and sex, stating in part, "Hey! You use your women? This is why your country's shit, you use your women for this." The same BPA acted in an unsafe manner by pursuing the individual he had yelled at along the river's edge forcing his horse to narrowly maneuver around a small child on a slanted concrete ramp.

On multiple occasions, mounted BPAs used force or the threat of force to drive migrants back into the Rio Grande River despite the fact they were well within the territorial boundary of the United States. At the time the agents used or threatened to use force, the migrants were not threatening the BPAs. Instead, they were attempting to enter or return to the United States, some carrying tickets previously issued by the USBP and many with food for their families. While one agent stated he was giving the migrants a choice of returning to Mexico or being arrested, a second agent could not articulate a reason for his use of force beyond trying to stop them further entering the U.S.

Despite the actions taken by the BPAs during this incident, there was no evidence found during this investigation to suggest any migrant was ultimately forced to return to Mexico or denied entry into the United States.

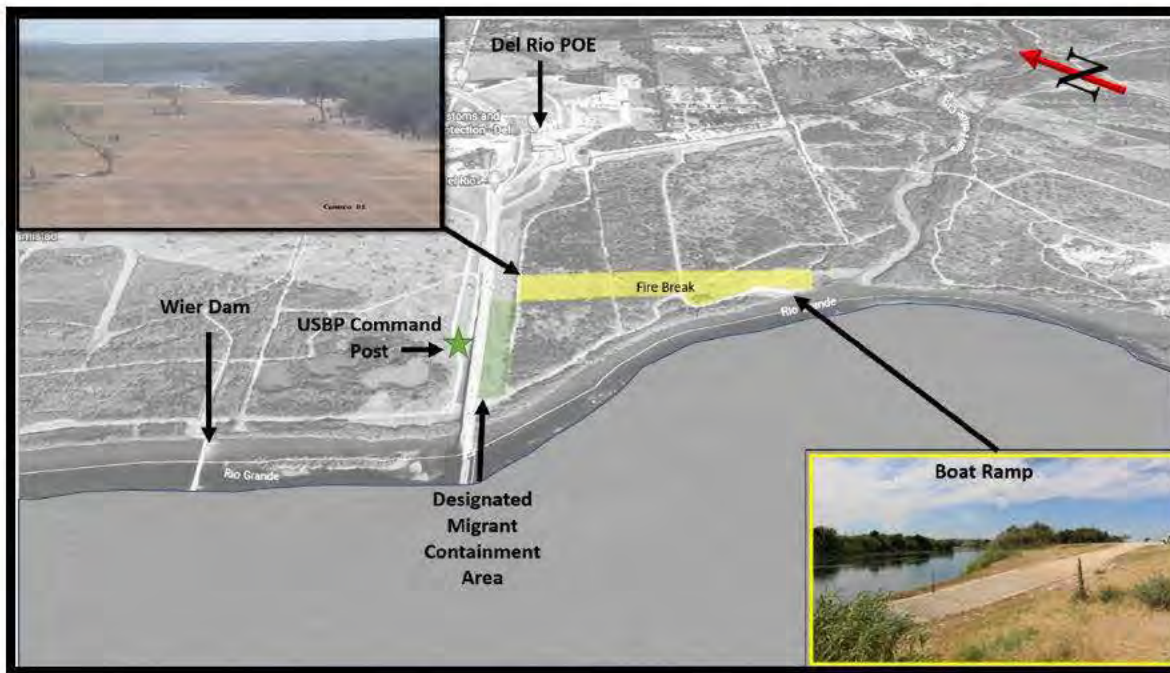
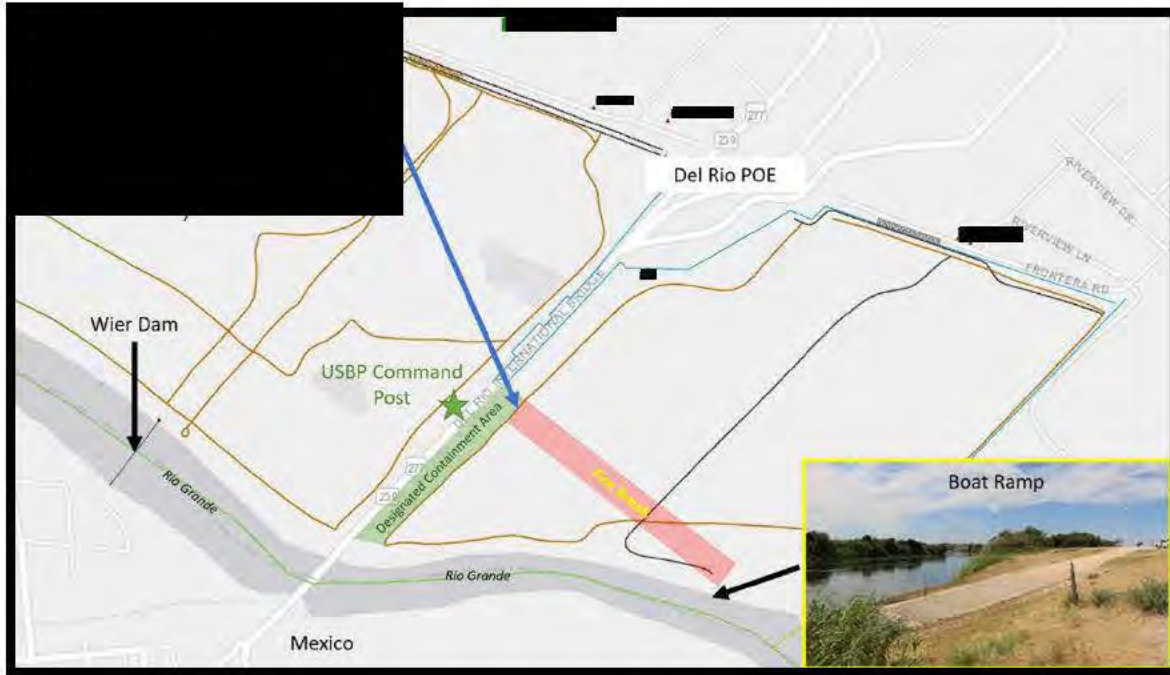
There is no evidence that BPAs involved in this incident struck, intentionally or otherwise, any migrant with their reins. The horses involved in this incident were equipped with split reins which can be twirled by the rider to guide the horse's movements. One BPA involved in this incident also reported twirling these split reins as a distancing tactic.

OPR interviewed numerous personnel associated with the Horse Patrol program who gave inconsistent answers about whether twirling of split reins for any purpose was included in agency training programs. Similarly, personnel associated with the Horse Patrol program gave inconsistent responses as to whether they were trained, or qualified, to engage in crowd control operations. OPR's review of HPU training documents did not reveal any specific guidance on twirling of reins for any purpose.

On April 7, 2022, OPR interviewed USBP Chief [REDACTED] who acknowledged deploying the CAR HPU to Del Rio on short notice the day before this incident. His decision to deploy an additional HPU was to ensure the safety of law enforcement personnel, others working at the site, and the migrants. His intent was for the HPU personnel to help monitor the potentially volatile situation. Chief [REDACTED] also acknowledged that USBP was addressing unprecedented law enforcement and

humanitarian challenges on the day of the incident and had not established adequate command and control mechanisms or optimal interoperability with other partner agencies, including TXDPS. While these challenges were addressed in the days following the incident, Chief [REDACTED] accepted responsibility for those deficiencies on September 19, 2021.

**OVERVIEW OF AREA:**



**DETAILS OF INVESTIGATION:**

INFORMATION FROM NON CBP PERSONNEL:

[REDACTED]

On September 25, 2021, Assistant Special Agent in Charge (ASAC) [REDACTED] and Special Agent (SA) [REDACTED] interviewed [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 2).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

On September 25, 2021, ASAC [REDACTED] and SA [REDACTED] conducted a second interview of [REDACTED]

[REDACTED] The interview was audio and video recorded using the StarWitness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 3).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Sgt. [REDACTED] stated BPAs asked for assistance via the radio; however, no assistance arrived. Less than 20 minutes after arriving at the boat ramp, the BPAs were told to stand down and let the migrants enter the United States.

Sgt. [REDACTED] stated he did not witness any migrant being hit by anything that resembled a whip. Sgt. [REDACTED] stated he did not remember any of the migrants making physical contact with any of the horses.

Sgt. [REDACTED] stated he did not see any BPAs physically make any migrants return to Mexico, nor did he recall if any of the migrants did return to Mexico.

Sgt. [REDACTED] stated BPAs were doing their job and trying to enforce the law, however, BPA's hands were tied behind their backs. Sgt. [REDACTED] stated the migrants were evading the BPAs and, in his opinion, they should have gone to jail. Sgt. [REDACTED] explained if DPS had operational authority to make arrests, every migrant would have gone to jail using any force necessary to do so. Sgt. [REDACTED] stated if someone was running at him, as the migrants did towards the BPAs, it would have been considered active resistance and he would have been justified in using intermediate use of force weapons to stop them and take them into custody.

Sgt. [REDACTED] stated a journalist entered the United States illegally and was standing on the boat ramp. Sgt. [REDACTED] stated a BPA advised him the journalist could not be on the boat ramp. Sgt. [REDACTED] told the journalist he could not enter the United States by crossing the Rio Grande River and he needed to return to the river. Sgt. [REDACTED] asked OPR SAs [REDACTED] and [REDACTED] if the journalist was going to be arrested for entering the United States illegally.

Sgt. [REDACTED] was asked if BPAs were attempting to arrest or deter migrants at the boat ramp to which he responded he did not know but, in his opinion, either arresting or deterring was the right thing to do.

On September 23, 2021, SSA [REDACTED] and SA [REDACTED] interviewed TXDPS Trooper [REDACTED]. The interview was audio and video recorded utilizing Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 6).

On September 19, 2021, TXDPS Trooper [REDACTED] was present at the Del Rio POE boat ramp.

Trooper [REDACTED] stated when he arrived at the boat ramp, he observed 150-200 migrants congregating there, bathing in the river, and crossing back and forth between the United States and Mexico. Trooper [REDACTED] described the area as being in complete chaos. Trooper [REDACTED] said Sgt. [REDACTED] spoke to BPAs via the radio and the BPAs came to assist. Trooper [REDACTED] advised he was unaware of what assistance Sgt. [REDACTED] requested from the BPAs. Sgt. [REDACTED] was in charge of communication with USBP and Sgt. [REDACTED] used a USBP radio channel to communicate with BPAs. Trooper [REDACTED] advised after the HPU BPAs arrived at the boat ramp there was no communication between the BPAs and TXDPS regarding what their objective was.

Trooper [REDACTED] stated BPAs and TXDPS troopers were trying to clear the boat ramp of migrants, move migrants toward the Del Rio POE, and prevent migrants from trespassing onto the [REDACTED]. The actions of the BPAs also appeared to be controlling the flow of migrants. Trooper

██████████ clarified BPAs did not try to prevent migrants from entering but directed the migrants to walk in a certain direction.

Trooper ██████████ stated he never heard any radio traffic giving guidance regarding the objective at the boat ramp. Trooper ██████████ stated he and the HPU were trying to ensure the migrants came up the boat ramp and continue west towards the Del Rio POE and not toward the embankment to the east.

Trooper ██████████ was shown a video from the incident (Exhibit 1, Video 1). Trooper ██████████ identified himself in the video and said it depicted him telling a migrant to go up the boat ramp.

Trooper ██████████ stated he did not see any of the HPU BPAs use any type of force with their horses to stop migrants from coming into the United States.

Trooper ██████████ stated he did see a BPA twirling his reins on the video and believed the BPA was trying to control his horse. He explained that the migrant was seven to ten feet away from the horse and the BPA could have hit him if he wanted to by closing the distance between them. Trooper ██████████ stated he did not see any BPA try to hit a migrant with their reins.

Trooper ██████████ did not observe any HPU BPAs using their horse to prevent migrants from entering the United States nor return migrants to Mexico. Trooper ██████████ advised HPU BPAs were not trying to prevent migrants from entering the United States but rather trying to make the migrants move a certain direction, toward the Del Rio POE.

On September 30, 2021, OPR SA ██████████ and SSA ██████████ interviewed TXDPS Trooper ██████████. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: ██████████ (Exhibit 7).

On September 19, 2021, Trooper ██████████ was assigned to work in the ██████████ a private ranch near the Del Rio POE. At approximately 11:00 AM, Trooper ██████████ along with TXDPS Sgt. ██████████ and Trooper ██████████ began following a group of migrants who were walking towards the Rio Grande River near the Del Rio POE boat ramp. Trooper ██████████ walked toward the river with Trooper ██████████ and Sgt. ██████████. Trooper ██████████ was in the boat ramp area from approximately 11:00 AM until approximately 1:00 PM.

When Trooper ██████████ arrived in the boat ramp area, there were a few HPU BPAs there. Sgt. ██████████ requested additional TXDPS assistance to stop people from crossing. Trooper ██████████ was not sure if the request for assistance or the decision to stop migrants from crossing was relayed to the HPU BPAs in the area. Trooper ██████████ stated Sgt. ██████████ and Trooper ██████████ went down to the boat ramp and told migrants to start moving towards the Del Rio POE. Trooper ██████████ stayed at the top of the concrete boat ramp with some HPU BPAs and assisted in guiding the migrants to the Del Rio POE.

Trooper ██████████ stated there were also HPU BPAs on the boat ramp. One of the HPU BPAs and Sgt. ██████████ were telling migrants to stop crossing. Sgt. ██████████ and the HPU BPA were also bringing up migrants who had crossed and were already on the boat ramp. Sgt. ██████████ allowed one of the HPU BPAs to use his vehicle's PA system to help instruct the migrants to move towards the Del Rio POE.

Trooper [REDACTED] stated the migrants who were already on shore in the United States or in the Rio Grande River were allowed to continue toward the Del Rio POE and the migrants being instructed to stop crossing were still in Mexico. Trooper [REDACTED] stated he did not witness any migrants being forced to return to Mexico after they had entered the United States. Trooper [REDACTED] reviewed a still photo (Exhibit 1, Photo 3) of the incident at the boat ramp and stated it appeared two or three migrants were attempting to head toward the [REDACTED] area. He further stated that he believed the HPU BPAs were attempting to stop the migrants from heading in that direction.

Trooper [REDACTED] did not see any excessive force being used against any migrants, and he did not see any migrants being mistreated. Trooper [REDACTED] did not hear any derogatory statements being made to any migrants. Trooper [REDACTED] stated it did not appear the HPU BPAs were trying to strike migrants with their reins.

Trooper [REDACTED] was not aware of any operational plans related to the incident at the boat ramp. Trooper [REDACTED] stated agencies were helping each other where needed, and he did remember a BPA saying they were instructed to let the migrants cross. Trooper [REDACTED] stated TXDPS was in the area to stop the migrants from coming up further onto the boat ramp. Trooper [REDACTED] stated TXDPS put yellow caution tape across the boat ramp, which the HPU did not assist with. Trooper [REDACTED] did not recall any plans being communicated from the BPAs to TXDPS regarding the incident at the boat ramp.

On March 23, 2022, Special Agent [REDACTED] reviewed a *Class Action Complaint for Injunctive and Declarative Relief* filed in the matter of Haitian Bridge Alliance, et. al. v. Joseph Biden, President of the United States, et. al. (case 1:21-cv-03317) filed in the United States District Court for the District of Columbia on December 20, 2021 (Exhibit 8). The class action complaint was brought forth by the Haitian Bridge Alliance on behalf of eleven Haitian asylum seekers alleging they were subjected to, "abusive treatment in the CBP Encampment and expelled without an opportunity to access the U.S. asylum system". The complaint outlines specific claims by named individuals with respect to their treatment while at the encampment near the Del Rio POE as well as their treatment while being expelled from the United States. The following details from the complaint are pertinent to the events that took place at the boat ramp:

Plaintiffs Mirard Joseph and Madeline Prospere crossed the border into the United States with their one-year-old daughter near Del Rio, TX, on or around September 11, 2021. Upon arriving, the family was issued a numbered ticket by U.S. officials to help facilitate their processing. While waiting to seek asylum, the family reportedly suffered extreme hunger as U.S. officials provided insufficient food to meet their basic needs forcing Joseph to cross the Rio Grande River numerous times to buy food for his wife and child. Mirard also claimed his daughter became sick because of the conditions in the encampment. On September 18, 2021, as Mirard was returning to the CBP Encampment with food, U.S. officials on horseback reportedly chased and lashed Mirard, and tried to force him to go back to Mexico. Later in the complaint, the Plaintiff alleges that while crossing back to the CBP encampment with food for his wife and daughter, Mirard encountered a mounted officer who lashed at him with split reins and attempted to drag Mirard back to the river. The officer reportedly only released him when his horse was about to trample Mirard.

A second plaintiff, Mayco Celon, also claimed he was provided with very little food and water and that he saw migrants pass out from thirst, heat, and hunger. He reportedly saw mounted officers

using reins as whips against people in the river. A third plaintiff, Veronique Cassonell, also reported seeing officers on horseback using reins as whips against people in the river. Plaintiff Esther Doe claimed she was terrorized by officers on horseback when she crossed the Rio Grande River to obtain food for her one-year-old son.

#### INTERVIEWS OF INVOLVED CBP PERSONNEL:

The USBP Del Rio Sector Horse Patrol Program is divided into [REDACTED] HPU, consisting of personnel from [REDACTED] and [REDACTED] HPU, consisting of personnel from [REDACTED]

On September 22, 2021, SA [REDACTED] and SA [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 9).

BPA [REDACTED] is a member of the [REDACTED] HPU and is assigned to the [REDACTED]. On September 19, 2021, BPA [REDACTED] was assigned to the Del Rio POE.

During the interview, BPA [REDACTED] stated he worked on Sunday 19, 2021, from approximately [REDACTED]. BPA [REDACTED] stated he and his partner, BPA [REDACTED] Station, were assigned to work near and around the Del Rio POE and assist with the influx of migrants. BPA [REDACTED] stated he and BPA [REDACTED] arrived at the Del Rio POE at between 7:30 AM and 8:00 AM. BPA [REDACTED] stated they did not receive any type of instructions, any specific missions, or tasks from management or the incident command post. BPA [REDACTED] stated when the crisis began, they were instructed they would be assigned to the Del Rio POE area and to assist where they were needed.

BPA [REDACTED] stated [REDACTED] HPU BPAs from CAR arrived to assist them at approximately 9:30 AM. BPA [REDACTED] stated he and BPA [REDACTED] met up with eleven [REDACTED] HPU BPAs including two Supervisory Border Patrol Agents (SBPAs) near the middle of the camp, where migrants were being held. BPA [REDACTED] identified two of the [REDACTED] HPU BPAs as BPA [REDACTED] and BPA [REDACTED].

SA [REDACTED] asked BPA [REDACTED] if he was aware of any operation that would be conducted with which the HPU would assist or if he received any direct instructions from the incident command post or the two HPU SBPAs. BPA [REDACTED] stated he did not receive direct guidance or instruction from the ICP or the two HPU SBPAs.

BPA [REDACTED] stated while working downriver of the Del Rio POE near the boat ramp at approximately 12:00 noon, TXDPS Troopers advised BPA [REDACTED] they were going to close or shut down the boat ramp on the bank of the Rio Grande River where approximately 150 migrants were gathered. BPA [REDACTED] asked TXDPS if they needed assistance, to which TXDPS replied yes. BPA [REDACTED] further stated that he understood this to mean that TXDPS was trying to stop the flow of migrants from crossing from Mexico into the United States. BPA [REDACTED] said he then requested more HPU BPAs near the boat ramp via radio.

BPA [REDACTED] stated more HPU BPAs arrived to assist within ten to fifteen minutes. BPA [REDACTED] stated that he addressed the group of migrants in Spanish via microphone from a TXDPS vehicle

telling them that the boat ramp would be closed in ten minutes and that they needed to leave or go back to the bridge.

BPA [REDACTED] stated he then got back on his horse and waited for the other BPAs. BPA [REDACTED] stated he noticed three people in the water with cameras and BPA [REDACTED] moved away from the boat ramp area. BPA [REDACTED] and BPA [REDACTED] got to higher ground away from the boat ramp and continued to guide the migrants to the Del Rio POE. BPA [REDACTED] stated during the incident near the boat ramp, he heard one of the BPAs ask via radio for guidance from the incident command post at least three times to no avail. BPA [REDACTED] stated he did not see any BPAs force migrants back into the Rio Grande River, he did not see any migrants being mistreated, and he did not see any BPAs use excessive force.

BPA [REDACTED] was shown a video of the incident on September 19, 2021 (Exhibit 1, Video 2) and he stated that he could see the BPA twirl his reins in the video shown and explained that a BPA would do so to signal the horse to maneuver or to direct a horse. BPA [REDACTED] explained that if a BPA twirled the reins with his right hand, it could queue the horse to move left. When showed the video again, BPA [REDACTED] pointed out that the horse reacted as he would expect. BPA [REDACTED] stated he was not an expert, but the action was consistent with his experience. BPA [REDACTED] was asked if BPAs were taught to twirl their reins during the basic Horse Patrol training course and BPA [REDACTED] stated he was not taught that during his training but could not speak for others. BPA [REDACTED] stated he recognized BPA [REDACTED] who was riding on a palomino horse.

BPA [REDACTED] was shown another video of the incident (Exhibit 1, Video 1) and stated he did not hear any vulgar language or derogatory comments made to any of the migrants while the incident occurred. BPA [REDACTED] stated he did not know the name of the BPA using derogatory and vulgar language. BPA [REDACTED] stated he believed several pictures depicted a BPA trying to keep people from crossing into the United States. BPA [REDACTED] was shown a photo and stated it was not part of Horse Patrol training to grab a subject by the shirt. BPA [REDACTED] explained BPAs are trained to stay on their horse as much as possible for the safety of officers as well as migrants. BPA [REDACTED] was asked what a BPA could do if a migrant got too close to their horse and if there was any circumstance where a BPA would grab a migrant from the horse. BPA [REDACTED] stated they could twirl their reins to keep someone back or use commands. SA [REDACTED] asked BPA [REDACTED] if twirling of the reins could be used to hit a migrant and BPA [REDACTED] stated no, it was utilized to keep distance from a subject for safety reasons. BPA [REDACTED] stated BPAs used split reins and described that a few extra feet of rein hang to each side and described when a horse was moving fast, those extra feet of rein would be moving and swinging freely.

BPA [REDACTED] said there were no circumstances that would allow BPAs to force someone back into the river after they had already entered the United States. BPA [REDACTED] also said a BPA could not use the threat of force in this situation. BPA [REDACTED] further stated BPAs could use the show of force to deter migrants from crossing.

On September 22, 2021, SA [REDACTED] and SA [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 10).

BPA [REDACTED] is currently a member of the [REDACTED] HPU and is currently assigned to the DRT. On September 19, 2021, BPA [REDACTED] was assigned to work at the Del Rio POE.

BPA [REDACTED] stated he had not attended or received training specific to crowd control. BPA [REDACTED] stated HPU BPAs are trained to protect themselves and their horse while interacting with people. BPA [REDACTED] stated while on horseback it was important to remain in control of your horse and the reins. While addressing a subject when mounted on a horse, a HPU BPA can dismount and address a subject, but it poses a greater risk for all involved. HPU BPAs were trained to address and take control of a subject without leaving their horse.

BPA [REDACTED] stated on September 19, 2021, he and BPA [REDACTED] arrived at the Del Rio POE and began their daily run, which included traveling by the migrant feeding area and portable restrooms to check and see if any assistance was needed. Afterwards, BPA [REDACTED] and BPA [REDACTED] met with the [REDACTED] HPU BPAs. BPA [REDACTED] estimated there were approximately seven [REDACTED] HPU BPAs, which included two SBPAs. BPA [REDACTED] was unable to recall the names of the HPU BPAs and was not aware of any official planned operation being conducted. BPA [REDACTED] reiterated his instructions from SBPA [REDACTED] [REDACTED] was to assist where needed and to make their presence known.

BPA [REDACTED] confirmed he was near the Del Rio POE boat ramp between 1:00 PM to 2:30 PM, on September 19, 2021. SA [REDACTED] showed BPA [REDACTED] a video of the incident (Exhibit 1, Video 2) which occurred on September 19, 2021. BPA [REDACTED] was unable to identify the HPU BPAs in the video by name but confirmed the BPAs were from CAR based on the chaps they were wearing.

BPA [REDACTED] explained that the twirling of reins was not taught in training, but he had seen this technique used on multiple occasions to control a horse. BPA [REDACTED] stated twirling the reins can be utilized to queue a horse to ensure it is compliant with the rider's commands, to help accelerate a horse, or to assist in navigating the horse in a specific direction. BPA [REDACTED] further stated some riders will just twirl the extra slack in the reins with no specific intensions. BPA [REDACTED] stated each horse was different and responded differently to different techniques.

BPA [REDACTED] stated TXDPS requested HPU BPA's assistance in clearing out migrants at the boat ramp because they intended to shut down the boat ramp and indicated more TXDPS personnel were in route to assist. BPA [REDACTED] and BPA [REDACTED] informed the [REDACTED] HPU BPAs of TXDPS's request but was unaware if the notification of the anticipated action was made to USBP management. BPA [REDACTED] assumed TXDPS had made the necessary notifications as they were the lead in the action being taken and BPAs were assisting. BPA [REDACTED] stated the BPAs were communicating via radio and recalled some [REDACTED] HPU BPAs were communicating via cellphones for guidance from USBP management on TXDPS's request for assistance.

BPA [REDACTED] was shown a video of the incident at the boat ramp on September 19, 2021 (Exhibit 1, Video 1). BPA [REDACTED] stated he and BPA [REDACTED] were upriver at the time of the video recording. BPA [REDACTED] and BPA [REDACTED] were directing migrants to follow the road back to the Del Rio POE. BPA [REDACTED] recalled seeing one [REDACTED] HPU BPA who had a camera in his possession but was not aware if the BPA was recording at the time. BPA [REDACTED] did not witness any of the actions in the video.

BPA [REDACTED] stated the action of grabbing a subject by the shirt was not trained but believed this action to gain control of a subject was acceptable and would ensure the safety of the BPA and the horse.



On November 17, 2021, OPR SAs [REDACTED] and [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 11).

BPA [REDACTED] is currently a member of the [REDACTED] HPU and is currently assigned to CAR. On September 19, 2021, BPA [REDACTED] was assigned to work at the Del Rio POE.

BPA [REDACTED] was initially assigned to the HPU in [REDACTED], became a certified HPU instructor in [REDACTED], and was most recently assigned to the HPU in [REDACTED]. BPA [REDACTED] has attended various advanced trainings while in the HPU since [REDACTED]. BPA [REDACTED] explained that to be selected for the HPU he submitted a memorandum detailing his previous experiences with the HPU and conducted an assessment ride. BPA [REDACTED] stated in 2013, the HPU became a national program and basic HPU training transitioned from a two- or three-day training to a [REDACTED] week training. BPA [REDACTED] attended and was certified in the national program in [REDACTED]. BPA [REDACTED] was certified as a horse patrol instructor in [REDACTED], and the training included crowd control. BPA [REDACTED] advised quarterly training has not been conducted due to the COVID pandemic. BPA [REDACTED] stated HPU BPAs were allowed by policy to make an apprehension while on horseback and that it was part of basic HPU training.

BPA [REDACTED] stated the HPU was requested at the Del Rio POE due to the thousands of migrants there and the possibility of an announcement being made that the migrants were going to be returned to their country.

BPA [REDACTED] stated USBP management did not advise if the migrants under the Del Rio POE were in custody and further stated Del Rio HPU BPAs told him that migrants were being allowed to cross back and forth between the United States and Mexico.

BPA [REDACTED] stated on September 18, 2021, SBPA [REDACTED] advised him the HPU was being deployed to the Del Rio POE for safety and crowd control. BPA [REDACTED] advised on the same date Special Operations Supervisor (SOS) [REDACTED] provided a briefing to the HPU advising they were to provide security and crowd control.

BPA [REDACTED] recalled on September 19, 2021, SBPAs [REDACTED] and [REDACTED] advised the HPU was to help where needed. BPA [REDACTED] also recalled being advised the HPU was going to assist in an operation that would begin moving migrants from downriver of the Del Rio POE to a containment area on the same date.

BPA [REDACTED] stated he did not recall any directives given by USBP management regarding the migrants accumulating at the boat ramp. BPA [REDACTED] stated he did hear a call, via radio, for the HPU to assist at the boat ramp, but did not know who requested them because no identifiers were used.

BPA [REDACTED] stated he did hear BPA [REDACTED] asking for guidance on letting migrants through (the boat ramp). BPA [REDACTED] stated he was not present at the boat ramp when this incident occurred and did not witness the incident.

BPA [REDACTED] advised from what he saw in the media, the HPU BPAs did use force on September 19, 2021. BPA [REDACTED] elaborated that from what he could see in the videos (Exhibit 1, Videos 1-

2) migrants were actively resisting to avoid apprehension. BPA [REDACTED] stated the mere presence of a horse would be considered officer presence on the use of force continuum. BPA [REDACTED] stated this is the only amount of force he witnessed.

BPA [REDACTED] stated due to the large number of migrants carrying plastic bags, the horses could have been spooked, which could cause physical injury to the rider or migrants.

BPA [REDACTED] stated that while viewing the video (Exhibit 1, Video 1) he heard BPA [REDACTED] make unprofessional comments, which he believed to be discriminatory based on the migrant's country of origin being mentioned.

BPA [REDACTED] stated the twirling of reins was taught in HPU training to move a horse laterally, forward, and back. He also stated that twirling the reins puts pressure on the horse to move in the opposite direction. BPA [REDACTED] stated the twirling of reins to keep someone away from a horse was not taught in training. BPA [REDACTED] stated reins and horses can be used in a use of force situation, elaborating if the threat of physical injury or death exists a BPA can use any tool necessary to defend themselves.

On November 09, 2021, SA [REDACTED] and SA [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 12).

BPA [REDACTED] is currently assigned to CAR. On September 19, 2021, BPA [REDACTED] was assigned to the [REDACTED] HPU and was assigned to work at the Del Rio POE.

BPA [REDACTED] stated he has been a BPA for approximately [REDACTED] and part of the [REDACTED] HPU for [REDACTED]. BPA [REDACTED] said he had previously been detailed to the HPU in CAR for [REDACTED] after successfully completing the HPU basic horsemanship academy. BPA [REDACTED] stated since he was previously HPU certified, he was only required to complete a "check" ride with an HPU instructor to ensure he could proficiently ride a horse to USBP HPU standards.

BPA [REDACTED] stated in the past, the [REDACTED] HPU conducted quarterly trainings. Quarterly trainings were to desensitize the horse in a training environment, which allowed the horse to become familiar with certain objects or situations they may encounter in the field. BPA [REDACTED] further explained that once a horse was familiar with an object or situation, the horse was less likely to react negatively to it, which provided safety for both the horse and rider. BPA [REDACTED] said the CAR HPU had not conducted quarterly trainings since he had been on his second rotation with the HPU.

BPA [REDACTED] stated that on September 19, 2021, SBPA [REDACTED] and SBPA [REDACTED] advised the HPU's assignment that day would be to report to Del Rio, Texas. BPA [REDACTED] stated SBPA [REDACTED] and SBPA [REDACTED] told him the role/purpose of the [REDACTED] HPU was to assist where needed. SBPAs [REDACTED] and [REDACTED] instructed BPA [REDACTED] they were to report to the incident command post (ICP) for further instructions once they arrived at the Del Rio POE.

Upon arrival at to Del Rio POE, HPU personnel reported to the ICC and were told by the incident commander (IC) that migrants underneath the bridge were accounted for and the status of any

other migrants walking around was unknown. BPA [REDACTED] stated the IC did not provide them with any operational plans. BPA [REDACTED] stated the HPU was directed by the IC to assist where needed. BPA [REDACTED] said he did not receive any directive from management regarding the custody status of the migrants who were crossing and accumulating on the boat ramp.

BPA [REDACTED] stated he received a request for assistance to help clear the boat ramp via his service radio, but the requestor did not identify themselves. BPA [REDACTED] stated once he arrived at the boat ramp, there was a [REDACTED] HPU BPA who told him TXDPS wanted to clear the boat ramp and needed assistance. BPA [REDACTED] stated TXDPS was already in the area directing migrants to move off the ramp. BPA [REDACTED] stated TXDPS did not give a reason why they wanted the boat ramp cleared.

BPA [REDACTED] said while at the boat ramp, BPA [REDACTED] had asked over the radio for guidance on what they should do with all the migrants crossing the river. BPA [REDACTED] added the request for guidance from BPA [REDACTED] came after the HPU BPAs arrived at the boat ramp. BPA [REDACTED] stated someone, who did not identify themselves, responded on the service radio and told them to let the migrants in.

BPA [REDACTED] explained some of the migrants were bathing, so he went down and asked people to move from the ramp. BPA [REDACTED] stated they were attempting to move the migrants towards an open area called a firebreak and toward the Del Rio POE. BPA [REDACTED] stated under normal circumstances, once a migrant was in custody, they should never leave USBP control.

BPA [REDACTED] said he did not make any unprofessional comments towards any of the migrants, and he did not hear anyone else make unprofessional comments. BPA [REDACTED] stated he did not order any migrants back to Mexico. BPA [REDACTED] said he heard yelling but couldn't be sure who was yelling or what was said.

BPA [REDACTED] stated he did not maneuver his horse in an aggressive manner towards any migrants and did not see anyone else maneuver their horse in an aggressive manner. BPA [REDACTED] said he did not hit the water with a lariat or reins while near a migrant. BPA [REDACTED] said HPU BPAs were not issued whips, and he did not own a whip, nor was he carrying a whip on September 19, 2021. BPA [REDACTED] described a training tool, called a lunge whip, used during round pen training by HPU BPAs and described that tool as a pole with a rope attached to the end of that pole. BPA [REDACTED] explained while training horses in the round pen, that training tool can be used to encourage a horse to move in the correct direction.

BPA [REDACTED] stated he did not see any of the migrants exhibiting threatening behavior towards the HPU.

BPA [REDACTED] identified BPA [REDACTED] in a video of the incident (Exhibit 1, Video 1) as yelling, "This is why your country is shit, because you use your women for this." BPA [REDACTED] identified BPA [REDACTED] by the horse BPA [REDACTED] was riding and by BPA [REDACTED]'s voice. BPA [REDACTED] stated he had not heard BPA [REDACTED] make any other comments like this before and had not heard anyone else on the HPU make these types of comments. BPA [REDACTED] stated this was not common behavior for the HPU BPAs.

BPA [REDACTED] said CBP provided training to BPAs that prohibited discrimination based on sex, race, and national origin.

BPA [REDACTED] identified BPA [REDACTED] in a video of the incident (Exhibit 1, Video 2) as the HPU BPA twirling his reins. BPA [REDACTED] advised he worked with BPA [REDACTED] but was unsure if BPA [REDACTED] always twirled his reins in that manner. BPA [REDACTED] explained he and other HPU BPAs twirled their reins in this manner, depending on the horse they are riding. BPA [REDACTED] stated he did not use his horse to force anyone back into the river.

BPA [REDACTED] stated it appeared BPA [REDACTED] was attempting to deter migrants from entering further up the riverbank and into the US. BPA [REDACTED] said it was possible these actions may have been to keep the boat ramp clear, but he was unsure of what BPA [REDACTED] was attempting to accomplish.

BPA [REDACTED] stated he did not order anyone to go back to Mexico. BPA [REDACTED] never heard BPA [REDACTED] tell migrants to go back to Mexico. BPA [REDACTED] did not hear any other HPU BPAs tell migrants to return to Mexico. BPA [REDACTED] further added he could not legally tell someone to return to Mexico.

BPA [REDACTED] did not consider grabbing a subject by the shirt as a use of force. BPA [REDACTED] did not witness BPA [REDACTED] grabbing a migrant by the shirt. BPA [REDACTED] said he did not grab a migrant. BPA [REDACTED] stated the HPU training did not address agents making apprehensions while on horseback.

On November 9, 2021, OPR ASAC [REDACTED] and SA [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 13).

BPA [REDACTED] joined the USBP on [REDACTED] and he has been assigned to the [REDACTED] HPU since [REDACTED]. BPA [REDACTED] attended a [REDACTED] week basic Horse Patrol training in which [REDACTED] weeks were in a controlled environment and [REDACTED] weeks were on-the-job training. BPA [REDACTED] also attended one quarterly training which involved desensitizing the horse. BPA [REDACTED] has only attended one quarterly training since joining the HPU. The quarterly trainings were canceled due to the reassignment of the [REDACTED] HPU to assist in processing migrants. BPA [REDACTED] said some of the [REDACTED] HPU BPAs have received crowd control training, but he had not.

BPA [REDACTED] stated that on September 18, 2021, there was an influx of migrants crossing in Del Rio, Texas, and he volunteered to assist the USBP Del Rio Sector (DRT). BPA [REDACTED] was directed to travel to Del Rio by the [REDACTED] HPU supervisors and assumed the order came from the DRT Chief Patrol Agent, but he was unsure. On September 18, 2021, following his shift, BPA [REDACTED] returned to Carrizo Springs and on September 19, 2021, he returned to the Del Rio POE with the [REDACTED] HPU.

BPA [REDACTED] was asked what the purpose and responsibilities of the HPU were in Del Rio and stated he assumed it was crowd control. BPA [REDACTED] further explained they were not given direct guidance on what to do, other than to be visible. They were told not to make any arrests by their supervisors and upper management. BPA [REDACTED] could not provide specific names of the personnel that gave that direction. BPA [REDACTED] stated no operational plans were provided to HPU. Additionally, USBP management never gave guidance as to whether the migrants under the bridge were in custody.

BPA [REDACTED] received very little guidance or orders from USBP management concerning HPU responsibilities on September 19, 2021. Additionally, no operational plans were provided to the HPU. BPA [REDACTED] added that radio communication was unreliable and members of the HPU relied on voice calls, text messages, group chats, and emails for communication.

BPA [REDACTED] remembered a request via radio asking HPU to assist TXDPS with closing the boat ramp. An hour before that, he overheard SBPA [REDACTED] and SBPA [REDACTED] talk with someone who was in charge, about an operation to regain control of the boat ramp area. [REDACTED] HPU, [REDACTED] HPU, and TXDPS were the only agencies present at the boat ramp on September 19, 2021. TXDPS and the [REDACTED] HPU were already at the boat ramp when the [REDACTED] HPU arrived. BPA [REDACTED] stated the HPU received an order via radio to stop migrants at the boat ramp from crossing into the US but were later told to allow approximately thirty migrants that were crossing the river into the US, and to stop all others. BPA [REDACTED] believed those instructions came from USBP management but could not specify who.

When BPA [REDACTED] arrived at the boat ramp, there were several hundred migrants gathered in the area. BPA [REDACTED] approached the boat ramp, but was uncomfortable with the wet concrete, so he stayed back and directed migrants towards the Del Rio POE.

BPA [REDACTED] did not see any HPU BPAs whip migrants. BPA [REDACTED] was shown a video of the incident (Exhibit 1, Video 1) and identified the BPA in the video as HPU BPA [REDACTED] BPA [REDACTED] characterized the statements BPA [REDACTED] made in the video as unprofessional and xenophobic. BPA [REDACTED] did not witness any HPU BPAs push migrants into the water with their horse but did see that happen in an open-source video he later viewed. BPA [REDACTED] saw HPU BPAs use their horses to control an unruly crowd of migrants, some of which were not obeying HPU commands. BPA [REDACTED] believed the force used by [REDACTED] HPU on September 19, 2021, was reasonable and within policy.

BPA [REDACTED] did not see any HPU BPA grab a migrant by the shirt on September 19, 2021, but explained he later saw an open-source video in which a HPU BPA grabbed a migrant by the shirt while on horseback. BPA [REDACTED] stated it was common practice to apprehend migrants while on horseback and HPU BPAs receive training on how to properly apprehend migrants while on horseback. However, BPA [REDACTED] explained the technique only worked on compliant individuals.

BPA [REDACTED] saw [REDACTED] HPU BPA [REDACTED] BPA [REDACTED] and BPA [REDACTED] controlling horses by twirling their reins. BPA [REDACTED] stated he personally twirls his reins to distract and control his horse. BPA [REDACTED] stated it was not a method shown in training, but it was common practice with experienced riders. BPA [REDACTED] stated HPU was not issued whips or lariats. Additionally, no one in HPU carried whips or lariats.

BPA [REDACTED] witnessed some migrants that were being resistant and had stances that could be interpreted as assaultive, he witnessed gatherings that looked aggressive, and some individuals that were frustrated due to the lack of water or food. BPA [REDACTED] referred to a picture of BPA [REDACTED] grabbing a migrant by the shirt that he saw on social media and stated the migrant appeared to be attempting to grab the horse's bit.

BPA [REDACTED] was shown a video of the incident (Exhibit 1, Video 2) and asked if he saw a HPU

BPA use his horse to push a migrant back into the water, to which he replied yes. BPA identified BPA from the video, using his horse to push a migrant back into the water. BPA stated some HPU BPAs had training in crowd control, but he had not attended that training.

BPA was under the impression that management wanted HPU to allow migrants to cross the Rio Grande River at their leisure, but later stated it was not within policy and not what the USBP does. BPA was asked again if it was permissible to use a horse to send a migrant back to Mexico and he responded that since HPU BPAs were directed not to allow migrants to enter the US, it was permissible. BPA stated migrants were not being told to return to Mexico. BPA stated he did not have the authority to tell someone to go back to Mexico after they had made an illegal entry into the United States.

BPA did not know why women and children were allowed to enter the United States and men were being held back. BPA explained that was not the intention, but simply the way it happened. It was hard to control the crowd and HPU focused on the perceived threat. When HPU attempted to control the crowd, the migrants went in different directions and HPU felt the males were a bigger threat as opposed to women and children.

BPA identified BPA as the BPA who used derogatory language towards the migrants. BPA clarified he did not witness BPA using the derogatory language but later saw it in an open-source video. BPA affirmed the language used by BPA was unprofessional and discriminatory. BPA stated he had never previously heard BPA make similar comments.

BPA was shown photos of a BPA interacting with a migrant (Exhibit 1, Photos 3-4) and identified the BPA in both photos as BPA. BPA stated BPA's grabbing of the migrant by the shirt was a use of force, but BPA disengaged at the proper time.

On November 10, 2021, OPR ASAC and SA interviewed BPA. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: (Exhibit 14).

BPA is currently a member of the HPU and is currently assigned to CAR. On September 19, 2021, BPA was assigned to work at the Del Rio POE.

BPA stated he has been assigned to the HPU for approximately

BPA volunteered for HPU and following a selection process attended a week national training program. BPA did not receive crowd control training during the national training program, however, did practice positioning horses to move a crowd during other trainings. BPA said HPU BPAs were allowed and trained to make apprehensions while on horseback. However, BPA described this as using the horse to cut off someone and then dismounting to make the apprehension. BPA attended one or two quarterly trainings, but they stopped due to COVID-19. BPA last attended quarterly training in January 2020, which he described as desensitizing, where horses were exposed to noises and objects encountered during normal duties.

On the morning of September 19, 2021, BPA [REDACTED] attended an operational briefing at the incident command post at the Del Rio POE. During the briefing, the only instruction given to the HPU was to provide area security. BPA [REDACTED] stated the migrants were not detained and understood the HPU's responsibility was to provide security and keep the area safe for migrants and agents.

BPA [REDACTED] did not receive any specific direction from management regarding the migrants gathering at the boat ramp. BPA [REDACTED] stated someone came over the radio and stated TXDPS requested assistance to shut down the boat ramp. BPA [REDACTED] understood this radio transmission to mean not to allow any additional crossings (of migrants) at the boat ramp.

When BPA [REDACTED] arrived at the boat ramp, TXDPS and two [REDACTED] HPU BPAs were there. The [REDACTED] HPU informed BPA [REDACTED] that TXDPS wanted to shut down the boat ramp and get the people back to the Del Rio POE. BPA [REDACTED] stated for approximately 15 minutes, HPU BPAs requested migrants exit the water and return to the Del Rio POE.

BPA [REDACTED] was following a large crowd towards the Del Rio POE when he heard a commotion at the boat ramp. BPA [REDACTED] was at a distance but saw HPU BPAs and TXDPS trying to stop people from crossing. BPA [REDACTED] saw people running past the HPU BPAs (at the boat ramp).

BPA [REDACTED] identified BPA [REDACTED], BPA [REDACTED], BPA [REDACTED], and BPA [REDACTED] and unknown TXDPS troopers as being involved in the incident. BPA [REDACTED] stated before and during the incident, BPA [REDACTED] made multiple radio requests for guidance, but did not receive a response.

BPA [REDACTED] stated he did not hear the comments BPA [REDACTED] made towards migrants on September 19, 2021. OPR SAs showed BPA [REDACTED] a video of the incident (Exhibit 1, Video 1), which captured the comments made by BPA [REDACTED]. BPA [REDACTED] stated the comments BPA [REDACTED] made toward the migrant were unprofessional.

BPA [REDACTED] identified the HPU BPA in the video allowing women and children to pass while stopping males as BPA [REDACTED]. BPA [REDACTED] did not know why BPA [REDACTED] was trying to stop the male. BPA [REDACTED] had not received any direction to stop only male migrants.

BPA [REDACTED] identified BPA [REDACTED] in a video of the incident (Exhibit 1, Video 2) as the HPU BPA twirling the reins. BPA [REDACTED] explained twirling the reins is a maneuver to turn a horse. BPA [REDACTED] stated twirling the reins was taught in a HPU training class and other HPU BPAs use the maneuver. BPA [REDACTED] stated HPU BPAs did not carry or use whips and lariats. BPA [REDACTED] stated twirling the reins could be used to deter people from getting close to the horse.

While continuing to review the same video, BPA [REDACTED] said he did not believe BPA [REDACTED] charged his horse towards migrants. BPA [REDACTED] denied seeing any HPU BPA charging towards migrants. BPA [REDACTED] did not hear BPA [REDACTED] or any other BPA instructing migrants to return to Mexico.

BPA [REDACTED] was shown a photo from the incident (Exhibit 1, Photo 3) and asked to identify the HPU BPA depicted. BPA [REDACTED] identified BPA [REDACTED] grabbing a migrant by the shirt. BPA [REDACTED] stated he had never seen BPA [REDACTED] or any other HPU BPA grab someone by the shirt to prevent them from entering the United States. BPA [REDACTED] stated HPU training teaches HPU

BPA [REDACTED] to hold a person until another HPU BPA dismounts to affect an arrest.

On February 9, 2022, SAs [REDACTED] and [REDACTED] interviewed BPA [REDACTED]. The interview was video, and audio recorded with StarWitness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 15).

BPA [REDACTED] is currently a member of the [REDACTED] HPU and is currently assigned to CAR. On September 19, 2021, BPA [REDACTED] was assigned to work at the Del Rio POE.

BPA [REDACTED] stated he has been employed with the USBP since [REDACTED]. BPA [REDACTED]'s first rotation with the HPU started in [REDACTED] and lasted [REDACTED]. BPA [REDACTED] stated after being off the HPU for six months, he returned until the present date. BPA [REDACTED] advised before starting his second rotation on the HPU he was nationally certified. BPA [REDACTED] attended a two-week training which covered horse tack and how to navigate a horse with reins. BPA [REDACTED] advised there was a quarterly training for the HPU, however last year (2020) was the last time he attended, due to being assigned to processing. BPA [REDACTED] advised he attended a one-day crowd control training in 2017 or 2018.

BPA [REDACTED] advised that on September 19, 2021, SBPA [REDACTED] and SBPA [REDACTED] gave orders to the HPU BPAs to create a presence at the Del Rio POE and assist as requested. BPA [REDACTED] stated he was not provided instructions by USBP management regarding the migrants who were crossing and accumulating at the boat ramp. BPA [REDACTED] stated he did not recall instructions from USBP management asking the HPU to stop migrants from entering the United States at the boat ramp, nor did BPA [REDACTED] recall any instructions from USBP management to direct the migrants toward the Del Rio POE.

BPA [REDACTED] recalled seeing TXDPS troopers and sheriff's deputies at the boat ramp. BPA [REDACTED] stated he did not recall TXDPS troopers asking for assistance at the boat ramp.

BPA [REDACTED] stated he had been near the boat ramp on September 19, 2021; however, his horse was uncomfortable walking on the boat ramp because it was covered in uneven tiles. BPA [REDACTED] stated the migrants at the boat ramp were walking and moving about freely. BPA [REDACTED] stated migrants were crossing back and forth between the United States and Mexico. Additionally, he advised that he had never seen migrants in custody travel back and forth between the United States and Mexico before. BPA [REDACTED] did not recall any conversation with USBP management regarding the custody of the migrants under the Del Rio POE. BPA [REDACTED] assumed the migrants were in custody because the migrants were not allowed to travel further into the United States. BPA [REDACTED] continued, describing the area under the Del Rio POE as having concrete barriers and some fencing along with a large number of BPAs, meaning the migrants were not free to leave.

BPA [REDACTED] stated when he arrived at the boat ramp area, BPA [REDACTED] was inquiring, via radio, whether to let the migrants make entry or to stop them at the boat ramp. BPA [REDACTED] stated there was a long pause on the radio until someone responded to let the migrants enter. BPA [REDACTED] stated he did not recognize the voice of the person who responded to let the migrants in, nor was a call sign given on the radio. BPA [REDACTED] assumed the response to allow the migrants make entry ended the incident at the boat ramp.

BPA [REDACTED] recalled the weir dam upriver from the boat ramp [REDACTED] but it had been shut down. BPA [REDACTED] stated information circulated amongst the [REDACTED]



BPA [REDACTED] stated he recalled a discussion about an operation at the boat ramp involving USBP and TXDPS, expected to occur at 2:00 pm on September 19, 2021. BPA [REDACTED] continued, he believed SBPA [REDACTED] gave instructions to be on standby at 2:00 pm. BPA [REDACTED] stated there was not a muster or operational plan related to the boat ramp.

BPA [REDACTED] stated prior to 2:00 pm, there was a request by an unknown individual for the HPU to respond to the boat ramp. BPA [REDACTED] stated he believed the operation was commencing, so he mounted his horse and headed to the boat ramp area. BPA [REDACTED] recalled when he responded to the call for assistance, migrants were walking away from the boat ramp and HPU BPAs were directing migrants toward the Del Rio POE. BPA [REDACTED] stated he stopped and assisted in directing migrants toward the Del Rio POE and did not go to the boat ramp.

BPA [REDACTED] was shown a video of the incident (Exhibit 1, Video 2). BPA [REDACTED] identified BPA [REDACTED] as the BPA riding a brown horse and twirling his reins. BPA [REDACTED] stated other HPU BPAs had advised him that twirling the reins was a type of pressure; and horses work off pressure.

BPA [REDACTED] stated he did not hit any migrants with reins or a whip, nor did he witness any migrants being hit with reins or a whip. BPA [REDACTED] stated in Video 1, BPA [REDACTED] twirled his reins on the right side of the horse's head, and the horse moved to the left. BPA [REDACTED] stated he did not know if BPA [REDACTED] was using the reins as a type of pressure.

BPA [REDACTED] stated he believed BPA [REDACTED] was using his horse to deter migrants from making landfall.

BPA [REDACTED] stated it looked like BPA [REDACTED] was using "cutting tactics" to deter migrants at the boat ramp. BPA [REDACTED] explained the HPU BPAs were trained to cut off, or get ahead of, someone who absconded from them in the field, but he did not recall training using cutting movements.

On November 9, 2021, OPR, SA [REDACTED] and ASAC [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 16).

BPA [REDACTED] is currently a member of the [REDACTED] HPU and is currently assigned to CAR. On September 19, 2021, BPA [REDACTED] was assigned to work at the Del Rio POE.

BPA [REDACTED] stated he completed the [REDACTED] week national HPU training and a two-week on-the-job training. BPA [REDACTED] stated HPU BPAs are required to receive quarterly training, but they have only done one in 2021. Quarterly training includes advanced techniques such as riding in formation and desensitization training for the horse. BPA [REDACTED] stated BPAs received training on making apprehensions from horseback. BPA [REDACTED] stated he had not received training on using his horse for crowd control.

BPA [REDACTED] stated he was uncertain what the HPU's responsibilities were going to be prior to arriving at the Del Rio POE, but once at the Del Rio POE, an unknown Incident Commander (IC) instructed the [REDACTED] HPU BPAs to patrol the area near the Del Rio POE and to provide a presence, ensuring everything stayed calm. BPA [REDACTED] stated the HPU was also responsible for providing security and responding to emergencies.

BPA [REDACTED] recalled that someone on the radio stated TXDPS was requesting assistance at the boat ramp. BPA [REDACTED] and six or seven other HPU BPAs responded. When they arrived, there were a couple of TXDPS Troopers and two [REDACTED] HPU BPAs. BPA [REDACTED] believed there was an operation planned to stop migrants from entering the United States at the boat ramp, but he noticed there was not a lot of law enforcement personnel at the boat ramp for the operation.

BPA [REDACTED] stated no specific directives or strategy concerning activity at the boat ramp were provided. BPA [REDACTED] explained the plan was to relocate the large group of migrants congregated at the boat ramp and area around the boat ramp back to the Del Rio POE bridge. BPA [REDACTED] stated migrants at the boat ramp had family members who had crossed the Rio Grande River into Mexico to obtain food because there was not enough food at Del Rio POE. BPA [REDACTED] did not know who decided to allow migrants to travel into Mexico to retrieve food and return to the United States.

BPA [REDACTED] stated BPA [REDACTED] radioed the incident command post requesting instruction stating approximately 30 migrants were in the river moving towards the United States. BPA [REDACTED] said there was a minute or two delay and then an unknown person instructed the BPAs to only allow the migrants in the river to continue and not to allow any additional migrants to enter the U.S.

Once the migrants in the river were allowed to continue towards the Del Rio POE, additional migrants entered the water from Mexico and moved towards the United States. BPA [REDACTED] radioed for guidance two additional times but did not receive a response. BPA [REDACTED] explained migrants attempted to maneuver around HPU BPAs and, "that is when the chaos started."

HPU BPAs maneuvered their horses attempting to keep migrants in the river and cause them to return to Mexico. When the migrants would not return to Mexico, BPA [REDACTED] became concerned a HPU BPA or migrant would be injured. BPA [REDACTED] stated TXDPS moved out of the area at this point, even though he understood this operation to be a TXDPS initiative.

According to BPA [REDACTED] HPU BPAs were there as a deterrent to migrants crossing into the U.S.

BPA [REDACTED] stated the use of split reins was consistent with national policy, which allows HPU BPAs to use either closed reins or split reins. BPA [REDACTED] said it is his understanding the split reins can be used to apply pressure and control the movement of the horse by twirling the reins. The twirling of the split reins is not specifically noted in national HPU policy. BPA [REDACTED] said he has twirled his reins to direct his horse, and it was a common practice among HPU BPAs. BPA [REDACTED] stated he was not issued a lariat or whip, nor did he see any BPA strike a migrant with reins or a whip. BPA [REDACTED] stated no specific training was provided by USBP regarding this technique.

BPA [REDACTED] stated he did not witness BPA [REDACTED]'s comments toward the migrants but later viewed them on social media. BPA [REDACTED] did not believe they were intended to be xenophobic but did believe that the comments were unprofessional. BPA [REDACTED] said he did not believe BPA [REDACTED] was prejudiced against Haiti or Haitians.

BPA [REDACTED] stated he did not hit a migrant with a horse, nor did he witness anyone else do so. BPA [REDACTED] agreed using a horse to strike someone would be a reportable use of force. BPA [REDACTED] believed the HPU BPAs used a reasonable amount of force on September 19, 2021, and their actions were within policy.

BPA [REDACTED] identified BPA [REDACTED] and BPA [REDACTED] in a video of the incident (Exhibit 1, Video 2) and said they were attempting to keep a male migrant in the Rio Grande River. BPA [REDACTED] did not know why BPA [REDACTED] and BPA [REDACTED] would allow the women and children to continue but were giving a hard time to the male migrant.

BPA [REDACTED] explained that grabbing someone from horseback to make an apprehension created a risk of injury to both the rider and person being apprehended. The person being apprehended could be stepped on by the horse or the person being apprehended could take control of the horse by grabbing the reins or bridle. However, BPA [REDACTED] stated HPU BPAs were permitted by policy to apprehend migrants while on horseback.

BPA [REDACTED] said there were no policies from the DHS or CBP allowing certain migrants to enter the United States while preventing others from entering the United States.

On November 09, 2021, SA [REDACTED] and SA [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded with Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 17).

BPA [REDACTED] stated he has been a BPA for [REDACTED] and is currently a member of the [REDACTED] HPU as [REDACTED] assigned to CAR. [REDACTED]. BPA [REDACTED] stated he has been assigned to the HPU for [REDACTED] and previously did [REDACTED] rotation with the CAR HPU.

BPA [REDACTED] stated new HPU recruits are prescreened through a series of activities which are graded, with the top candidates being selected to join the HPU once they have completed the HPU academy.

BPA [REDACTED] said his training with the HPU consisted of a [REDACTED] week training in a controlled environment and another [REDACTED] weeks of on-the-job training in the field. BPA [REDACTED] explained that there was also an eight-hour quarterly training that was supposed to be conducted for HPU BPAs, but due to COVID-19, quarterly training had not occurred in the past year to year and a half. BPA [REDACTED] said during this time, if deficiencies were seen or corrections needed to be made with a rider, they were addressed it in the field. BPA [REDACTED] said to [REDACTED]

BPA [REDACTED] said the HPU had previously been requested to respond to crowd control issues; however, they had never responded to these requests due to the lack of equipment and training.

BPA [REDACTED] stated on September 19, 2021, [REDACTED] HPU SBPAs [REDACTED] and [REDACTED] instructed the [REDACTED] HPU to report to the Del Rio POE and provide security and crowd control due to the large number of migrants under the Del Rio POE. BPA [REDACTED] stated he believed Acting Assistant Chief Patrol Agent ((A)ACPA) [REDACTED] was the one who ordered the HPU to the Del Rio POE.

BPA [REDACTED] stated he did not receive or see an operational plan regarding the situation at the Del Rio POE. BPA [REDACTED] stated when the HPU arrived at the Del Rio POE, they met with (A)ACPA [REDACTED] and SBPA [REDACTED] at the incident command post and reviewed a map of the Del Rio POE area. BPA [REDACTED] said (A)ACPA [REDACTED] and SBPA [REDACTED] showed them the map and

advised them to stay in the area and respond to calls for assistance. BPA [REDACTED] stated the HPU was present not only for the safety of other BPAs, but also the other agencies and the migrants.

BPA [REDACTED] said he assumed that on September 19, 2021, the migrants at the Del Rio POE were free to travel back and forth between the United States and Mexico because the migrants had been doing that for a week and there were no orders to detain or arrest these migrants. BPA [REDACTED] explained he was never advised if the migrants under the Del Rio POE were in custody, nor was it discussed.

BPA [REDACTED] stated the TXDPS Troopers and the HPU were the only law enforcement agencies at the boat ramp on September 19, 2021. BPA [REDACTED] stated there was no guidance given regarding how the HPU was to support TXDPS, nor was there any formal coordination between the USBP and TXDPS.

BPA [REDACTED] said that on September 19, 2021, [REDACTED] HPU BPA [REDACTED] advised, via his radio, that TXDPS had asked for assistance in closing and securing the boat ramp and requested more HPU BPAs at that location.

When BPA [REDACTED] arrived at the boat ramp, he estimated there were approximately 200 to 300 migrants around the area of the boat ramp. BPA [REDACTED] said he tried to clear the boat ramp by having the migrants move and enter on the bank of the Rio Grande River instead of the boat ramp. BPA [REDACTED] said there were no supervisors present, there was no plan on how to clear the ramp, and it was very disorganized.

BPA [REDACTED] stated he did not make any unprofessional comments toward migrants, nor did he hear any HPU BPA do so. BPA [REDACTED] said he did not order any migrants to return to Mexico, nor did he recall witnessing any HPU BPA do so.

BPA [REDACTED] was shown a video of the incident (Exhibit 1, Video 1). BPA [REDACTED] identified BPA [REDACTED] as the BPA who made a statement regarding the treatment of women and the migrant's country. BPA [REDACTED] said prior to this comment, he had not heard BPA [REDACTED] make any derogatory comments, nor had he heard any other BPAs from the HPU make comments like this. BPA [REDACTED] said this was not common behavior from BPAs in the HPU.

BPA [REDACTED] was shown photos of the incident (Exhibit 1, Photos 3-4). BPA [REDACTED] identified the BPA in both photos as BPA [REDACTED]. BPA [REDACTED] stated prior to this incident he had never seen BPA [REDACTED] grab anyone by the shirt to prevent them from entering the United States, nor had he seen anyone else in the HPU do this. BPA [REDACTED] said he did not witness BPA [REDACTED] grabbing the migrant on September 19, 2021. BPA [REDACTED] said he did not grab any non-citizen by the shirt. BPA [REDACTED] explained the HPU BPAs are allowed to make an apprehension while on horseback, but that there was no physical training in the HPU academy related to apprehensions while on horseback. BPA [REDACTED] said the purpose of staying on the horse was to maintain control of the horse while keeping the person you are trying to apprehend detained.

BPA [REDACTED] said he had seen BPA [REDACTED] twirl his split reins when riding. BPA [REDACTED] said other BPAs in the HPU twirl their reins in the same manner. BPA [REDACTED] explained that twirling of the reins was commonly done to apply pressure and control the movement of the horse. BPA [REDACTED] said he also had twirled his reins in this manner to control the horse he was riding at the

time. BPA [REDACTED] explained some horses need more pressure than others, and some react differently to different methods of pressure.

BPA [REDACTED] said he did not maneuver his horse in an aggressive manner toward any migrant, nor did he witness any other HPU BPA do so.

BPA [REDACTED] was shown another video of the incident (Exhibit 1, Video 2). BPA [REDACTED] stated it appeared BPA [REDACTED] was using his horse to make non-citizens move back into the river, but he was unaware of what BPA [REDACTED]'s intentions were.

BPA [REDACTED] stated there are no circumstances that would permit a BPA to use a horse to force a migrant to return to Mexico.

On November 9, 2021, SA [REDACTED] and SSA [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 18).

BPA [REDACTED] is a member of the [REDACTED] HPU and is currently assigned to CAR. On September 19, 2021, BPA [REDACTED] was assigned to work at the Del Rio POE. BPA [REDACTED] described the HPU training he received by stating he completed a [REDACTED] week basic Horse Patrol training with [REDACTED] weeks in a controlled environment and [REDACTED] weeks of on-the-job training in the field with his instructors. BPA [REDACTED] has only attended one quarterly training since joining the HPU in [REDACTED] which involved desensitizing the horse. BPA [REDACTED] stated the quarterly trainings were canceled due to the reassignment of the HPU to assist in processing non-citizens. When asked about crowd control training, BPA [REDACTED] said HPU can be utilized for crowd control situations, but he had not been formally trained on crowd control.

According to BPA [REDACTED] the HPU was assigned to the Del Rio POE because the reintroduction of Title 42 was being announced and there was a concern regarding riots. SBPAs [REDACTED] and [REDACTED] informed BPA [REDACTED] that the HPU would be deployed to the Del Rio POE. BPA [REDACTED] believed the purpose for the HPU to be at the Del Rio POE area was for crowd control, to make sure people were safe, and to assist TXDPS. When the HPU arrived, BPA [REDACTED] attended an operational briefing on the morning of September 19, 2021, at the incident command post but could not recall who conducted the briefing. During the briefing, the HPU was told to assist any agency that needed assistance. BPA [REDACTED] stated the only other agency that was there was TXDPS.

Regarding the incident on September 19, 2021, BPA [REDACTED] recalled someone, whom he assumed was USBP command, communicating via radio and telling them to go to the boat ramp to shut it down. BPA [REDACTED] stated there was no real direction given by management regarding the non-citizens accumulating at the boat ramp. BPA [REDACTED] explained that the HPU understood this order to mean that they should not allow anyone to proceed any further into the United States from the boat ramp. BPA [REDACTED] stated the non-citizens could go back to Mexico if they wanted or stay at the riverbank, but they could not go any further into the United States. While the HPU members were on their way to the boat ramp, BPA [REDACTED] heard a second radio transmission requesting the HPU assist TXDPS at that location. He assumed this transmission was made by TXDPS personnel directly to the HPU. BPA [REDACTED] advised that there were several TXDPS troopers at the boat ramp when the HPU arrived. HPU was operating on radio channel [REDACTED], which was [REDACTED] channel, [REDACTED] and was [REDACTED] recorded.

When the HPU arrived at the boat ramp, BPA [REDACTED] witnessed a very large crowd, which he estimated to be two hundred people, crossing and bathing. HPU BPAs asked them to go towards the bridge where all the necessities were said to be located such as food, water, and restrooms. Most of the initial crowd was cleared out of the boat ramp area, but another group continued to cross. As more migrants continued to cross, BPA [REDACTED] heard someone broadcast over the radio requesting guidance on what to do with the group that was continuing to cross. BPA [REDACTED] believed it was a TXDPS trooper that made this request. BPA [REDACTED] said no one responded to the request for guidance.

BPA [REDACTED] attempted to instruct one individual who was crossing the river to stop, but the male individual did not obey his commands and attempted to abscond. As BPA [REDACTED] pursued the individual, the individual hid behind a group of women and children near the riverbank. BPA [REDACTED] got frustrated with the male non-citizen for not obeying his commands and using the women and children to shield himself from BPA [REDACTED] and his horse. BPA [REDACTED] stated this frustration caused him to make unprofessional comments toward the male non-citizen.

BPA [REDACTED] advised he couldn't remember specifically what he said, but it was along the lines of, "This is how you treat your women; this is why your country is shit." BPA [REDACTED] stated he did not believe his comments were xenophobic.

When asked if he saw his comments as discriminatory, BPA [REDACTED] said he could see why they could be viewed as discriminatory, but in his opinion, they were not. BPA [REDACTED] elaborated by stating, "it had nothing to do with race, ethnicity or anything like that." BPA [REDACTED] further stated he could see how the comments could be viewed as discriminatory because, "I am a Caucasian, white individual speaking to people of color." BPA [REDACTED] agreed the comments he made had the appearance of being discriminatory, whether he intended them to be or not.

After this verbal exchange, the group of women and children realized BPA [REDACTED] was not pursuing them, so they continued up the boat ramp. As BPA [REDACTED] continued pursuing the individual, the family crossed in front of BPA [REDACTED] and his horse. This led to BPA [REDACTED] maneuvering his horse very close to a young child, narrowly avoiding contact.

BPA [REDACTED] denied using any force against any migrants, hitting migrants with his horse, or maneuvering his horse in an aggressive way toward non-citizens.

BPA [REDACTED] stated he did not strike any migrants with a whip or his reins. BPA [REDACTED] explained twirling the reins was used to control the horse by adding pressure to one side of the horse. It would make the horse move away from the pressure and force it to go the other way. BPA [REDACTED] stated twirling the reins was taught during HPU training and could also be used as a deterrent to keep people who were on the ground away from the horse. BPA [REDACTED] explained that HPU BPAs try to keep people on the ground away from the horse for their safety and the safety of others.

When asked if he ordered or forced any migrants to return to Mexico, BPA [REDACTED] could not recall ordering anyone to return to Mexico, but he did tell them to stop. BPA [REDACTED] was asked to elaborate what he meant and said, "Stop, don't, stop what you're doing, stop walking, stop running, stop continuing further into the United States."

When asked what he was going to do with the migrants who stopped, he explained he just wanted to detain them at the river's edge and not allow them to further enter the United States. BPA

██████████ was asked again to clarify what he planned to do with the migrants who had stopped, and he could not provide an answer beyond saying he was going to detain them at the river's edge.

On March 16, 2022, SA ██████████ and SA ██████████ interviewed BPA ██████████. The interview was audio and video recorded with StarWitness equipment and uniquely identified by Authentication Code: ██████████ (Exhibit 19).

BPA ██████████ is currently assigned to CAR. On September 19, 2021, BPA ██████████ was a member of the ██████████ HPU and was assigned to work at the Del Rio POE.

BPA ██████████ stated in ██████████ he applied to the HPU and after being selected he attended the national HPU training program and on the job training, which cumulatively lasted ██████████ weeks. This ██████████ week training included basic horsemanship, equipping horses with tack and care of horses, but did not include crowd control. In 2019, BPA ██████████ stated he attended mobile field force training (MFF), a ██████████ week course, which he described as crowd control training. This training was provided by a local HPU supervisor who was certified to provide the training. MFF training included how to control large groups of people when outnumbered, becoming better at controlling your horse and formations used to maneuver people. BPA ██████████ stated the national HPU policy provides guidance for required quarterly training which had not been conducted in 2021, due to COVID. The quarterly training covered basic horsemanship, mobile field force, desensitizing and anything associated with being on the HPU. BPA ██████████ advised HPU BPAs are constantly training with their horses and being evaluated by HPU Wranglers.

BPA ██████████ stated the HPU unit was suspended in June of 2021, due to its personnel being assigned to processing and transportation. BPA ██████████ stated even though the horses had not been ridden for months, there was not a concern about deploying them to the Del Rio POE.

BPA ██████████ stated in the week prior to September 19, 2021, he was assigned to a transport unit and had been to the Del Rio POE on several occasion to pick up migrants for transport to processing locations. BPA ██████████ noticed the population of migrants growing and the situation being unorganized; migrants were moving around freely ██████████

██████████ BPA ██████████ stated BPAs were setting up support services. BPA ██████████ used the word "sickening" when describing what was transpiring at the Del Rio POE during the week prior to September 19, 2021.

BPA ██████████ stated on September 18, 2021, SBPA ██████████ advised the CAR HPU would be assigned to the Del Rio POE starting that day. BPA ██████████ heard there was concern about migrants finding out about Title 42 being enacted and the migrants may riot when they found out they were going to be removed from the United States. BPA ██████████ stated USBP management did not advise whether the migrants under the Del Rio POE were in custody, nor were there specific instructions given regarding migrants crossing back and forth between the United States and Mexico.

BPA ██████████ stated on September 19, 2021, he heard a radio transmission, on a USBP unsecure channel, from an unknown person asking for assistance to shut down the boat ramp. After this request, there was never a call to standdown to the request.

When BPA ██████████ arrived at the boat ramp there were many migrants who were bathing in the river and crossing back and forth between the United States and Mexico. There were two TXDPS

troopers at the boat ramp and a HPU BPA made an announcement over a DPS trooper's vehicle intercom. The announcement was made for migrants to gather their belongings and begin moving toward the Del Rio POE. BPA [REDACTED] stated the movement of migrants was made in effort to shut down the boat ramp and stop migrants from crossing into the United States. This shutdown would be completed if the migrants on the U.S. side moved to the Del Rio POE and the crossing of migrants from Mexico stopped. Stopping the migrants from crossing would be achieved by deterrence and holding the last group of migrants that had crossed the river at the boat ramp to show migrants on the Mexico bank that USBP was not allowing migrants to continue further into the United States.

BPA [REDACTED] stated there was CBP training related to professionalism and standards of conduct. BPA [REDACTED] did not hear the comments made by BPA [REDACTED] on September 19, 2021, but has seen the video and heard the comments. BPA [REDACTED] did not believe the comments made by BPA [REDACTED] were derogatory.

BPA [REDACTED] stated he did not have the authority to order a migrant back to Mexico once the migrant was in the United States on the bank of the Rio Grande River. BPA [REDACTED] stated he did not force any migrants to return to Mexico. BPA [REDACTED] stated his objective was to prevent migrants from entering further into the United States. BPA [REDACTED] said he could do this by stopping the migrants from crossing at the boat ramp through deterrence. However, if the migrants continued to enter the U.S., BPA [REDACTED] said he could turn them back or hold the migrants at the boat ramp. BPA [REDACTED] stated if the migrants were being held at the boat ramp their options were to return to Mexico or stay at the boat ramp area until the area was secure, so USBP could place them under arrest and move them to the Del Rio POE.

BPA [REDACTED] stated he yelled "no" at migrants, who he said could not be seen on the video (Exhibit 1, Video 1) but were located on the river's bank in Mexico.

BPA [REDACTED] grabbed one migrant by the shirt collar to affect an arrest but did not continue to pursue the arrest after the migrant was able to free himself from his grasp. He turned back to the boat ramp where he believed there to be a larger population of migrants that would be able to abscond if he continued trying to affect an arrest on the migrant he grabbed (Exhibit 1, Video 3).

BPA [REDACTED] stated he did not hit anyone with his reins on September 19, 2021. BPA [REDACTED] stated twirling the reins served two separate purposes. It was used as a technique to control the movement of the horse and to create distance between the horse and a person coming too close. BPA [REDACTED] stated twirling the reins was taught in the field and quarterly training.

BPA [REDACTED] stated the CBP use of force policy does not specifically address the use of reins to create distance and stated the use of force policy was open for interpretation. BPA [REDACTED] said twirling the reins near someone but not striking them would not be any different than no contact being made in any other force related incident. While viewing a video of the incident (Exhibit 1, Video 1) BPA [REDACTED] stated he believes he was twirling the reins to create distance from a migrant and to get a quick reaction from his horse.

#### INTERVIEWS OF CBP SUPERVISORY AND MANAGEMENT PERSONNEL:

On September 20, 2021, OPR SA [REDACTED] and SA [REDACTED] interviewed SBPA [REDACTED]. The interview was audio and video recorded with StarWitness equipment and uniquely



identified by Authentication Code: [REDACTED] (Exhibit 20).

SBPA [REDACTED] is a member of the [REDACTED] HPU and is assigned to CAR. On September 19 and September 20, 2021, SBPA [REDACTED] and his unit assisted with the surge of migrants that occurred near the Del Rio POE. They arrived at the Del Rio POE at approximately 9:30 AM on September 19, 2021.

During the shift on September 19, 2021, SBPA [REDACTED] attended a mission briefing at the incident command post at the Del Rio POE. The briefing was in reference to a mission that was being planned to clear migrants from a brush area near the Del Rio POE and boat ramp just south of the Del Rio POE. The mission had been planned for September 19, 2021, but eventually got postponed until Monday, September 20, 2021. The mission included clearing an area known as the "fire break." They were planning to move migrants from the east side of the fire break to the west side of the fire break. The end of the fire break connected to an area of the river close to the boat ramp. The mission was to be conducted in coordination with the Border Patrol Tactical Unit (BORTAC) and TXDPS. The plan was for the HPU to assist the other teams who would be utilizing vehicles to clear that area and move migrants from the east side of the fire break to the west side. (A)ACPA [REDACTED] provided this guidance to SBPA [REDACTED].

During the briefing, SBPA [REDACTED] received a call at approximately 1:30 PM from one of his agents, BPA [REDACTED], informing him that TXDPS Troopers were requesting assistance with shutting down a crossing at the boat ramp just south of the Del Rio POE. SBPA [REDACTED] was told by BPA [REDACTED] that the TXDPS operation was to shut down the crossing so that no people could go back and forth.

SBPA [REDACTED] verified with the incident command post that the DPS request for assistance was not part of the current operational briefing. SBPA [REDACTED]'s understanding of the orders was for the CAR HPU to help where needed. The order to assist where needed had come from BPA [REDACTED], who he believed was part of the DRT Special Operations Group (SOG). SBPA [REDACTED] advised BPA [REDACTED] that the HPU could assist DPS with their operation. SBPA [REDACTED] stated the operation at the boat ramp was a TXDPS operation. He believed that TXDPS was conducting the operation because they had completed similar operations on the upriver side of the bridge the day before.

SBPA [REDACTED] was shown a video of the incident (Exhibit 1, Video 2). In the video, one of the BPAs can be seen twirling his reins, while attempting to prevent migrants from crossing at the boat ramp. SBPA [REDACTED] was able to identify the BPA as BPA [REDACTED]. SBPA [REDACTED] stated the twirling of the reins is not consistent with Horse Patrol training, but that he is aware that BPA [REDACTED] has used that method before to help distract/control his previous horse. SBPA [REDACTED] was not sure why BPA [REDACTED] was twirling the reins in that instance, possibly intimidation, but he did notice that the horse responded (moved abruptly) at one point when BPA [REDACTED] twirled the reins in the video. SBPA [REDACTED] has seen agents in the past twirl the reins in this manner. SBPA [REDACTED] did not believe that he witnessed any policy violations in the video but that he could see how it could look bad. SBPA [REDACTED] said it did not appear that BPA [REDACTED] hit any of the individuals with the reins.

SBPA [REDACTED] stated it did not appear that any of his agents hit any of the individuals with their horses. SBPA [REDACTED] believed that the individual falling in the water fell due to a drop off at the edge of the ramp in the river.

SBPA [REDACTED] was shown video footage of the incident (Exhibit 1, Videos 1-2). SBPA [REDACTED] was able to identify BPA [REDACTED] in this video as the BPA on the brown horse who was twirling his reins and was pointing.

SBPA [REDACTED] was shown several still photos of the incident (Exhibit 1, Photos 3-4) of the incident at the boat ramp. These photos depict a BPA grabbing a migrant by the shirt. SBPA [REDACTED] identified the BPA as BPA [REDACTED]. SBPA [REDACTED] advised that his agents were trained to apprehend people while on horseback and they may have to grab people at times while on horseback.

On September 20, 2021, SA [REDACTED] and SA [REDACTED] interviewed SBPA [REDACTED]. The interview was audio and video recorded using the StarWitness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 21).

SBPA [REDACTED] is a first line supervisor assigned the [REDACTED] HPU at CAR. On September 19, 2021, SBPA [REDACTED] was assigned to the Del Rio POE.

SBPA [REDACTED] joined the HPU in [REDACTED] and completed a [REDACTED] week basic Horse Patrol training.

On September 19, 2021, SBPA [REDACTED], SBPA [REDACTED] and the [REDACTED] HPU were assigned to the Del Rio POE to and arrived in the area at 9:30 A.M. SBPA [REDACTED] believed the number of migrants at the site had grown to approximately 14,000 to 15,000.

Prior to reporting to the incident command post, SBPA [REDACTED] met with (A)ACPA [REDACTED] who informed him about an operation that would be taking place later that day. The operation was an attempt to relocate migrants closer to the Del Rio POE and was to commence at approximately 2:00 p.m. SBPA [REDACTED], SBPA [REDACTED], and 11 HPU BPAs, 2 of which were from the [REDACTED] HPU, patrolled the perimeter via horseback. SBPA [REDACTED] was later informed to stand down from the operation.

SBPA [REDACTED] stated the incident command post provided guidance and coordination on overall area operations and instructed the HPU to assist where needed, which included assisting other agencies, such as TXDPS. SBPA [REDACTED] personally received this instruction from the incident command post but could not recall from whom. SBPA [REDACTED] believed all agencies reported to the incident command post for operational coordination.

SBPA [REDACTED] heard a request over the radio requesting assistance from the HPU to stop migrant foot traffic at the boat ramp. SBPA [REDACTED] believed this request came from TXDPS personnel, who were also utilizing the USBP radio frequency. SBPA [REDACTED] stated HPU BPAs were not instructed to assist TXDPS in stopping the foot traffic at the boat ramp and further added the BPAs did so of their own accord. SBPA [REDACTED] said he was not present at the boat ramp during the incidents captured on video or in photos. He said he had remained approximately .5 miles away.

SBPA [REDACTED] was shown a video of the incident (Exhibit 1, Video 1) and was able to identify HPU BPA [REDACTED]. Video 1 was paused at 03:04:16 and SBPA [REDACTED] was asked what he believed the HPU BPAs were doing. SBPA [REDACTED] stated they appeared to be attempting to prevent the migrants from entering the boat ramp. SBPA [REDACTED] was asked if it was part of the

mission that day, whether it was a common practice for the HPU, and if they have the authorization as BPAs to deter migrants. SBPA [REDACTED] responded by saying they do not. SBPA [REDACTED] believed the HPU BPAs were following instructions from TXDPS in stopping the foot traffic.

When asked if HPU BPAs are trained to block people with horses, SBPA [REDACTED] stated they are trained to do so in case of a riot and did not see anything wrong with that.

While continuing to view the video, SBPA [REDACTED] identified the HPU BPA twirling his reins as [REDACTED]. SBPA [REDACTED] was asked if twirling of the reins was part of normal operations and SBPA [REDACTED] stated it was. SBPA [REDACTED] explained reins were used to guide a horse to places the horse did not want to go. When asked if reins could be used for any other reason, SBPA [REDACTED] stated if someone was attempting to take the reins from a HPU BPA, it would be a safety concern and the reins may be used as a deterrent. SBPA [REDACTED] did not recall twirling of the reins being part of training but advised using the reins to make the horse move was acceptable.

SBPA [REDACTED] was shown another video of the incident (Exhibit 1, Video 2) and asked if he observed a migrant fall into the water while BPA [REDACTED] twirled his reins and SBPA [REDACTED] stated yes. SBPA [REDACTED] could not tell if the horse struck the migrant or if there were obstacles in the river that would have caused the migrant to fall. SBPA [REDACTED] stated that it was difficult to see if the horse struck the migrant, but he knew first-hand the area was slippery because SBPA [REDACTED] took his horse to drink water at that exact area.

SBPA [REDACTED] was shown a photo of the incident (Exhibit 1, Photo 3) and identified the HPU BPA as [REDACTED]. SBPA [REDACTED] stated in the photo it appeared BPA [REDACTED] had hold of the migrant by the shirt, which was common when someone was fleeing and consistent with training and normal apprehension procedures.

SBPA [REDACTED] stated HPU BPAs were trained to apprehend individuals while on and off their horses. SBPA [REDACTED] stated no allegations of excessive use of force or misconduct were reported to him.

SBPA [REDACTED] was asked if he believed there were any violations of CBP's use of force policy by the HPU on September 19, 2021. Based on the videos and photos shown, SBPA [REDACTED] did not think there was a use of force incident or violations of the use of force policy. SBPA [REDACTED] believed the HPU BPAs were just trying to deter the influx of the migrants.

On September 22, 2021, SA [REDACTED] and SA [REDACTED] interviewed BPA [REDACTED]. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 22).

BPA [REDACTED] is currently assigned to the Del Rio Sector Border Patrol Search, Trauma, and Rescue (BORSTAR) team. For the previous two weeks, he had been assigned to the Del Rio POE Incident Command Post. BPA [REDACTED] stated he was assigned to work at the Del Rio POE on September 19, 2021.

BPA [REDACTED] stated he had completed training in incident command operations and received ongoing incident command training due to his position on the BORSTAR team. BPA

██████████ stated on September 19, 2021, he was assigned to the Del Rio POE to help coordinate security and the movement and transportation of migrants. BPA ██████████ advised he reported to PAIC ██████████ who oversaw operations at the incident command post.

BPA ██████████ stated on September 19, 2021, he met with an unknown HPU supervisor and requested him to assist with security around the migrant population underneath the international bridge. He stated he did not remember telling the HPU supervisor or any BPAs to help where needed. BPA ██████████ stated most of the direction he gave on that day revolved around providing security when the migrants were being loaded onto busses for transportation and in the lavatory area when they were being cleaned out. Additionally, he coordinated security when an EMT had go into an area to assist with treating one of the migrants. BPA ██████████ did not recall the HPU BPAs being part of any special operations that day.

BPA ██████████ was shown a video of the incident (Exhibit 1, Video 1) involving members of the HPU at the boat ramp that occurred on September 19, 2021. BPA ██████████ did not recall hearing about the incident either directly or on the radio while he was working that day. BPA ██████████ stated he did not recall hearing any requests for assistance regarding the incident at the boat ramp.

BPA ██████████ stated he believed guidance given to TXDPS came from the TXDPS chain of command. BPA ██████████ said he believed TXDPS had their own command center, and he did not know if the TXDPS command center was in communication with the USBP incident command post that day. BPA ██████████ stated it was normal for TXDPS and USBP to help each other at the Del Rio POE during this time.

BPA ██████████ stated he was not aware of any circumstance where he, as a BPA, would be authorized to use force or force an individual to return to Mexico after making entry into the United States.

BPA ██████████ said he was not advised of, nor did he receive, any complaints from any migrants that day regarding use of excessive force by any HPU BPAs. BPA ██████████ stated he was not aware of any BPAs video recording the incident involving the HPU BPAs at the boat ramp.

On September 22, 2021, OPR SA ██████████ and SA ██████████ interviewed PAIC ██████████. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: ██████████ (Exhibit 23).

PAIC ██████████ is currently assigned to the DRT. PAIC ██████████ was assigned to the Del Rio POE on September 19, 2021.

PAIC ██████████ received training in incident command operations between approximately 2009 and 2012 when he was a Field Operations Supervisor. PAIC ██████████'s training consisted of the Incident Command Systems (ICS) 300 and 400 courses. PAIC ██████████ gained experience since completing the training by responding to numerous incidents. PAIC ██████████ was previously assigned to the USBP's Rio Grande Valley Sector where they established Emergency Operations Centers (EOCs) for hurricanes. ██████████ had overarching command of security for the operation, which PAIC ██████████ believed also included command of TXDPS assets. ██████████ had two Deputy incident commanders (IC), one of which was DRT Special Operations

Detachment (SOD) PAIC [REDACTED]. PAIC [REDACTED] was responsible for the coordination of the various law enforcement agencies and was responsible for security operations. The second Deputy IC was Eagle Pass North Station PAIC [REDACTED]. A TXDPS Trooper was co-located at the EOC with [REDACTED] and the two Deputy ICs to facilitate communication with TXDPS and command staff.

On Sunday, September 19, 2021, PAIC [REDACTED] was assigned as the IC for the migrant staging location at the Del Rio POE. PAIC [REDACTED] was responsible for the identification, accounting, movement, the transfer of migrants, the amenities provided to migrants, and the coordination of all persons entering the migrant staging location. He also coordinated with the EOC for the transportation of migrants to other locations.

Between September 18, 2021, and the early part of the day on September 19, 2021, the USBP recorded 15,877 migrants around the Del Rio POE. USBP DRT was working with different USBP sectors, Immigration and Customs Enforcement (ICE), ICE facilities, and others to move migrants out of the migrant staging location. PAIC [REDACTED]'s responsibility was to identify groups of migrants who were to be transported and determine their composition, such as family units or adults. PAIC [REDACTED] was also responsible for providing water, food, and facilitating medical treatment. On September 12, 2021, USBP had 700 migrants detained, and by September 18, 2021, through early September 19, 2021, that number had reached 15,877.

At the incident command post (ICP), PAIC [REDACTED] would also account for BPAs and other agency personnel as they arrived. PAIC [REDACTED] explained arriving personnel were logged and provided with responsibilities, such as the feeding of migrants, providing security, and preparing migrants for movement.

On the morning of September 19, 2021, PAIC [REDACTED] conducted a briefing with team leaders from involved law enforcement components to discuss security. The components included TXDPS, TXDPS CID, and the Val Verde County Sheriff's Office (VVSO). During the briefing, PAIC [REDACTED] and another Deputy IC discussed moving the large number of migrants that had congregated around the boat ramp area to a containment zone closer to the Del Rio POE. Another meeting was to commence at 2:00 PM to discuss which assets would assist in the operation and to develop a strategy. The HPU would have also been a part of the operation, but PAIC [REDACTED] did not speak to any HPU supervisors directly. PAIC [REDACTED] stated there was no operational plan drafted for the overarching operation dealing with the migrant surge or for the individual operation to move the migrants from the boat ramp to a containment zone which was later canceled.

According to PAIC [REDACTED] personnel at the briefing were not instructed to stop or deter the flow of migrants entering the United States. PAIC [REDACTED] personally never gave instructions to the HPU to assist in stopping or deterring the flow of migrants into the United States. PAIC [REDACTED] did not recall a request being broadcasted over the radio to do so. PAIC [REDACTED] submitted a request through the EOC for additional HPU for a security presence, but not for the purpose of stopping the flow of migrants. PAIC [REDACTED] intended the HPU to patrol up and down (east and west) the Rio Grande River from the migrant staging location to provide a security presence.

PAIC [REDACTED] did not recall a request from TXDPS at approximately 1:30 p.m. asking for HPU's presence at the boat ramp. PAIC [REDACTED] learned of TXDPS's request after the incident at the boat ramp already occurred. PAIC [REDACTED] stated he was unaware of any allegations of excessive

force or misconduct by BPAs, nor was he aware of allegations until he was advised about the media coverage.

PAIC [REDACTED] believed the order or authorization for HPU to assist TXDPS at the boat ramp came from the Emergency Operations Center (EOC). He was not sure if the request from TXDPS for HPU assistance went from TXDPS up to the EOC and then to HPU, or if it went straight from TXDPS to HPU.

PAIC [REDACTED] was asked under what circumstances a BPA could use force, or threaten to use force, to make an individual return to Mexico after they entered the United States, to which he replied that no such circumstances exist. PAIC [REDACTED] continued that through officer presence BPAs could encourage migrants to return to Mexico, but once they have entered the United States it was the USBP's job to arrest them. PAIC [REDACTED] stated it was, or should be, part of a BPA's training that once a migrant entered the United States, BPAs could not use force to cause a migrant to return to Mexico. PAIC [REDACTED] stated he instructed use of force training for many years and did not teach BPAs they could use force or threaten the use of force to cause someone to return to Mexico.

He was not aware of any instances of BPAs forcing migrants back into the river, and no such actions were reported to him on September 19, 2021.

On September 24, 2021, ASAC [REDACTED] and SA [REDACTED] interviewed PAIC [REDACTED] of the DRT Special Operation Detachment (SOD). The interview was audio and video recorded using StarWitness equipment and uniquely identified using Authentication Code: [REDACTED] (Exhibit 24).

PAIC [REDACTED] stated that he was familiar with the incident involving the HPU that occurred at the boat ramp on September 19, 2021, where HPU was seen interacting with several migrants attempting to enter the United States. PAIC [REDACTED] further explained that he was assigned as the Deputy IC at the incident command post, near the Del Rio POE. His role was to manage security operations and to coordinate with other law enforcement agencies and tactical units.

PAIC [REDACTED] stated his responsibilities included assessing the security situation during which he initially observed approximately 15,000 migrants that were staged under the Del Rio POE bridge. He had also put up a security perimeter to contain the large number of migrants.

TXDPS established a line on the west side of the Del Rio POE with marked TXDPS vehicles, facing the Rio Grande River, extending to the weir dam. PAIC [REDACTED] intended to form a similar line on the east side of the Del Rio POE using USBP vehicles but did not have enough manpower. On the day of the HPU incident, PAIC [REDACTED] had USBP personnel operating all-terrain vehicles (ATVs) patrolling the area [REDACTED]. He instructed the team to maintain situational awareness but not to deter migrants from coming north towards the United States.

PAIC [REDACTED] explained there was no intention to create a choke point to funnel the migrants and the purpose of having stationary patrol units [REDACTED] was to maintain situational awareness. PAIC [REDACTED] mentioned that [REDACTED] was the overall IC on September 19, 2021, and [REDACTED] was overseeing operations [REDACTED].

In addition, PAIC [REDACTED] stated that the main operational radio frequency utilized was [REDACTED].

██████████ was used for medical emergencies only. Neither ██████████ PAIC ██████████ stated that ██████████ was chosen because it was a common channel that could be utilized by BPAs and TXDPS. PAIC ██████████ stated that neither channel was recorded. Overall, the communication channels were not an issue during the operation, and everyone was able to monitor to include the IC.

PAIC ██████████ said that on September 19, 2021, a meeting took place with ██████████ and ██████████ to discuss placing USBP vehicles along the east side of the Del Rio POE. The plan did not materialize due to a lack of manpower. Furthermore, concerns were raised regarding migrant children and mothers being exposed to the hot climate and providing sufficient food and water for them.

PAIC ██████████ stated on September 19, 2021, there were several communication gaps occurring and he was not aware if TXDPS requested assistance from the HPU to shut down the boat ramp. PAIC ██████████ was not aware of USBP providing guidance to TXDPS related to stopping the flow of migrants. PAIC ██████████ did not hear HPU asking for assistance via the radio.

PAIC ██████████ stated TXDPS did not request permission to stop the flow of migrants. PAIC ██████████ stated the plan was to leave the migrants alone. When asked if ██████████ had operational control over TXDPS, PAIC ██████████ stated TXDPS had their own chain of command and USBP had no tactical operational control over TXDPS. Moreover, BPAs had no authority to enforce Texas state laws.

On September 21, 2021, SA ██████████ and SA ██████████ interviewed PAIC ██████████. The interview was audio and video recorded using the StarWitness equipment and uniquely identified by Authentication Code: ██████████ (Exhibit 25).

PAIC ██████████ stated that during the influx of migrants, he was assigned as the Deputy IC. As the Deputy IC, his responsibilities entailed coordinating with other agencies and stakeholders and providing general guidance to subordinate personnel.

PAIC ██████████ explained that on the day of the HPU incident, he was assigned to the Del Rio POE Incident Command Post near the boat ramp. He had no operational control of the HPU and noted the units normally have their own assigned supervisors.

PAIC ██████████ stated that he had no knowledge of the HPU's taskings or operational orders while they were present at the Del Rio POE. PAIC ██████████ said there was a multiagency effort near the Del Rio POE and that TXDPS personnel received direction from their own management. PAIC ██████████ said he had no knowledge of any TXDPS operational orders to stop the entry of undocumented migrants and he was never notified that TXDPS intended to act to stop migrants from entering the United States.

PAIC ██████████ further explained that the USBP posture was to care for individuals staged near Del Rio, TX.

On September 24, 2021, OPR, ASAC ██████████ and SA ██████████ interviewed ██████████. The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: ██████████ (Exhibit 26).

arrived at the Del Rio POE on September 16, 2021. He was the designated IC for the group of migrants amassed under the bridge at the Del Rio POE. was not present during the incident involving the HPU and had no firsthand knowledge of what occurred.

Upon arriving in Del Rio, coordinated with to ensure the safety of the approximately 15,000 migrants under the bridge near the Del Rio POE. 's principal role and responsibility was to manage the scene and ensure it was properly resourced. described the event as something no one involved had ever seen or experienced before.

stated the USBP did not have time to formulate an operational plan to specify responsibilities and a clear chain of command. During the first 72 hours, operations were very chaotic and primarily reactive.

According to , Sunday September 19, 2021, was the height of the worst conditions at the Del Rio POE. described the conditions as dire because they were having difficulty obtaining basic hygiene items and adequate amounts of bottled water. The temperature reached 104 degrees, and observed migrants relieving themselves in plain sight because the portable toilets were not being adequately serviced.

On September 19, 2021, at 10:30 AM, held a meeting with all the unit team leaders. The purpose of the meeting was to discuss a planned operation to consolidate several groups of migrants into one single group under the bridge. was not aware of any team leader from the HPU attending the meeting. did not give any specific tasking to the HPU for this operation. did not know who directed the HPU to patrol specific areas along the river, and he did not recall the TXDPS requesting assistance to shut down the boat ramp area. did not ask, or direct, the TXDPS to shut down the flow of migrants at the boat ramp. If the TXDPS did request assistance or support from BPAs on site, the BPAs had the authority to respond and act without having to ask permission from the USBP chain of command.

learned about the HPU incident on Sunday evening (September 19, 2021). removed the HPU from the area and placed specific agents involved in the incident on administrative duties.

clarified there was an operational plan drafted to take control of the east side of the bridge. stated the operational plan was verbally briefed to all team leaders, but he was not sure if a paper copy of the plan was distributed. never gave an order or instruction to push migrants back to Mexico after reaching the United States.

reiterated that he had been tasked with overall incident command of the migrant surge response. He accepted full responsibility for all actions and events that took place during the response, including the incident on September 19, 2021, involving the HPU.

On September 22, 2021, SA and SSA interviewed (A)ACPA . The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: (Exhibit 27).

ACPA is the Acting Program Manager for the National Horse Patrol Program (NHPP).



ACPA [REDACTED] has been with the Tucson Horse Patrol Unit (HPU) since [REDACTED] and has been [REDACTED]. ACPA [REDACTED] assisted with writing NHPP policy for both the NHPP basic and instructor course curriculum which is used across the USBP.

ACPA [REDACTED] was shown a video of the incident (Exhibit 1, Video 1). ACPA [REDACTED] stated near the beginning of the video the positioning and maneuvering of the horse by the HPU agent was consistent with methods utilized by HPU and referred to the method as cutting and blocking. ACPA [REDACTED] said the HPU agents appeared to be blocking several women, children, and one or two males. ACPA [REDACTED] speculated based on what she saw that HPU was allowing women and children in but were preventing males from entering. ACPA [REDACTED] stated the HPU agent also appeared to be using a cutting technique to get to the male with the grey shirt.

ACPA [REDACTED] said the HPU agent on the brown horse was utilizing split reins. ACPA [REDACTED] explained the HPU agent was holding the tail of the reins and was twirling it. ACPA [REDACTED] said this is a training technique which encourages the horse to immediately move from one direction to another.

ACPA [REDACTED] said the twirling of the reins can also be used as a distancing tactic. ACPA [REDACTED] stated the HPU agent twirled the reins near his personal space with his right hand and encouraged the horse to turn left. ACPA [REDACTED] said these were methods taught and practiced during training.

ACPA [REDACTED] was shown another video of the incident (Exhibit 1, Video 2). ACPA [REDACTED] explained she observed an HPU agent performing back and forth maneuvers to keep people back. ACPA [REDACTED] stated the HPU agent twirling the reins appeared to be doing so as a distancing tactic.

ACPA [REDACTED] was shown a photo of the incident (Exhibit 1, Photo 3) which depicted an HPU agent grabbing an individual while on the horseback. ACPA [REDACTED] advised the HPU agent was using the proper technique by grabbing the clothing of the person to maneuver the person to where he wanted him to go. ACPA [REDACTED] said agents were taught to grab a person's clothing while mounted because it was more difficult to grab an arm while trying to maintain control of the horse with the opposite hand.

ACPA [REDACTED] was shown another photo of the incident (Exhibit 1, Photo 4) in which it appears the HPU agent's reins are extended out towards the person (migrant). ACPA [REDACTED] stated that it appears the HPU agent had just brought his horse to a stop and was getting ready to turn. ACPA [REDACTED] explained that when that happens, the reins can flap out, but in this case the rider flips his hand down, which is known as "clearing the reins". ACPA [REDACTED] stated that based on the HPU agent's hand position, the agent could not have flipped the rein towards the individual.

ACPA [REDACTED] stated she did not observe any maneuvers in the videos that endangered anyone entering the United States. ACPA [REDACTED] stated everything she viewed was within policy and was taught as an ethical training method on how to keep people in a contained area. ACPA [REDACTED] advised the tactics utilized were exactly the tactics they are taught to utilize.

ACPA [REDACTED] stated NHPP policy did not address specific circumstances near water. ACPA [REDACTED] said the training covered learning the disposition of a horse including an HPU agent's confidence in their horse when it came to a horse's behavior in situations such as crowd control.

ACPA [REDACTED] stated she believed the HPU agents knew their horses well and were attempting to make the best maneuvers they could with what they had.

ACPA [REDACTED] stated to be considered for HPU, an agent must have two years as a BPA and must pass a practical pre-assessment. The pre-assessment measures the candidate's ability to mount and dismount a horse, and ability to lift a saddle. If accepted into the HPU, the candidate attends a [REDACTED] week course that teaches the basics on catching, grooming, saddling, and riding a horse. Trainees must also pass a written exam, a riding aptitude exam, and a horse tack inspection. During the last week of the course, the candidates receive training on trailering and field operations.

ACPA [REDACTED] also explained that horses acquired by the HPU program go through a 25-point inspection before being accepted. The inspection ensures the horses can perform the maneuvers taught during the course and able to adapt to certain situations they are likely to encounter in the field.

On March 22, 2022, OPR SA [REDACTED] and SA [REDACTED] interviewed SBPA [REDACTED]. The interview was audio and video recorded using StarWitness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 28).

SBPA [REDACTED] is currently a SBPA assigned to the Uvalde Border Patrol Station. SBPA [REDACTED] was not present at the Del Rio POE on September 19, 2021.

SBPA [REDACTED] stated he is familiar with Mobile Field Force (MFF) training, describing the MFF as a national team trained in response to large crowd gatherings and dispersing of crowds. SBPA [REDACTED] is not certified in MFF training, but he did attend a two-day familiarization course conducted by an El Paso BORTAC agent.

SBPA [REDACTED] provided the [REDACTED] HPU BPAs with a one or two-day familiarization course, with the same formations and movements the El Paso BORTAC agents covered. SBPA [REDACTED] believes he gave this familiarization in the winter of 2019, but since he did not provide any certification documents, he cannot state specifically when he conducted this familiarization.

The purpose of the course was to give HPU BPAs an overview on operating in a large crowd. This familiarization course focused on how to disperse a crowd away from one area and move them to another. SBPA [REDACTED] did not recall if the MFF course addressed how to position horses in relation to large and small crowds. SBPA [REDACTED] stated he does not believe the MFF course addressed how to keep people away from horses. During this familiarization, HPU BPAs were instructed to use their training under the use of force policy to address any threats.

SBPA [REDACTED] stated utilization of the reins to keep people away was never taught or instructed. SBPA [REDACTED] stated the reins were utilized to stimulate the horse to move in the desired direction. SBPA [REDACTED] stated BPAs were never taught to utilize their reins as a defensive tool.

On March 24, 2022, OPR, SA [REDACTED] and SA [REDACTED] interviewed SOS [REDACTED]. The interview was audio and video recorded using StarWitness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 29).

SOS [REDACTED] stated in September of 2021, he was an Acting (A) ACPA. SOS [REDACTED] began his duties as an (A)ACPA in [REDACTED]. SOS [REDACTED] was placed in charge and had operational control of all DRT specialty programs such as HPU, K-9, Marine Boats, etc. During the surge, SOS [REDACTED] had operational control of all HPU assets and was assisting with general duties at the Del Rio POE. SOS [REDACTED] stated he was not on duty the day of the incident.

SOS [REDACTED] stated [REDACTED] was the overall IC for the migrant surge in September of 2021 at the Del Rio POE. SOS [REDACTED] was not part of the incident command team or emergency operations center (EOC) staff and stated he has not received the proper training to conduct the duties of IC or EOC.

SOS [REDACTED] stated he was off duty on September 18, 2021, when he was notified by EOC staff member, SOS [REDACTED], that USBP Chief [REDACTED] ordered the mobilization of all available HPUs in DRT and requested they be assigned to the Del Rio POE. Additionally, Chief [REDACTED] requested other Border Patrol sectors be contacted for assistance providing HPU assets. SOS [REDACTED] stated he was advised by SOS [REDACTED] that Chief [REDACTED] wanted the HPUs at the Del Rio POE because Title 42 flights to Haiti were going to begin, and Chief [REDACTED] was worried the migrants under the Del Rio POE would find out about the flights, causing an uprising. Chief [REDACTED] wanted the HPUs there as a show of force and for crowd control. SOS [REDACTED] stated there was no exact guidance on what tasks the HPUs would carry out, but stated Chief [REDACTED] wanted all available HPUs at the Del Rio POE in case of an uprising. SOS [REDACTED] stated there was not to be any enforcement actives conducted by the HPU.

SOS [REDACTED] immediately notified ACPA [REDACTED] about the request. SOS [REDACTED] also notified [REDACTED] HPU SBPA [REDACTED] and [REDACTED] HPU SBPAs [REDACTED] and [REDACTED] of the ongoing situation. SOS [REDACTED] advised all his HPU SBPAs to gather all available HPU assets and deploy them to the Del Rio POE. Additionally, SOS [REDACTED] advised his HPU SBPAs to call off-duty HPU BPAs and request they come to work. SOS [REDACTED] stated the exact guidance he gave his HPU SBPAs was to deploy to the Del Rio POE as a show of force in case there was a riot once the migrants discovered the beginning of Title 42 flights back to Haiti. They were not to engage with the migrants, all they needed to do was stand on the sidelines in case there was a riot.

SOS [REDACTED] stated he was unsure if the IC was notified about the mobilization of HPUs to the Del Rio POE but assumed all EOC staff were aware since the call to mobilize came from EOC SOS [REDACTED]

SOS [REDACTED] was asked if he gave HPU personnel an order on September 19, 2021, to help where needed and he stated, "Yeah, I guess. They weren't supposed to do any enforcement actions, but yes. If somebody needed a hand, it was kind of all hands-on deck." SOS [REDACTED] stated he was acting on the orders of Chief [REDACTED]. SOS [REDACTED] stated there was no operational plan for the mobilization of HPUs to the Del Rio POE.

SOS [REDACTED] stated on Sunday, September 19, 2021, he arrived at the Del Rio POE on his day off and was advised by SBPA [REDACTED] he had attended a meeting earlier that morning. SBPA [REDACTED] advised SOS [REDACTED] that TXDPS was planning an operation at 2:00 p.m. to shut down the downriver boat ramp. SOS [REDACTED] clarified he was not present at the meeting and got secondhand information from SBPA [REDACTED]

According to SBPA [REDACTED] TXDPS had requested the assistance of HPU at the boat ramp. SOS [REDACTED] stated SBPA [REDACTED] called later that day and told him he received orders to stand down. SOS [REDACTED] could not recall who gave the order but believes it may have been WC [REDACTED]. SOS [REDACTED] stated he was unaware of who canceled the operation and stated the purpose of the operation was to shut down the boat ramp. SOS [REDACTED] stated SBPA [REDACTED] notified all HPU BPAs to stand down as well since he had told them to be on standby for the operation.

SOS [REDACTED] stated he was unaware TXDPS had requested assistance from HPU at the boat ramp later that day. While at the Del Rio POE that day, SOS [REDACTED] stated he never heard a radio transmission from TXDPS requesting assistance.

SOS [REDACTED] stated he first became aware of HPU's involvement at the boat ramp at approximately 11:30 p.m. on September 19, 2021. SOS [REDACTED] stated he received a text message from SBPA [REDACTED] with a photo from social media.

SOS [REDACTED] stated he did not give HPU BPAs the order to assist TXDPS at the boat ramp. SOS [REDACTED] stated the HPU BPAs were told to patrol the immediate area of the Del Rio POE on the upriver side. The incident command post later wanted situational awareness on the downriver side and HPU BPAs were allowed to patrol the downriver side of the Del Rio POE as well.

SOS [REDACTED] stated he did not know if HPU BPAs were told to stop migrants at the river by someone else. SOS [REDACTED] stated he never received allegations of excessive use of force by BPAs.

On March 28, 2022, SAs [REDACTED] and [REDACTED] interviewed SOS [REDACTED]. The interview was audio and video recorded using StarWitness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 30).

SOS [REDACTED] stated during the migrant surge at the Del Rio POE in September 2021, she served as the Deputy IC of the Emergency Operations Center (EOC), located at the USBP DRT Headquarters.

SOS [REDACTED] stated personnel from the EOC were assigned to the incident command post, located at the Del Rio POE, as agents on the ground. Government cell phones were checked out and issued to the duty supervisor to help facilitate communication between the EOC and the BPAs located at the Del Rio POE.

SOS [REDACTED] stated the IC's role changed multiple times. ACPA [REDACTED] was initially the IC, it then transitioned to PAIC [REDACTED] and ultimately [REDACTED], of the USBP Laredo Sector, who remained as the IC for the remainder of the migrant surge.

SOS [REDACTED] stated the order to mobilize the HPU was made on Saturday, September 18, 2021. SOS [REDACTED] received a phone call from BPA [REDACTED] who was located at the Del Rio POE. According to SOS [REDACTED] BPA [REDACTED] advised her that Chief [REDACTED] was present at the Del Rio POE and made a direct order to get every available HPU to the Del Rio POE. SOS [REDACTED] was instructed to modify shifts and do whatever was needed to mobilize the HPU as soon as possible. SOS [REDACTED] stated there was no guidance given on the role or responsibility the HPU would take upon arrival to the Del Rio POE.

Upon receiving the order, SOS [REDACTED] contacted SOS [REDACTED] and SBPA [REDACTED]. SOS [REDACTED]

stated SOS [REDACTED] and SBPA [REDACTED] raised questions regarding how long the HPU would be assigned to the Del Rio POE, how many BPAs should be assigned, and which shifts the HPU would be covering. SOS [REDACTED] stated the only instruction received was to get every available HPU to the Del Rio POE.

SOS [REDACTED] stated, to her knowledge, there were no operational plans drafted regarding the HPU. SOS [REDACTED] recalled hearing discussion of the possibility of locking or shutting down the boat ramp. SOS [REDACTED] never received an official notification or an official operational plan.

SOS [REDACTED] recalled hearing the possibility of obtaining additional manpower from SOD and bringing in outside help due to concerns of law enforcement entities being outnumbered. However, SOS [REDACTED] stated the EOC's role was the relocation of migrants, transport, and managing access to the Del Rio POE area. SOS [REDACTED] stated the EOC would only become involved if a request was made for materials and support. SOS [REDACTED] stated USBP did not have an official role in any operation to shut down the boat ramp.

SOS [REDACTED] stated TXDPS did not have personnel assigned to the area of the EOC in which she operated. SOS [REDACTED] clarified there was an attempt made to bring all law enforcement entities into the EOC and other components of the EOC were being housed in an adjacent room to the USBP Sector Conference Room. SOS [REDACTED] stated TXDPS could have been present in another department of the EOC but was unsure. SOS [REDACTED] stated TXDPS never coordinated any operational plans through her or the EOC. SOS [REDACTED] stated if TXDPS had coordinated their plans it would have been on the ground at the Del Rio POE with PAIC [REDACTED] since a command post trailer was established at the Del Rio POE.

SOS [REDACTED] stated she was not aware TXDPS requested assistance at the boat ramp on September 19, 2021, and was not aware of the incident until seeing media coverage.

On April 7, 2022, Resident Agent in Charge (RAC) [REDACTED] and SSA [REDACTED] interviewed USBP Chief [REDACTED]. The interview was video and audio recorded with StarWitness equipment and uniquely identified by Authentication Code [REDACTED] (Exhibit 34).

Chief [REDACTED] was present at the Del Rio POE during the migrant surge that occurred in September of 2021. He arrived on either Friday, September 17, or Saturday, September 18. In response to the large population of migrants accumulated underneath and around the Del Rio POE, Chief [REDACTED] asked local USBP management personnel including DRT [REDACTED] and IC [REDACTED] ( [REDACTED] ), to make sure as many USBP personnel as possible were brought into the area to help control and manage the situation and minimize injury or civil unrest.

Chief [REDACTED] observed several aggravating factors that contributed to an increased danger to the safety of the migrants and to USBP personnel. These factors included the heat and the lack of basic necessities, such as food and water, available to the migrant population inside the encampment. Local USBP leadership personnel explained to Chief [REDACTED] that this shortage of food and water resulted in numerous migrants traveling back and forth into Mexico by crossing the Rio Grande River to obtain these necessities and bring them to the encampment.

On Saturday, September 18, 2021, Chief [REDACTED] asked [REDACTED] what local resources were

available to augment manpower. HPU personnel from the Del Rio station had already been on site during the week. Chief [REDACTED] decided to mobilize the CAR HPU. Chief [REDACTED] gave the order to mobilize the CAR HPU to Patrol Agent in Charge (PAIC) [REDACTED].

When the CAR HPU arrived, Chief [REDACTED] spoke to some of them, realizing they were not familiar with the area or the overall situation occurring at the Del Rio POE. Chief [REDACTED] instructed them to use their vantage point from horseback to observe the crowds and ensure the safety of the migrants and BPAs on the ground. Specifically, he instructed them to be "eyes and ears" for any situation that may be cause for a safety concern and to report any concerning situation to USBP leadership. He also instructed them to utilize the physical presence of their horses to maintain calm in the event the large crowds grew restless. This was to be done in support of the overall operational objective of consolidating the population from areas around the Del Rio POE into the centralized location underneath the bridge.

Chief [REDACTED] said, in hindsight, he would have ensured the CAR HPU had a clear understanding of their role at the Del Rio POE. He also would have focused more efforts to improve overall command and control of operations during the migrant surge in September of 2021. Further, as the senior law enforcement officer on the scene, he said he should have communicated clear "rules of engagement" and then deconflicted those rules within the unified command of all law enforcement personnel on the scene. Chief [REDACTED] said that after the incident with the horse patrol on September 19, 2021, he instructed IC [REDACTED] and [REDACTED] to begin holding daily unified command briefings with the leaders from the other law enforcement entities present at the scene.

Chief [REDACTED] accepted responsibility for the actions of USBP personnel during the migrant surge operation.

#### POLICY REVIEW:

CBP OPR conducted a full review of three horse patrol policy and training related documents during this investigation:

1. The USBP National Horse Patrol Policy
2. CBP National Horse Patrol Program Basic Training Course (2013)
3. National Horse Patrol Program Instructor Training Guide (March 2013)

The basic training course references "Crowd Control" one time, on page 97, by saying the side-pass technique "is useful for crowd control situations". There is no further explanation of crowd control situations. On page 144 of the same document, there is a block of field instructions entitled "Arrest Techniques and Defensive Tactics". One of the topics under this section is labeled "Using your horse as a people mover". There is not further description of this topic in the guide.

The Instructor Training Guide outlines "Using your horse as a people mover" on page 219. There is no further explanation within the guide. There is no reference to crowd control in this guide. None of the documents reviewed contained any reference to usage of split reins as a tool to guide the horse or as a tool to influence the movement of people.

On April 26, 2013, the Secretary of Homeland Security issued a memorandum to DHS component heads addressing enforcement operations and employee conduct entitled "The Department of

Homeland Security's Commitment to Nondiscriminatory Law Enforcement Screening Activities" (Exhibit 31). CBP adheres to this DHS Policy, which, in prohibits the consideration of race or ethnicity in DHS investigations, screening, and enforcement activities in all but the most exceptional of circumstances. This memorandum in relevant part states that it is an erroneous assumption that any individual or one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity.

Further clarifying the conduct of employees is the CBP Standards of Conduct, Directive Number 51735-013B, dated December 9, 2020 (Exhibit 32). The CBP Standards of Conduct provides establishes the Agency policy on the ethical conduct and responsibilities of all CBP employees. It articulates following responsibilities, stating in part:

7.7.2. Employees are required to perform their duties to the government and the public conscientiously, respond readily to the lawful direction of their supervisors, and follow Agency policies and procedures.

7.7.3. Employees will be professional in their contact with supervisors, subordinates, coworkers, and members of the public. "Professional" for the purposes of this provision means being polite, respectful, and considerate. This requirement to be professional must be adhered to so long as it does not compromise employee safety or impede the performance of official duties.

7.11.1. Employees will not act or fail to act on an official matter in a manner which improperly takes into consideration an individual's race, color, age, sexual orientation, religion, sex, national origin, disability, union membership, or union activities.

7.11.2. Employees will not make abusive, derisive, profane, or harassing statements or gestures, or engage in any other conduct evidencing hatred or invidious prejudice to or about another person or group on account of race, color, religion, national origin, sex, sexual orientation, age, or disability.

7.14. Employees will observe safe practices as well as all safety regulations in the performance of their duties. Employees will promptly report to their supervisors any injury, accident, or illness that occurs in connection with the performance of their official duties by the most expeditious means available.

The U.S. Border Patrol's authority to enforce certain immigration related crimes is contained in:

8 U.S.C. § 1357(a)(2) [INA Section 287(a)(2)] – permits arrest of any alien who in the agent/officer's presence or view is entering or attempting to enter in violation of immigration laws or any alien already in the United States in violation of immigration laws and is likely to escape before an arrest warrant can be obtained.

8 U.S.C. § 1357(a)(4) [INA Section 287(a)(4)] – permits arrest of any person for an immigration-related felony and the person is likely to escape before a warrant can be obtained.

8 U.S.C. § 1357(a)(5)(A) [INA Section 287(a)(5)(A)] – permits arrest for federal crime that occurs in the agent/officer's presence and the person is likely to escape before obtaining a warrant.

19 U.S.C. § 1589a – permits arrest, without a warrant, for any federal offense, felony, or

misdemeanor, that occurs in the officer/agent's presence and for federal felonies that occur outside the officer/agent's presence. Federal misdemeanor's that occur outside the officer/agent's presence require a warrant. The officer/agent must be performing lawful duties and probable cause is required.

At the border or ports of entry, those seeking entry may be stopped at the international border and be required to identify themselves and show that their belongings and effects may be lawfully entered into the United States.

An arrest occurs when a reasonable person in the suspect's position would conclude that he or she is no longer free to leave. An arrest must be supported by probable cause to believe the person has committed an offense against the United States. In determining whether probable cause was present at the time of the arrest, the agent or officer must consider the totality of the circumstances as viewed by a reasonably prudent person, coupled with the agent's or officer's training and experience.

Additionally, 19 U.S.C. § 1582 authorizes the temporary seizures of people entering the United States from foreign countries. Similar authority is found in 8 U.S.C. § 1225 for purposes of immigration detention and inspection of persons to determine their admissibility into the United States. These seizures are reasonable even without suspicion during a routine border inspection. They are not considered an "arrest."

The U.S. Customs and Border Protection (CBP) Use of Force Policy (UOF Policy) (Exhibit 33), dated January 2021, states that respect for human life and the safety of the communities we serve, as well as CBP's officers and agents, is paramount and shall guide all employees in the performance of their duties. In all instances, covered in the UOF Policy of note, Authorized Officers/Agents shall only use objectively reasonable and necessary force to effectively bring an incident under control, while minimizing the risk of injury for all involved parties. Furthermore, the use of excessive force by CBP law enforcement personnel is strictly prohibited.

This UOF Policy establishes the minimum CBP policy standards regarding the use of force. CBP offices can establish additional policy guidance where they deem necessary, in accordance with the minimum standards articulated in this Policy. Violations of the UOF Policy may constitute grounds for disciplinary action.

The CBP UOF Policy provides the following definitions, in part:

Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A (1): A respect for human life and the safety of the communities we serve, as well as CBP's officers and agents, is paramount and shall guide all employees in the performance of their duties.

Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A (2): Among other duties, CBP has the responsibility to deter, prevent, detect, respond to, and interdict the unlawful movement or illegal entry of terrorists, drug smugglers and traffickers, human smugglers and traffickers, aliens, and other persons who may undermine the security of the United States.

Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A (4): Authorized Officers/Agents may use "objectively reasonable" force only when it is necessary to carry out their law enforcement duties.



Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A(5): The “reasonableness” of a particular use of force is based on the totality of circumstances known by the officer/agent at the time of the use of force, and weighs the actions of the officer/agent against the rights of the subject, in light of the circumstances surrounding the event.<sup>2</sup> Reasonableness will be judged from the perspective of a reasonable officer/agent on the scene rather than with the 20/20 vision of hindsight.

Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A (6): The calculus of reasonableness embodies an allowance for the fact that law enforcement officers/agents are often forced to make split-second decisions - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation.

Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A (7): A use of force is “necessary” when it is reasonably required to carry out the Authorized Officer’s/Agent’s law enforcement duties in each situation, considering the totality of facts and circumstances of such particular situation. A use of deadly force is “necessary” when the officer/agent has a reasonable belief that the subject of such force poses an imminent danger of death or serious bodily injury to the officer/agent or to another person.

Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A (8): An Authorized Officer/Agent may have to rapidly escalate or de-escalate through use of force options, depending on the totality of facts and circumstances of the situation. Once used, physical force<sup>3</sup> must be discontinued when resistance ceases or when the incident is under control.

Chap. 1, General Guidelines, Use of Force by Authorized Officers/Agents, at A (10): When feasible, prior to the application of force, an Authorized Officer/Agent must attempt to identify him- or herself and issue a verbal warning to comply with the officer/agent’s instructions.

Chap. 1, General Guidelines, Objectively Reasonable and the Totality of Circumstances, at B (1): The reasonableness inquiry for an application of force is an objective one: the question is whether the officer’s/agent’s actions are objectively reasonable in light of the totality of facts and circumstances confronting him or her, without regard to underlying intent or motivation.

Chap. 1, General Guidelines, Objectively Reasonable and the Totality of Circumstances, at B (2): In determining whether a use of force is “objectively reasonable,” an Authorized Officer/Agent must give careful attention to the totality of facts and circumstances of each particular case, including:

- a. Whether the subject poses an imminent threat to the safety of the officer/agent or others;
- b. The severity of the crime at issue;
- c. Whether the subject is actively resisting seizure or attempting to evade arrest by flight;
- d. Whether the circumstances are tense, uncertain, and rapidly evolving; and
- e. The foreseeable risk of injury to involved subjects and others.

Chap. 1, General Guidelines, Use of Safe Tactics, at C (1): Authorized Officers/Agents should seek to employ tactics and techniques that effectively bring an incident under control while promoting the safety of the officer/agent and the public, and that minimize the risk of unintended injury or serious property damage.

Chap. 1, General Guidelines, De-Escalation, at D (1): De-escalation tactics and techniques seek to minimize the likelihood of the need to use force, or minimize force used during an incident, to increase the probability of voluntary compliance.

Chap. 1, General Guidelines, De-Escalation, at D (2): Authorized Officers/Agents shall employ de-escalation tactics and techniques, when safe and feasible, that do not compromise law enforcement priorities.

Chap. 1, General Guidelines, Emergency Situations, at E (1): An emergency situation is an unplanned event or exigent circumstance that occurs with no advanced warning, rapidly evolves, and which requires a reactive response to address an imminent threat. In such threatening and emergent situations, Authorized Officers/Agents are authorized to use any available weapon, device, or technique in a manner that is reasonable and necessary for self-defense or the defense of another person.

Chap. 1, General Guidelines, Duty to Intervene in and Report Improper Use of Force, at F (1): CBP is committed to carrying out its mission with honor and integrity, and to fostering a culture of transparency and accountability. As such, this Policy ensures that CBP law enforcement personnel fully understand and adhere to the following: The use of excessive force is unlawful and will not be tolerated. Those who engage in such misconduct, and those who fail to report such misconduct, will be subject to all applicable administrative and criminal penalties.

Chap. 1, General Guidelines, Duty to Intervene in and Report Improper Use of Force, at F (2): CBP law enforcement personnel have a duty to intervene to prevent or stop a perceived use of excessive force by another officer/agent - except when doing so would place the observing/responding officer/agent in articulable, reasonable fear of death or serious bodily injury.

Chap. 1, General Guidelines, Duty to Intervene in and Report Improper Use of Force, at F (3): Any CBP employee with knowledge of the improper use of force by law enforcement personnel shall, without unreasonable delay, report it to his or her chain of command and/or the Office of Professional Responsibility.

Chap. 1, General Guidelines, Duty to Intervene in and Report Improper Use of Force, at F (4): Failure to intervene in and/or report such violations is, itself, misconduct that may result in disciplinary action, with potential consequences including removal from federal service, civil liability, and/or criminal prosecution.

Chap 1, Emergency Situations, at 1: An emergency situation is an unplanned event or exigent circumstance that occurs with no advanced warning, rapidly evolves, and which requires a reactive response to address an imminent threat.

In such threatening and emergent situations, Authorized Officers/Agents are authorized to use any available weapon, device, or technique in a manner that is reasonable and necessary for self-defense or the defense of another person.

Chap. 3, Use of Less-Lethal Force, General Guidelines and Responsibilities, at A (1): Less-lethal force is force not likely or intended to cause serious bodily injury or death.

Chap. 3, Use of Less-Lethal Force, General Guidelines and Responsibilities, at A (2): Any use of less-lethal force must be both objectively reasonable and necessary to carry out the Authorized Officer's/Agent's law enforcement duties.

Chap. 3, Use of Less-Lethal Force, General Guidelines and Responsibilities, at A (3): Less-lethal devices/weapons may be used in situations where empty-hand techniques are not sufficient, practical, or appropriate to control disorderly or violent subjects.

Chap. 3, Use of Less-Lethal Force, General Guidelines and Responsibilities, at A (6): As part of a mass unlawful entry event, if individuals enter the United States using acts of violence, or threats of violence, a reasonable amount of force may be used to effect arrests, or to protect Authorized Officers/Agents and others from an imminent threat.

Chap. 3, Use of Less-Lethal Force, General Guidelines and Responsibilities, at A (8): While performing uniformed law enforcement duties, Authorized Officers/Agents who carry firearms are also required to carry one or more of the following: OC Spray, an [Electronic Control Weapon], or a [Collapsible Straight Baton].

Chap. 3, Use of Less-Lethal Force, General Guidelines and Responsibilities, at A(8)(a): Officers/agents may only be issued and carry devices in which they are certified.

Chap. 3, Use of Less-Lethal Force, General Guidelines and Responsibilities, at A(8)(b): Responsible Officials (ROs) may require that Authorized Officers/Agents carry additional less-lethal devices (that the Authorized Officer/Agent is certified to carry) while performing uniformed law enforcement duties.

Chap. 3, Use of Less-Lethal Force, Use of Less-Lethal Devices/Techniques, Empty-Hand Strikes, at 3(a): Strike Pressure Point Techniques may be utilized as a compliance tool on a subject offering, at a minimum, active resistance.

Chap. 3, Use of Less-Lethal Force, Use of Less-Lethal Devices/Techniques, Empty-Hand Strikes, at 3(b): Other strikes (e.g., punches, kicks, etc.) may be utilized as a defensive tactic on a subject offering, at a minimum, assaultive resistance.

Chap. 3, Use of Less-Lethal Force, Use of Less-Lethal Devices/Techniques, Collapsible Straight Baton, at 5(a): A [Collapsible Straight Baton] may be utilized as a defensive tool on a subject offering, at a minimum, assaultive resistance.

OPR will issue additional reports of investigation related to the individual actions of CBP personnel which will be referred for disciplinary consideration.

\*\*\*\*\* E N D O F R E P O R T \*\*\*\*\*  
**LIST OF EXHIBITS ARE ON THE FOLLOWING PAGE**

EXHIBITS:

- EXHIBIT 1: Media Analysis
- EXHIBIT 2: Interview of [REDACTED]
- EXHIBIT 3: Interview of [REDACTED]
- EXHIBIT 4: Timeline of Incident
- EXHIBIT 5: Interview of TXDPS Sergeant [REDACTED]
- EXHIBIT 6: Interview of TXDPS Trooper [REDACTED]
- EXHIBIT 7: Interview of TXDPS Trooper [REDACTED]
- EXHIBIT 8: Class Action Complaint – 1:21-cv-03317
- EXHIBIT 9: Interview of BPA [REDACTED]
- EXHIBIT 10: Interview of BPA [REDACTED]
- EXHIBIT 11: Interview of BPA [REDACTED]
- EXHIBIT 12: Interview of BPA [REDACTED]
- EXHIBIT 13: Interview of BPA [REDACTED]
- EXHIBIT 14: Interview of BPA [REDACTED]
- EXHIBIT 15: Interview of BPA [REDACTED]
- EXHIBIT 16: Interview of BPA [REDACTED]
- EXHIBIT 17: Interview of BPA [REDACTED]
- EXHIBIT 18: Interview of BPA [REDACTED]
- EXHIBIT 19: Interview of BPA [REDACTED]
- EXHIBIT 20: Interview of SBPA [REDACTED]
- EXHIBIT 21: Interview of SBPA [REDACTED]
- EXHIBIT 22: Interview of BPA [REDACTED]
- EXHIBIT 23: Interview of PAIC [REDACTED]
- EXHIBIT 24: Interview of PAIC [REDACTED]
- EXHIBIT 25: Interview of PAIC [REDACTED]
- EXHIBIT 26: Interview of [REDACTED]
- EXHIBIT 27: Interview of (A)ACPA [REDACTED]
- EXHIBIT 28: Interview of SBPA [REDACTED]
- EXHIBIT 29: Interview of SOS [REDACTED]
- EXHIBIT 30: Interview of SOS [REDACTED]
- EXHIBIT 31: DHS Commitment to Nondiscriminatory Law Enforcement Screening Activities
- EXHIBIT 32: CBP Standards of Conduct, Directive Number 51735-013B
- EXHIBIT 33: CBP Use of Force Policy
- EXHIBIT 34: Interview of Chief [REDACTED]

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 1**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

U.S. Customs and Border Protection  
Office of Professional Responsibility  
Investigative Operations Directorate  
Threat Mitigation and Analysis Division

Multimedia Analysis Report: Del Rio Horse Patrol Investigation

April 6, 2022

Case Number 202112280

**SYNOPSIS**

Between September 26 - 30, 2021, CBP Office of Professional Responsibility (OPR), Investigative Operations Directorate (IOD) Threat Mitigation and Analysis (TMAD) analysts reviewed photographs and videos captured concerning an incident that occurred on September 19, 2021, involving U.S. Border Patrol agents (BPAs) from the [REDACTED] Horse Patrol Unit (HPU) in the area commonly known as the boat ramp, which is located approximately 0.3 to 0.4 miles east of the Del Rio Port of Entry (Del Rio POE).

Upon reviewing all available photos and video, IOD has noted three primary interactions of interest that occurred between HPU BPAs and migrants:

1. **Interaction 1:** A HPU BPA approached a migrant at the edge of the Rio Grande River and the migrant fell into the river.
2. **Interaction 2:** A HPU BPA approached a family group of migrants, which included small children, and made a derogatory comment about migrants' homeland. Another HPU BPA used his USBP horse to force multiple migrants back into the water at the Rio Grande River.
3. **Interaction 3:** A HPU BPA chased a migrant and grabbed the migrant's shirt while his USBP horse turned and then the HPU BPA released his hold of the migrant.

**ORIENTATION**



*Note: This Google Maps image of the Del Rio Port of Entry and surrounding area is referred to as "Photo 1" in the case report.*





PHOTOGRAPHS



Source: AP News 1000.jpeg, [REDACTED] (photographer)  
Note: This photograph is referred to as "Photo 2" in the case report.



Interaction 1: While mounted on a USBP horse, a HPU BPA approached a migrant at the edge of the Rio Grande River and the migrant fell into the river.



Source: 99dafd34-cb04-4200-99a1-c65fbb419517-MAIN.jpg, [REDACTED] (photographer)



Source: f70c8dba-b780-4581-a2c2-5e3683dc738 [REDACTED] CBP2306.jpg, [REDACTED] (photographer)



Source: *gettyimages-1235368766-2048x2048.jpg*, (photographer)



Source: *AP1 with .jpeg*, /AP

Interaction 2: While on horseback, a HPU BPA approached a family group of migrants, which included small children, and made a derogatory comment about migrants' homeland. Another HPU BPA used his USBP horse to force multiple migrants back into the water at the Rio Grande River.



Source: [gettyimages-1235366369-2048x2048.jpg](#), [REDACTED] (photographer)



Source: [gettyimages-1235368804-2048x2048.jpg](#), [REDACTED] (photographer)  
Note: This image is referred to as "Photo 5" in the case report.



Source: [gettyimages-1235366498-2048x2048.jpg](#), [REDACTED] (photographer)



Source: [gettyimages-1235366611-2048x2048.jpg](#), [REDACTED] (photographer)



Source: *gettyimages-1235368815-2048x2048.jpg*, [REDACTED] (photographer)

Interaction 3: A HPU BPA chased a migrant and grabbed the migrant's shirt while his USBP horse turned and then the HPU BPA released his hold of the migrant.



Source: *gettyimages-1235366412-2048x2048.jpg*, [REDACTED] (photographer)



Source: *gettyimages-1235366621-2048x2048.jpg*, [REDACTED] (photographer)



Source: *gettyimages-1235366682-2048x2048.jpg*, [REDACTED] (photographer)



Source: Reuters YWIRAVA7HJNCTEI6GYS5QVGF4E, [REDACTED] (photographer)  
Note: This photograph is referred to as "Photo 3" in the case report.



Source: gettyimages-1235368305-2048x2048.jpg, [REDACTED] (photographer)  
Note: This photograph is referred to as "Photo 4" in the case report.

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- Reuters Washington Post (Video 2): “Homeland security officials will investigate after images show agents on horseback grabbing migrants, Mayorkas says” (posted 20 September 2021)
- HD Drone Footage (Video 3): Yahoo TV: “Border Officers on Horseback Attempt to Stop Migrants Crossing the Rio Grande” (posted 20 September 2021)

### TXDPS Video Footage

- TXDPS dashcam footage: Trooper [REDACTED]\_20210919\_01\_04\_C17-2084\_Test Recording\_2000747258

### CBP Video Footage

- [REDACTED]
- CBP AMO Aerial Surveillance Footage
  - Reviewed 153 video files, each approximately six minutes in length, that begins at 1508 GMT / 1008 local time on September 19, 2021 and ends at 0551 GMT / 0051 local time on September 20, 2021

Note: CBP OPR reviewed all available video and determined that activity of interest occurs over a 24-minute timespan between 1741 and 1805 GMT (although not necessarily captured in the CBP AMO footage). Analysis of that time period is contained in this report.

### Go-Pro Footage

- On November 10, 2021, OPR Del Rio obtained four (4) videos taken by BPA [REDACTED]. OPR reviewed the video and determined no incidents of interest were captured.
  - Video [REDACTED] (1 minute 25 seconds)
  - Video [REDACTED] (36 seconds)
  - Video [REDACTED] (31 seconds)
  - Video [REDACTED] (6 minutes)
- On November 22, 2021, OPR Del Rio obtained three (3) videos taken by BPA [REDACTED]. OPR reviewed the video and determined no incidents of interest were captured.
  - Video [REDACTED] (28 seconds)
  - Video [REDACTED] (1 minute, 4 seconds)
  - Video [REDACTED] (2 seconds)

## VIDEO REVIEW AND ANALYSIS

### Open Source Videos

Al Jazeera English Youtube Video (Video 1): “Haitian migrants undeterred as US begins removal flights” (posted 20 September 2021)

Source: <https://www.youtube.com/watch?v=UTFnKJqcPks>

Duration: 2 minutes and 46 seconds



This video, referred to as “Video 1” in the case report, is a Youtube video posted by AL JAZEERA ENGLISH on September 20, 2021, titled “Haitian migrants undeterred as US begins removal flights” accessed at <https://www.youtube.com/watch?v=UTFnKJqcPks>. The video features Al Jazeera news reporter John Holman reporting on several clips showing HPU BPAs on horseback conducting operations near the river with Haitian migrants, both in the river and on both banks of the river.

- At 0:10, a BPA on a light-colored horse can be heard questioning a male migrant with several women and children gathered about. He yells, “Hey! You use your women? This is why your country’s... [bleep].” He then attempted to control the movements of the male migrant. Someone can then be heard saying, “You! No, no, that way.”
- At 0:28, another BPA on a brown colored horse advances towards a migrant, and the migrant takes several steps back into the river to avoid the BPA. At this point in the video, Holman narrates a translation of an inaudible statement from a migrant in the river explaining that as there was no food in the camp they had to go to Mexico to purchase some.
- At 0:40, a BPA on horseback grabs a migrant and they both turn around in front of a TXDPS vehicle parked on the right side of the embankment above the boat ramp.
- At 2:21, a boat identified by Al Jazeera as belonging to Mexican security forces comes into view pointing to the migrants towards the Mexican side of the river and four TXDPS vehicles can be seen parked at the boat ramp. At 2:29, reporter John Holman is on the Mexico side of the river, and TXDPS vehicles on the US side of the river are no longer present, but a large group of migrants are moving along the boat embankment.

**Al Jazeera Plus Facebook Video: “U.S. Border Patrol Agents Seen Using Whips On Incoming Asylum Seekers” (posted 20 September 2021)**

Source: <https://www.facebook.com/ajplusenglish/videos/984394882124049/>

Duration: 3 minutes and 7 seconds

This video is a Facebook video posted by AJ+ (Al Jazeera Plus) on September 20, 2021, titled “U.S. Border Patrol Agents Seen Using Whips On Incoming Asylum Seekers,” that is 03 minutes and 07 seconds in duration and can be accessed at <https://www.facebook.com/ajplusenglish/videos/984394882124049/>. The video shows several clips of HPU BPAs on horseback conducting operations near the river with Haitian migrants in, and on both sides, of the river.

- At 0:10, a BPA yells, “Quédese allá en México!” [translation: stay over there in Mexico] and later points towards the river and yells, “No!”.
- At 0:14, a BPA yells, “Hey! You use your women? This is why your country’s shit, you use your women for this,” while facing a man holding a bag of food standing amidst a group of women and children on the riverbank.
- At 0:20, a TXDPS trooper states, “You, go that way!” and points back to the Mexican side of the river, while a BPA on horseback follows the movements of a migrant at the water’s edge.
- At 1:38, the video clip shows a BPA on horseback spinning his reins while turning his horse towards a migrant at the river’s edge. As the horse’s head moves towards the migrant, the migrant falls backwards into the river.
- At 2:56, the video depicts a BPA on a white horse weaving through a family group while pursuing a man near the river’s edge on the boat ramp.

**Reuters Washington Post (Video 2): “Homeland security officials will investigate after images show agents on horseback grabbing migrants, Mayorkas says” (posted 20 September 2021)**

Source: [https://www.washingtonpost.com/national/border-haitians-horses-agents/2021/09/20/c489c3ae-1a41-11ec-914a-99d701398e5a\\_story.html](https://www.washingtonpost.com/national/border-haitians-horses-agents/2021/09/20/c489c3ae-1a41-11ec-914a-99d701398e5a_story.html)

Duration: 1 minute and 41 seconds

This video, referred to as “Video 2” in the case report, is a Washington Post online news article by Nick Miroff and Felicia Sonmez dated September 20, 2021, titled, “Homeland security officials will investigate after images show agents on horseback grabbing migrants, Mayorkas says,” accessed at [https://www.washingtonpost.com/national/border-haitians-horses-agents/2021/09/20/c489c3ae-1a41-11ec-914a-99d701398e5a\\_story.html](https://www.washingtonpost.com/national/border-haitians-horses-agents/2021/09/20/c489c3ae-1a41-11ec-914a-99d701398e5a_story.html). In this Washington Post article is an embedded video depicting Haitian migrants

crossing the river and encountering HPU BPAs on horseback on the right side of the embankment above the boat ramp.

- At 0:09, four BPAs on horseback are at the boat ramp and are slowly moving around. One of the BPAs yells something muffled that appears to be “everybody out!” and yells something additional unintelligible.
- At 0:11, a migrant in a red shirt at the river’s edge approaches a BPA with his arm outstretched and appears to be attempting to signal or show something to the BPA. The same migrant can be seen extending his arm and attempting to signal or show the BPA something at 1:23.
- At 0:24, a BPA on horseback turns his horse towards a migrant at the river’s edge. As the horse’s head turns toward the migrant he falls backwards in the water.
- At 1:00, the video depicts a BPA on a white horse weaving through a family group while pursuing a man near the river’s edge on the boat ramp.
- Between 1:00 and 1:20, numerous individuals attempt to get up the boat ramp but are blocked by BPAs who maneuver their horses to move them back to the river’s edge.
- Between 1:20 and 1:26, a BPA can be seen standing at the river’s edge at the base of the boat ramp in front of a group of migrants and reporters still in the river. The migrants appear to be talking to the BPA.
- At 1:30, the video shows the same BPA at the river’s edge allowing the migrants in the river near the shore to proceed up the boat ramp. He then yells, “No,” towards while pointing in the direction of Mexico.

### HD Drone Footage (Video 3): Yahoo News/Storyful: “Border Officers on Horseback Attempt to Stop Migrants Crossing the Rio Grande” (posted 20 September 2021)

Source: <https://news.yahoo.com/border-officers-horseback-attempt-stop-010120277.html>

Duration: 1 minute and 36 seconds

This video, referred to as “Video 3” in the case report, is a Yahoo News video titled “Border Officers on Horseback Attempt to Stop Migrants Crossing the Rio Grande,” shot from a drone being flown over the boat ramp area and credited to Auden Cabello via Storyful, a self-described news and open source intelligence organization. The video is 1 minute and 36 seconds in duration and was posted on September 20, 2021, and posted at <https://news.yahoo.com/border-officers-horseback-attempt-stop-010120277.html>. This video, shot from a drone being flown over the boat ramp area, depicts migrants crossing the Rio Grande River into the United States and moving along the road in the fire break towards the designated containment area.

- At 00:35, there is a break in the flow of migrants moving along the road from the boat ramp towards the designated containment area and two HPU BPAs are bringing up the rear of the group. Another four HPU BPAs and two TXDPS troopers are on the boat ramp at the edge of the water in front of a separate group of migrants still in the river.
- At 01:00, the migrants in the river begin moving past the HPU BPAs and TXDPS troopers on the boat ramp. Three of the four BPAs turn towards the migrants leaving the boat ramp area. Several of the migrants begin running. At 1:08, a HPU BPA grabs a migrant carrying bags of food, causing both to spin around before the BPA lets go of the migrant.
- At 01:14, the migrants who moved past the HPU BPAs and TXDPS troopers on the boat ramp scatter in several directions but ultimately head in the direction of the designated containment area (including the migrant who was grabbed and spun around by the HPU BPA). That same HPU BPA then turns his horse and rides toward a migrant still standing on the riverbank and the migrant moves back into the water.
- Between 01:30 and 01:36, the last migrant on the boat ramp is standing in front of the two TXDPS troopers and is allowed to walk past them up the boat ramp towards the designated containment area.

### TXDPS Video Footage

Trooper [REDACTED]\_20210919\_01\_04\_C17-2084\_Test Recording\_2000747258

Source: Provided by TXDPS to CBP OPR Del Rio

Duration: 6 minutes and 50 seconds

This video is a TXDPS dashcam video from the vehicle of TXDPS Trooper [REDACTED], 6 minutes and 50 seconds in duration, provided to CBP OPR by TXDPS. The video contains footage from Trooper [REDACTED] vehicle which was parked on an embankment above the boat ramp at the time of the incident on September 19, 2021. There is no sound. There are four BPAs on horseback and two of them appear to be questioning several migrants coming

from the river. At 0:15, a BPA on horseback chases a migrant, grabs him or his t-shirt, and they both turn in front of the TXDPS vehicle. Another BPA on horseback stops in front of a migrant coming from the river and points across the river while another migrant passes them and walks in the direction of the encampment. The next 60 seconds of video depict numerous migrants running up the boat ramp while attempting to elude BPAs who chase them on horseback. Ultimately all migrants seen in the video are able to pass the BPAs and proceed up the boat ramp and walk west towards the POE. At that point all HPU BPAs move to the area above the boat ramp. The TXDPS vehicle then moves to the top of the boat ramp and the video captures numerous migrants exiting the river and walking past a BPA on horseback and TXDPS troopers who both direct them towards the encampment.

### CBP Video Footage

[REDACTED]  
 Source: Provided by Local CBP to CBP OPR Del Rio  
 Duration: 3 minutes and 35 seconds in length (timelapse)

Exhibit X.5 is time-lapsed video footage captured by a camera near the [REDACTED] on the day of the incident. The video is 3 minutes and 35 seconds in duration. The video is shot across a clearing running northwest to southeast ending with the boat ramp and the Rio Grande River in the distance. The video depicts HPU BPAs on horseback attempting to ensure all migrants stayed within a contained area between the clearing and the Rio Grande River. Migrants can also be seen walking east and west along a road paralleling the Rio Grande River between the boat ramp and the direction of POE. Several vehicles can also be seen arriving in the area near the boat ramp.

### CBP AMO Aerial Video Footage

Source: Provided by CBP AMO to CBP OPR Del Rio  
 Duration: Each video file is between approximately 2 and 6 minutes in length

- CBP AMO provided OPR Del Rio with approximately 15 hours of aerial footage across 153 video files (files titled f000000 – f000152), which begin at 1508 GMT / 1008 local time on September 19, 2021 and run through 0551 GMT / 0051 local time on September 20, 2021
- Note: CBP OPR reviewed and analyzed files f000000 through f000152 and determined that the identified interactions of interest occur between files f000026 - f000029 (although not necessarily captured in the CBP AMO footage).

File f000026 is a CBP AMO aerial video, 3 minutes and 12 seconds in duration, covers the time period from 1742 GMT / 1242 local time to 1745 GMT / 1245 local time. The video shows the area along the Rio Grande River between the Del Rio POE and the boat ramp. Throughout the duration of the video, migrants can be seen crossing the Rio Grande River in both directions. The video captures the moments leading up to the incident and begins at 1742 GMT or 1242 local time.

- At 0:24 the video shows a large crowd of migrants gathered on and around the boat ramp. Two mounted HPU BPAs and a TXDPS truck can be seen on the embankment above the boat ramp.
- Between 0:35 and 0:56, several TXDPS troopers can be seen walking to the back of the TXDPS truck and opening the rear gate. At the same time one HPU BPA dismounts his horse and hands the reins to a second HPU BPA. The BPA then walks to the driver's side door of the TXDPS vehicle and begins to get in.
- Between 2:00 and 2:30 the HPU BPA exits the TXDPS vehicle and remounts his horse. Four additional HPU BPAs arrived in the area from the west.

File f000027 is a CBP AMO aerial video, 6 minutes and 2 seconds in duration, covers the time period from 1745 GMT (1245 local time) to 1752 GMT / 1252 local time. The video is the next in the sequence immediately following the one described above. During the six-minute video the camera moves to various areas around the Del Rio POE. The AMO overlay and timestamp in the video disappear at 1746 GMT (1246 local time) but analysis is still possible based on the portions of the video that are time stamped. All further GMT / local times in this report are extrapolated from this point forward (margin of error +/- 1 minute).

- At 2:40 on the video, approximately 1747 GMT / 1247 local time, HPU BPAs on horseback can be seen in the crowd on the boat ramp and on the embankment above the boat ramp. A large crowd can still be seen at the boat ramp and migrants continue to cross the river in both directions while others walk towards the POE.

File f000028 is a CBP AMO aerial video, 6 minutes in duration, covers the time period from 1752 GMT / 1252 local time to 1258 GMT / 1258 local time. During this period of time, the camera did not focus on the boat ramp or capture data pertinent to this investigation.

File f000029 is a CBP AMO aerial video, 6 minutes in duration, covers the time period from 1758 GMT / 1258 local time to 1804 GMT / 1304 local time. This video continued to capture the area surrounding the Del Rio POE.

- At 5:25, the boat ramp comes into view. There are BPAs on horseback at the top of the boat ramp and approximately 7 migrants start running toward the Del Rio POE encampment.
- At 5:45, the BPAs on horseback allow the remaining migrants on the boat ramp to walk towards the Del Rio POE.


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 2**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 011</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> 202112198</p>
<p><b>8. TOPIC</b> Interview of [REDACTED]</p>		
<p><b>9. SYNOPSIS</b> On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 28-SEP-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 28-SEP-2021</p>	<p><b>15. TELEPHONE NUMBER</b> No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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DEPARTMENT OF HOMELAND SECURITY

1. CASE NUMBER

202112280

PREPARED BY

[REDACTED]

2. REPORT NUMBER

011



REPORT OF INVESTIGATION CONTINUATION

10. NARRATIVE

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 25, 2021, OPR Assistant Special Agent in Charge (ASAC) [REDACTED] and Special Agent (SA) [REDACTED] conducted a witness interview of [REDACTED] at the CBP OPR Del Rio Office. [REDACTED] was identified by OPR Del Rio as [REDACTED]. The interview was audio and video recorded using StarWitness equipment and uniquely identified using Authentication Code:

[REDACTED]

[REDACTED]

[Agents note: The area [REDACTED] described is the area known to CBP USBP as the Weir Dam].

[REDACTED]. Later that day, Texas Department of Public Safety (TXDPS) and U.S. Border Patrol (USBP) closed the crossing point due to weather. Migrant crossings at the concrete dam continued but was reduced due to TXDPS and USBP presence.

On Sunday morning, September 19, 2021, [REDACTED] observed a [REDACTED]

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REPORT OF INVESTIGATION  
CONTINUATION

10. NARRATIVE

[REDACTED]

[Agents note: The area [REDACTED] described is the area known to CBP USBP as the down river Boat Ramp.]

[REDACTED]

[Agents Note: In a second interview conducted on September 25, 2021, by ASAC [REDACTED] and SA [REDACTED] [REDACTED] clarified that HPU agents were telling migrants to go back to the migrant camp under the Del Rio POE, not to Mexico.]

[REDACTED]

[REDACTED]



DEPARTMENT OF HOMELAND SECURITY



1. CASE NUMBER

202112280

PREPARED BY

[REDACTED]

REPORT OF INVESTIGATION  
CONTINUATION

2. REPORT NUMBER

011

10. NARRATIVE

[REDACTED]

[REDACTED]

[REDACTED] asked to stop the interview with OPR Del Rio [REDACTED] [REDACTED] but offered to return later to continue the interview.

Interview concluded

DEPARTMENT OF HOMELAND SECURITY

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202112280

PREPARED BY

[REDACTED]



REPORT OF INVESTIGATION  
Exhibit List

2. REPORT NUMBER

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None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 3**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 014</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> 202112198</p>
<p><b>8. TOPIC</b> Interview of [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 25, 2021, Assistant Special Agent in Charge (ASAC) [REDACTED] CBP OPR Houston, Texas, and Special Agent (SA) [REDACTED] CBP OPR Del Rio, Texas, interviewed [REDACTED], for a second time concerning the September 19, 2021, incidents involving the Carrizo Springs HPU.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 28-SEP-2021</p>	<p>14. ORIGIN OFFICE CBP OPR Investigative Ops Division (IOD)</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 28-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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DEPARTMENT OF HOMELAND SECURITY

1. CASE NUMBER

202112280

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2. REPORT NUMBER

014



REPORT OF INVESTIGATION CONTINUATION

10. NARRATIVE

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 24, 2021, Assistant Special Agent in Charge (ASAC) [redacted] obtained a [redacted] article, titled "[redacted]" dated [redacted] (Exhibit 1). The article was found online at [redacted]

On September 25, 2021, ASAC [redacted] and SA [redacted] interviewed [redacted] for a second time. [redacted] was present during the September 19, 2021, incidents [redacted]

The interview was audio and video recorded using the StarWitness equipment and uniquely identified by Authentication Code: [redacted]. The time was Coordinated Universal Time, (UTC) 23:07:59 UTC through 00:18:41 UTC.

During the first interview, [redacted]

When [redacted] returned for the second interview, [redacted]

DEPARTMENT OF HOMELAND SECURITY

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2. REPORT NUMBER

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REPORT OF INVESTIGATION  
CONTINUATION

10. NARRATIVE

[REDACTED]

Prior to the interview, [REDACTED] was advised of the nature of the interview, that the interview was voluntary, and he could terminate the interview and leave at any time. [REDACTED] was placed under oath for the interview.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
CONTINUATION

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PREPARED BY

[REDACTED]

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10. NARRATIVE

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DEPARTMENT OF HOMELAND SECURITY

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PREPARED BY

[REDACTED]

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014



REPORT OF INVESTIGATION  
CONTINUATION

10. NARRATIVE

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



DEPARTMENT OF HOMELAND SECURITY

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REPORT OF INVESTIGATION  
CONTINUATION

10. NARRATIVE

[REDACTED]

Additionally, [REDACTED] was asked [REDACTED]

[REDACTED] was asked about [REDACTED] (timestamp 1:05:46).

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
Exhibit List

1. CASE NUMBER

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PREPARED BY

[REDACTED]

2. REPORT NUMBER

014

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

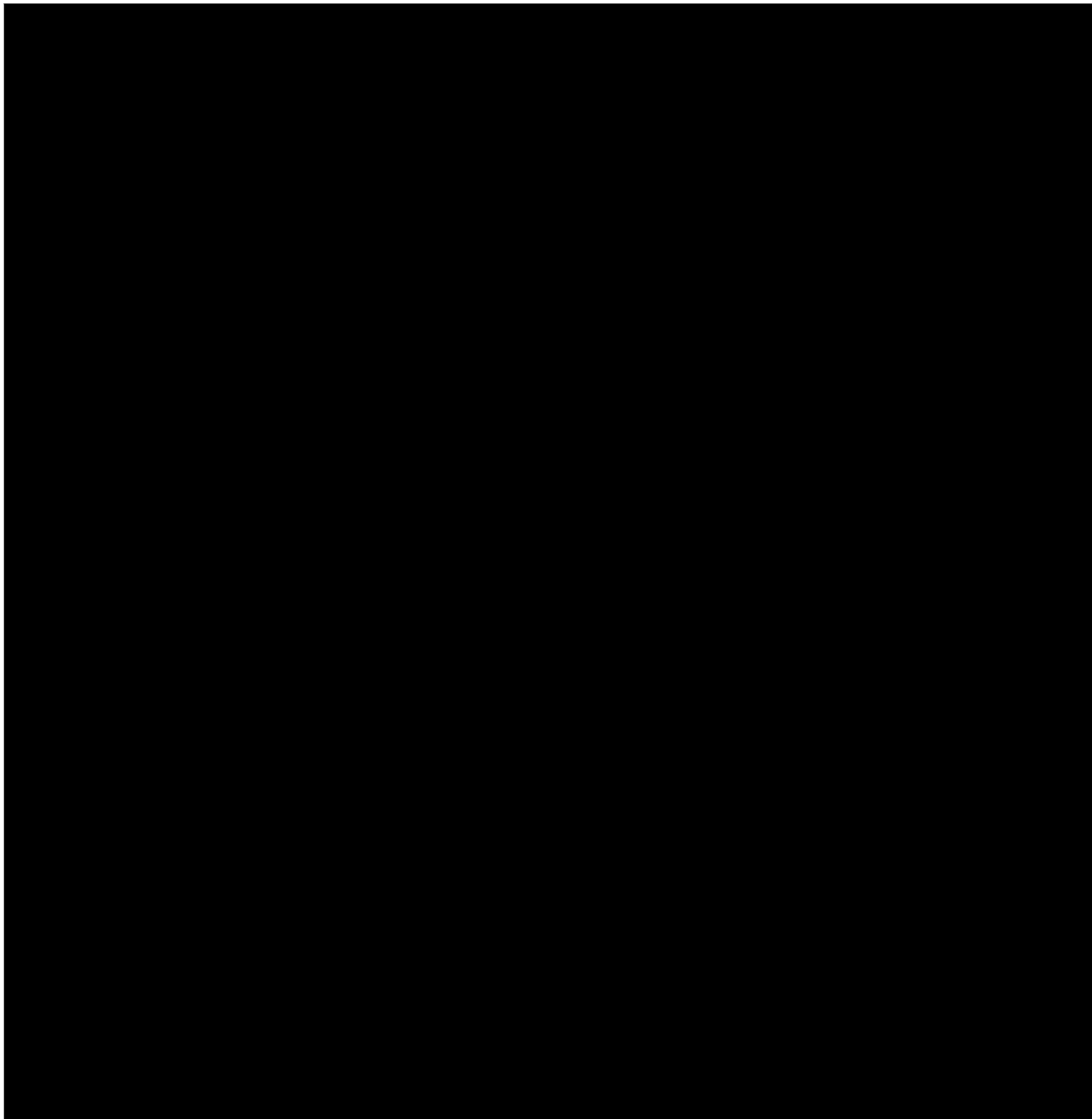
[REDACTED]

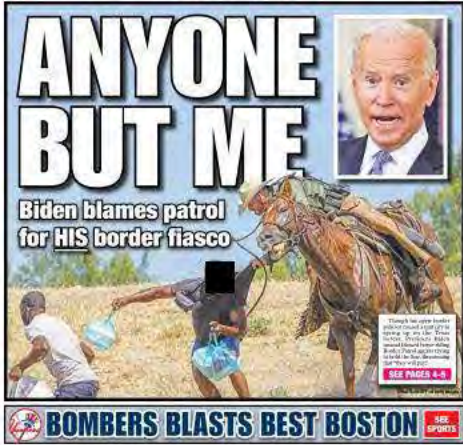
[REDACTED]

[REDACTED]

[REDACTED]

On Friday, [President Biden took it further, saying](#) the federal agents involved “will pay” for their actions.





“It was horrible what you see, what you saw — to see people treated like they did, with horses barely running them over and people being strapped. It’s outrageous, I promise you, those people will pay,” Biden said at the White House in response to a reporter’s question.

“There’s an investigation underway now and there will be consequences. There will be consequences. It’s an embarrassment. It’s beyond an embarrassment. It’s dangerous. It’s wrong, it sends the wrong message around the world. It sends the wrong message at home. It’s simply not who we are.”

The Department of Homeland Security is investigating the incident and [the agents involved have been placed on administrative duty](#) and are no longer in direct contact with migrants at the border.



DHS Secretary Alejandro Mayorkas slammed the images again on Wednesday, saying they “correctly and necessarily were met with our nation’s horror.”AFP via Getty Images

[Some agents](#) and [former border officials](#) said the twirling motion appeared to be a tactic to steer horses, not whip humans.

White House press secretary Jen Psaki announced the first policy change out of the investigation on Thursday, saying horses will no longer be used by Border Patrol agents in Del Rio.

It is unclear what, if any, repercussions the Border Patrol agents involved will face at the end of the investigation. Part of the investigation process, Psaki said, will be figuring out what those could be.

DHS Secretary Alejandro Mayorkas has said he hopes the investigation will be completed in “days” rather than weeks.



Mayorkas slammed the images again on Wednesday, saying they “correctly and necessarily were met with our nation’s horror” while testifying before the House Homeland Security Committee on Capitol Hill.

In the past week, Del Rio has been flooded by thousands of migrants, many hailing from Haiti, who are seeking asylum in the US. Some estimate that up to 15,000 were camped under the Del Rio International Bridge over the weekend.

Removals of the migrants at the campsite began on Sunday and as of Thursday, approximately 3,100 remained under the bridge, [the Department of Homeland Security](#) told The Post.

The department said over 5,800 migrants have been removed from the Del Rio camp, but did not specify [how many have been released into the US](#). Among the removed, 1,949 have been returned to Haiti on 17 deportation flights. The flights will continue on a regular basis.





Over 3,900 migrants have been processed for expulsion from the US under the CDC's Title 42 order related to COVID-19 or "placed into removal proceedings," meaning they have been given a notice to appear at an immigration office within the next 60 days. It is unclear how many were processed or [given the notices](#).

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 4**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

U.S. Customs and Border Protection  
Office of Professional Responsibility  
Investigative Operations Directorate

Timeline Analysis: Horse Patrol Unit Encounter, September 19, 2021

April 6, 2022

Case Number 202112280

On September 25, 2022, CBP OPR SAs identified [REDACTED]

[REDACTED] ident [REDACTED]

The following is a Timeline based on the analysis of captured images and the statement provided by [REDACTED] as well as aerial footage reviewed by CBP OPR.



12:23 - First photo taken by [REDACTED] at the boat ramp from the Mexican side of the Rio Grande River. The photo shows a large group of migrants gathering at the boat ramp on the US side and a line of migrants crossing the river in both directions.

NO PHOTO

12:35 - First photo of a HPU BPA, not shown to CBP OPR. [REDACTED] described the photo by stating two BPAs arrived on horseback and remained above the river, on a hill, overlooking the boat ramp. [REDACTED] explained the two HPU BPAs remained on the hill until approximately 12:38



12:42 - CBP AMO aerial footage shows a HPU BPA, on a brown horse, dismount and hand his reins to another HPU BPA on a white horse. The dismounted HPU BPA walks over to a TXDPS vehicle and makes an announcement on the vehicle's PA system.



12:43 - CBP AMO aerial footage shows the HPU BPA who made the announcement, exit the TXDPS vehicle and mount his horse.



12:44 - CBP AMO aerial footage shows 4 additional HPU BPAs arriving at the boat ramp.



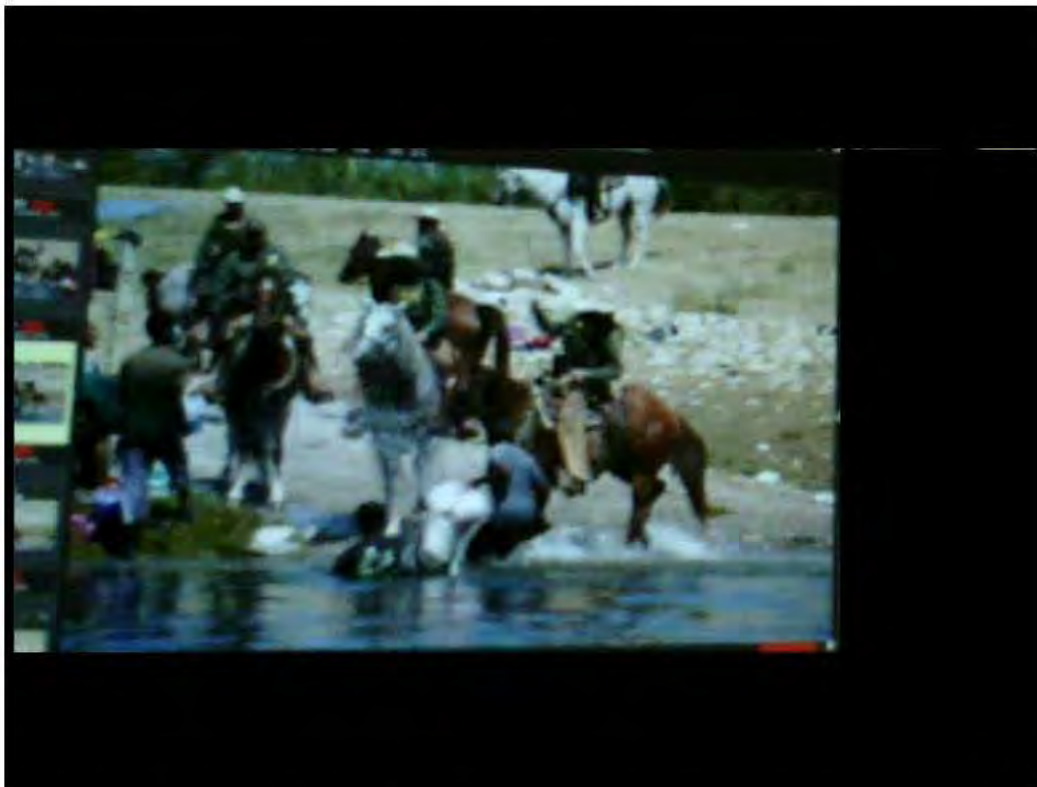
12:44 - Photo of a HPU BPA on a white horse, wearing a face gaiter, pointing. [REDACTED] stated the BPA is instructing migrants to go back to the migrant camp on the US side. [REDACTED] explained HPU BPAs continued to do so and referenced another photo he took at 12:47.

NO PHOTO

12:53 - Photo, not shown to CBP OPR. [REDACTED] stated HPU BPAs continued instructing migrants to return to the camp on the US side. [REDACTED] believed at this point HPU began telling migrants, in the water, to return to Mexico.



12:55 - Photo of a migrant in a gray shirt approach the riverbank at the boat ramp while multiple HPU BPAs are positioned at the boat ramp near river's edge. [REDACTED] identified BPA [REDACTED] and recalled BPA [REDACTED] verbally interacting with migrants.



12:55 - Photo of BPA [REDACTED] in front of a migrant in a gray shirt and appears to be twirling his reins.



12:55 - Photo of HPU BPA directly in front of a migrant falling into the water.



12:56 - Photo of a HPU BPA on a brown horse behind a migrant at the river's edge.

[Agent's Note: █████ showed CBP OPR two photos (below) in chronological order without timestamps.]



Photo of a HPU BPA on a white horse, approaches a group of migrants which included women and small children by the river's edge at the boat ramp and stated, "Hey you use your women? This is why your country's shit, because you use your women for this."

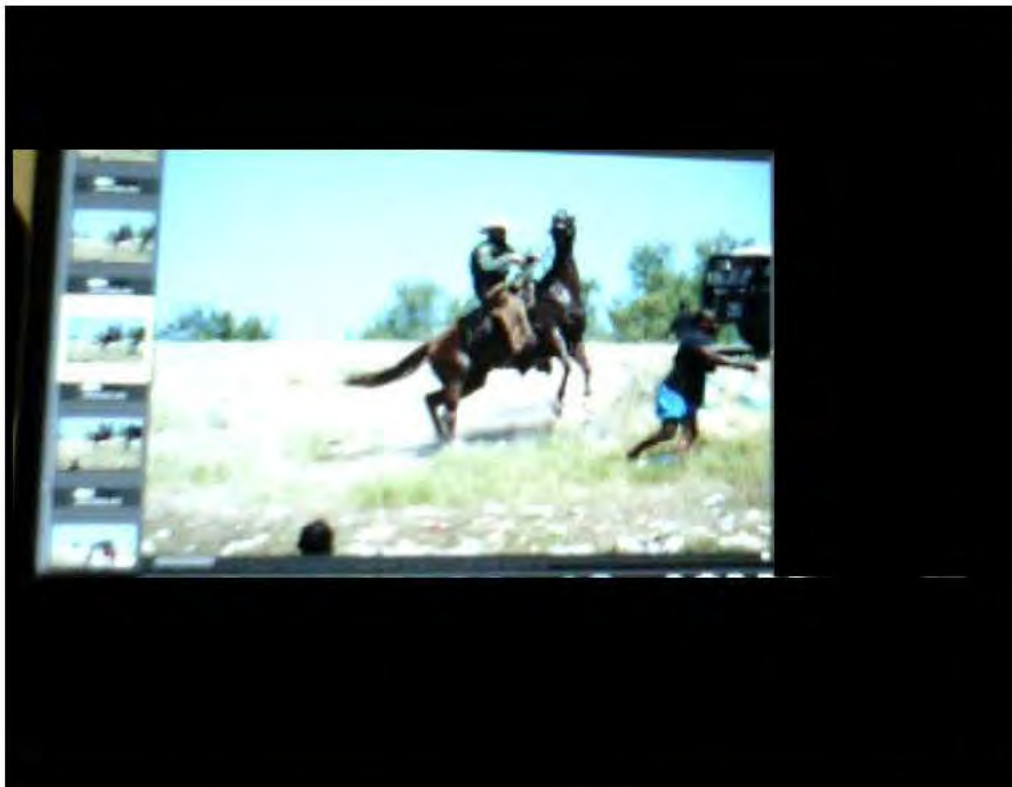


Photo of HPU BPA █████ standing in front of migrants and appears to be twirling his reins.





13:01 - HPU BPA pursues a migrant, in a black shirt, carrying bags in both hands up the embankment to the east of the boat ramp and grabs him by his shirt, spinning him around.



13:02- HPU BPA releases the migrant, in a black shirt, carrying bags.


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

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**EXHIBIT - 5**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 002</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> 202112198</p>
<p><b>8. TOPIC</b> Memorandum of Interview with Sgt. [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 23, 2021, Special Agent (SA) [REDACTED] and Senior Special Agent (SSA) [REDACTED], CBP OPR Del Rio, conducted an interview with Texas Department of Public Safety (TXDPS) Sergeant (Sgt.) [REDACTED]</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>11. COMPLETION DATE 27-SEP-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 27-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

002

**10. NARRATIVE**

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 23, 2021, SA [REDACTED] and SSA [REDACTED] conducted an interview with Sgt. [REDACTED]. The interview was audio and video recorded with StarWitness equipment and uniquely identified by Authentication Code: [REDACTED].

Sgt. [REDACTED] was advised he was being interviewed as a witness to allegations made against BPAs assigned to the HPU. Sgt. [REDACTED] stated he recalled the incident and was on duty when it happened.

Sgt. [REDACTED] stated he was riding with Texas Department of Public Safety (TXDPS) Trooper [REDACTED] on the [REDACTED] adjacent to the boat ramp area searching for a group of migrants. Sgt. [REDACTED] stated he and Trooper [REDACTED] traveled through a gate and came upon the Boat Ramp area. Sgt. [REDACTED] advised there were hundreds of people in the area around the boat ramp when he arrived.

Sgt. [REDACTED] stated he would not answer questions regarding TXDPS's operational strategy for TXDPS troopers located at the border. Sgt. [REDACTED] stated the Governor gives the direction to TXDPS and upper level TXDPS management determines how the Governor's direction will be implemented.

At this time Sgt. [REDACTED] advised he would not go into TXDPS's operational plans and that he was only to be interviewed regarding the HPU incident.

Sgt. [REDACTED] was asked if the HPU was trying to apprehend or attempt migrants from entering the United States (U.S.). Sgt. [REDACTED] stated he did not know what the goal was (timestamp 14:55:32). Sgt. [REDACTED] stated in his opinion either way would be fine. Sgt. [REDACTED] stated he was concerned because they (BPAs) are told to let the migrants come into the US.

Sgt. [REDACTED] stated when he arrived at the Boat Ramp area the HPU were already in the area. Sgt. [REDACTED] stated he did not receive an assistance call from USBP (timestamp 14:56:48). Sgt. [REDACTED]

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
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## 1. CASE NUMBER

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## PREPARED BY

## 2. REPORT NUMBER

002

**10. NARRATIVE**

stated TXDPS did have radio communications with the border patrol.

Sgt. [REDACTED] was shown an aerial photo containing; partial view of the Del Rio POE, the Boat Ramp, and a partial view of the [REDACTED] (Photo 1). Sgt. [REDACTED] described the area he was located, the Boat Ramp, and the open area between the Boat Ramp and the Del Rio POE. Later in the interview, Sgt. [REDACTED] was provided a copy of the ariel photo described above and marked where he entered the Boat Ramp area.

Sgt. [REDACTED] stated the geographical boundary between the U.S. and Mexico would be the middle of the river, but he was unsure if that meant the river channel. When asked if TXDPS had provided troopers any information regarding where the border was located, Sgt. [REDACTED] stated he did not see what that had to do with anything.

Sgt. [REDACTED] advised he did not call for assistance from the USBP.

Sgt. [REDACTED] stated when he arrived at the Boat Ramp area there were a lot of people (migrants) going back and forth across the river. Sgt. [REDACTED] stated being state law enforcement he did not have the authority to physically stop migrants from entering the U.S. Sgt. [REDACTED] stated the HPU was telling the migrants to stop, but they kept coming (timestamp 15:03:23). Sgt. [REDACTED] stated migrants started rushing and running towards the BPAs. Sgt. [REDACTED] stated the HPU tried to stop the migrants using their horses as crowd control as the migrants were trying to run around them (timestamp 15:03:50).

Sgt. [REDACTED] stated he heard the BPAs asking for assistance on the radio however no assistance arrived.

Sgt. [REDACTED] stated approximately less than 20 minutes after he arrived, the BPAs were told to stand down and let the migrants enter the U.S. Sgt. [REDACTED] stated the HPU BPAs then moved away from the Boat Ramp area (timestamp 15:06:10).

Sgt. [REDACTED] stated [REDACTED]  
Sgt. [REDACTED] stated [REDACTED] the boat ramp. Sgt. [REDACTED] stated he and a BPA [REDACTED]  
[REDACTED]

Sgt. [REDACTED] stated one of the BPA's last name is [REDACTED], but he does not know any of the other's names.

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

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## PREPARED BY

## 2. REPORT NUMBER

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**10. NARRATIVE**

Sgt. [REDACTED] identified Trooper [REDACTED] as the TXDPS Trooper with him at the boat ramp.

Sgt. [REDACTED] stated he did not witness any migrant being hit by anything that resembled a whip.

Sgt. [REDACTED] stated he did see the BPAs swirling their reins to turn their horses (timestamp 15:07:13).

Sgt. [REDACTED] stated he was familiar with horses and stated reins were used by a rider to maneuver a horse. Sgt. [REDACTED] stated reins can be used to turn a horse left or right, stop a horse or make a horse move faster. Sgt. [REDACTED] stated the reins in the video are split reins, describing that the reins are in two pieces and do not make a loop around the horse's neck. Sgt. [REDACTED] stated reins can be used by hitting the horse or by swirling around.

Sgt. [REDACTED] stated one migrant did fall in the river, explaining the migrant fell in where the concrete of the boat ramp ends under water and there is a small ledge at the end of the concrete (timestamp 15:07:39).

Sgt. [REDACTED] stated he did not remember any of the migrants making physical contact with any of the horses (timestamp 15:10:26).

Sgt. [REDACTED] stated he did not believe BPAs were selecting only male migrants to stop, but that the women and child migrants were not being aggressive (timestamp 15:12:38).

Sgt. [REDACTED] stated he did not see any BPAs physically make any migrants return to Mexico. Sgt. [REDACTED] stated he did not recall if any of the migrants did return to Mexico (timestamp 15:17:00).

Sgt. [REDACTED] stated there was a BPA who made unprofessional and inappropriate comments to the migrants. Sgt. [REDACTED] advised he did not recall exactly what the BPA said, or which BPA made the comments (timestamp 15:18:12).

On September 23, 2021, Sgt. [REDACTED] provided OPR with a copy of dashcam footage obtained from the TXDPS patrol unit he was occupying. Sgt. [REDACTED] described the video as from his arrival at the Boat Ramp until BPAs were advised to stand down and let the migrants through.

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
Exhibit List

1. CASE NUMBER

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PREPARED BY

[REDACTED]

2. REPORT NUMBER

002

None

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 6**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**



 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 003</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> 202112198</p>
<p><b>8. TOPIC</b> Memorandum of Interview with TXDPS Trooper [REDACTED]</p>		
<p><b>9. SYNOPSIS</b> On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 23, 2021, Senior Special Agent (SSA) [REDACTED] and Special Agent (SA) [REDACTED], CBP OPR Del Rio, interviewed Texas Department of Public Safety (TXDPS) Trooper [REDACTED].</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>11. COMPLETION DATE</b> 27-SEP-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 27-SEP-2021</p>	<p><b>15. TELEPHONE NUMBER</b> No Phone Number</p>
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

003

**10. NARRATIVE**

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 23, 2021, SSA [REDACTED] and SA [REDACTED] interviewed Trooper [REDACTED]. The interview was audio and video recorded utilizing Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED]

Trooper [REDACTED] stated on September 19, 2021, he and his Sergeant (Sgt.) [REDACTED] were working on the [REDACTED] and followed a group of migrants to a large open area where the Boat Ramp is located. Trooper [REDACTED] stated he observed 150-200 migrants congregating around the Boat Ramp area. Trooper [REDACTED] stated there were migrants bathing in the water and some walking back and forth between the US and Mexico. Trooper [REDACTED] stated the area was in complete chaos. Trooper [REDACTED] advised he observed several BPAs a short distance away and Sgt. [REDACTED] spoke to them on the radio, and they came over to assist.

Trooper [REDACTED] stated he believed their purpose that day was to move the migrants from the Boat Ramp to the designated holding area near the Del Rio POE. Trooper [REDACTED] stated they did this to prevent the migrants from trespassing on the [REDACTED]. Trooper [REDACTED] stated the actions of the BPAs also appeared to be controlling the flow of where the migrants were walking and preventing them from entering private property (timestamp15:57:04).

Trooper [REDACTED] was shown Photo 1, an ariel photo of the US Mexico border. Trooper [REDACTED] circled the area he had come from (the [REDACTED]) and where he parked his patrol unit on a printed copy of the photo.

Trooper [REDACTED] was shown Video 3, a drone video of the Boat Ramp area. Trooper [REDACTED] stated they were trying to ensure the migrants came up the Boat Ramp and continued west towards the Del Rio POE and not toward the embankment to the east. He had parked his patrol unit on the embankment pointed toward the Del Rio POE. The [REDACTED] was behind his vehicle (timestamp 16:00:06).

Trooper [REDACTED] was then shown Video 1, an AL JAZEERA video of the Boat Ramp. Trooper

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
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003

**10. NARRATIVE**

██████████ stated he was unsure what the HPU's objective was at the point the video was taken. Trooper ██████████ stated he heard himself in the video telling a migrant, "No, go that way," meaning to go up the Boat Ramp and behind the horses. Trooper ██████████ stated he never heard any radio traffic giving directions as what the objective was at the Boat Ramp (timestamp 16:21:08).

Trooper ██████████ stated he did not see any of the HPU BPAs use any type of force with their horses to stop migrants from coming into the US (16:03:30). Trooper ██████████ stated he did see a BPA twirling his reins on the video and stated he believed the BPA was trying to control his horse. Trooper ██████████ stated he did not see any BPA try to hit a migrant with the reins. Trooper ██████████ stated the migrant was seven to ten feet away from the horse. Trooper ██████████ stated the BPA could have hit the migrant if he wanted to but would have had to move closer to him. Trooper ██████████ stated the BPA was definitely not trying to hit any migrants with his reins. (timestamp 16:03:46).

Trooper ██████████ clarified that BPAs were not trying to prevent the entry of migrants but rather have them walk in a certain direction (timestamp 16:04:30).

Trooper ██████████ was advised the video appeared to show BPAs trying to stop certain migrants. Trooper ██████████ stated he did not know why BPAs were trying to stop certain migrants.

Trooper ██████████ stated the migrants at the Boat Ramp were allowed to enter the U.S. and none of the migrants were made to return to Mexico (timestamp 16:05:17).

Trooper ██████████ stated he did not see any of the migrants get hit by a HPU horse (timestamp 16:07:29).

Trooper ██████████ stated there was media on the Mexican side of the river who crossed the Rio Grande River to the U.S. side with the migrants. Trooper ██████████ believed one member of the media was adding to the chaos by telling the migrants they could cross and yelling at the HPU, "you can't be doing what you are doing." (timestamp 16:11:16).

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
Exhibit List

1. CASE NUMBER

202112280

PREPARED BY

[REDACTED]

2. REPORT NUMBER

003

None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 7**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 017</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> 202112198</p>
<p><b>8. TOPIC</b> Interview of TXDPS Trooper [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 30, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Horse Patrol Unit (HPU), Carrizo Springs Texas. The incident occurred at an area known as the "Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE) Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 30, 2021, Special Agent (SA) [REDACTED] and Senior Special Agent (SSA) [REDACTED], CBP OPR Del Rio, conducted a voluntary witness interview of Texas Department of Public Safety (TXDPS) Trooper [REDACTED].</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 04-OCT-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 05-OCT-2021</p>	<p><b>15. TELEPHONE NUMBER</b> No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

017

**10. NARRATIVE**

On September 30, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Horse Patrol Unit (HPU), Carrizo Springs Texas. The incident occurred at an area known as the "Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE) Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 30, 2021, SA [REDACTED] and SSA [REDACTED] conducted a voluntary witness interview of Trooper [REDACTED]. The interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code: [REDACTED]. The time was Coordinated Universal Time, (UTC) [REDACTED].

Trooper [REDACTED] stated that on September 19, 2021, he was assigned to work the [REDACTED], a private ranch; near the Del Rio POE. Trooper [REDACTED] stated while at a gate that connects the [REDACTED] to government property, he, TXDPS Sergeant (Sgt.) [REDACTED], and Trooper [REDACTED] began following a migrant who was walking towards the Rio Grande River. Trooper [REDACTED] stated once they got around the corner, they realized it wasn't just an individual but a whole group of migrants. Trooper [REDACTED] stated they went towards the river and Sgt. [REDACTED] began directing migrants towards the Del Rio POE. Trooper [REDACTED] was shown Photo 1, and he identified the Boat Ramp, the Rio Grande River, and the San Felipe Creek (timestamp 16:05:20). Trooper [REDACTED] stated they initially went into the area, around the Boat Ramp, at approximately 11:00 AM and stayed until around 1:00 PM.

Trooper [REDACTED] stated when they arrived near the Boat Ramp area, there were only a few HPU BPAs in the area. SA [REDACTED] asked Trooper [REDACTED] if anyone from TXDPS requested assistance in the area (timestamp 16:08:42). Trooper [REDACTED] stated Sgt. [REDACTED] requested additional TXDPS assistance to stop people from crossing. SA [REDACTED] asked if the request for assistance and decision to stop migrants from crossing was relayed to HPU BPAs and Trooper [REDACTED] stated he wasn't sure, but it would have been Sgt. [REDACTED] who would have relayed the information (timestamp 16:09:10).

Trooper [REDACTED] stated Sgt. [REDACTED] and Trooper [REDACTED] went down to the Boat Ramp and began telling migrants to start moving towards the Del Rio POE area as; Trooper [REDACTED] stayed further up and was guiding people along with HPU BPAs towards the Del Rio POE. Trooper [REDACTED] stated HPU BPAs were also at the Boat Ramp, and one of the HPU BPAs, along with Sgt. [REDACTED] was telling migrants to stop crossing and bringing up migrants who were already at the Boat Ramp

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

017

**10. NARRATIVE**

to the other group (timestamp 16:10:07). SA [REDACTED] asked Trooper [REDACTED] if any HPU BPA was allowed or asked to use the Trooper's vehicle PA system to address the group of migrants (timestamp 16:11:13). Trooper [REDACTED] stated Sgt. [REDACTED] allowed one of the HPU BPAs to utilize the Trooper's PA system and believes it was to instruct the migrants to move towards the Del Rio POE area in the Spanish language.

Trooper [REDACTED] clarified when the migrants were instructed to stop crossing, the migrants who were already on shore in the United States and in the Rio Grande River were being allowed to continue towards the Del Rio POE area and the migrants still in Mexico were being instructed to stop (timestamp 16:12:29). SA [REDACTED] asked Trooper [REDACTED] if he saw any migrants being mistreated, any use of excessive force, any migrants being whipped with reins, or knocked into the water by horses, and Trooper [REDACTED] stated he did not (timestamp 16:13:18). Trooper [REDACTED] was shown photo 3 and stated there were two or three migrants trying to head towards the [REDACTED] area, and he believed the HPU BPA was attempting to stop the migrant from doing so (timestamp 16:13:36). Trooper [REDACTED] was asked if he witnessed any migrants return to Mexico or forced to return to Mexico after they made it into the United States and Trooper [REDACTED] stated he did not (timestamp 16:14:35).

SSA [REDACTED] showed Trooper [REDACTED] Video 1 and asked if Trooper [REDACTED] heard any derogatory statements made to any migrants by HPU BPAs (timestamp 16:16:13). Trooper [REDACTED] stated he was not directly on the Boat Ramp and did not hear any derogatory comments made to any migrants. SSA [REDACTED] asked Trooper [REDACTED] if at any time it appeared that HPU BPAs were trying to strike migrants with their reins and Trooper [REDACTED] said "no, it did not" (timestamp 16:17:49). While being shown Video 1, Trooper [REDACTED] pointed out a migrant trying to head North in the wrong direction (Exhibit 1 timestamp 16:18:20). SA [REDACTED] asked Trooper [REDACTED] if he remembered any of the HPU BPAs names and Trooper [REDACTED] stated he did not but believed the HPU BPA twirling his reins was from Carrizo Springs, Texas (timestamp 16:23:25).

SSA [REDACTED] asked Trooper [REDACTED] if directions were relayed over the radio or out loud, that would allow only certain migrants to enter the United States and Trooper [REDACTED] stated he was not aware of that (timestamp 16:25:35). SA [REDACTED] asked Trooper [REDACTED] if he was aware of any operations plans regarding the incident near the Boat Ramp and Trooper [REDACTED] said no (timestamp 16:27:00). SA [REDACTED] asked Trooper [REDACTED] if it was safe to say, due to the multi-agencies, that agencies were helping where needed. Trooper [REDACTED] stated it was safe to say agencies were helping where needed and he remembered a BPA say they were instructed to let the migrants cross, but Trooper [REDACTED] stated TXDPS was in the area to stop the migrants.



DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
CONTINUATION

1. CASE NUMBER

202112280

PREPARED BY

[REDACTED]

2. REPORT NUMBER

017

10. NARRATIVE

SA [REDACTED] asked Trooper [REDACTED] if he directly heard BPAs communicate with TXDPS with specific directions regarding the incident at the Boat Ramp. Trooper [REDACTED] stated it was a fluid situation and he did not recall any plans from BPAs or TXDPS and thought the BPAs were influenced by the Troopers (timestamp 16:28:35).

**DEPARTMENT OF HOMELAND SECURITY**



**REPORT OF INVESTIGATION  
Exhibit List**

**1. CASE NUMBER**

202112280

**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

017

None

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 8**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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*Defendants.*

**CLASS ACTION COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

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## INTRODUCTION

1. On a hot day in mid-September, Mirard Joseph crossed the Rio Grande with his wife Madeleine and their one-year-old daughter. As they stepped onto the riverbank in Del Rio, Texas, Mirard and Madeleine were greeted by countless others who, like them, had fled danger and instability in Haiti and traveled thousands of miles to the United States to save their own and their families' lives.

2. For days, Mirard and Madeleine waited patiently for an opportunity to seek asylum, a process they are entitled to access under U.S. law. They and at least 15,000 Haitian asylum seekers were kept in a makeshift encampment set up by U.S. Customs and Border Protection near the Del Rio International Bridge (the "CBP Encampment"). During the day, Mirard sweltered in triple-digit temperatures. At night, the family kept close as they slept on the ground, hopeful that they could soon request protection and begin new lives in the safety of the United States.

3. With each passing day, Mirard's situation became more dire. U.S. officials in the encampment distributed only bottled water and bread to his family, and not enough to sustain anyone. He watched as Madeleine and their daughter suffered from hunger and dehydration. On September 18, 2021, Mirard crossed to Mexico to buy the food and water that his family desperately needed, but which U.S. officers had repeatedly denied. While in Mexico, Mirard made a note to return the next day for a treat for his daughter's second birthday.

4. What Mirard met as he returned to Del Rio was captured in heartrending photos and video that stirred the national conscience and placed a spotlight on the treatment of Haitians in the CBP Encampment. After Mirard stepped out of the river, holding two bags of food for Madeleine and his daughter, he encountered a mounted officer. As other officers looked on—some on foot, others on horseback or in official vehicles—the mounted officer snarled at Mirard, lashed at him with split reins, grabbed his neck, and held his collar. For several minutes, the officer attempted to drag Mirard back to the river, destroying Mirard's shirt and causing his shoes to fall off in the process. The officer released Mirard only when the horse was about to trample him. Two days later, Mirard and his family were taken to a detention facility. From there, Mirard and

Madeleine were shackled, placed on a plane with their young daughter, and expelled to Haiti.

5. Mirard now reflects that when he was grabbed and dragged by the horse-mounted officer, it “was the most humiliating experience of my life. The second most humiliating moment was when they handcuffed and chained me to go back to Haiti.”

\* \* \*

6. What happened to Mirard and many others was neither bad luck nor an isolated experience. It was the expected result of two policies applied by U.S. officials in Del Rio.

7. Acting pursuant to purported public health authority under Title 42 of the U.S. Code, immigration officials detained Haitian asylum seekers for field processing in the CBP Encampment and summarily expelled them—either on flights to Haiti or by forcing them back into Mexico—from the United States. When this “Title 42 Process” was introduced by former President Donald Trump in March 2020, his own Centers for Disease Control and Prevention experts objected that there was no sound public health rationale for an order expelling asylum seekers to the countries they fled. Since President Biden’s inauguration, his administration has embraced Title 42. Indeed, consistent with the United States’ long history of anti-Haitian and anti-Black immigration policies, the Biden Administration has used the Title 42 Process as a cudgel to deny thousands of Haitians an opportunity to access the U.S. asylum process. After witnessing Department of Homeland Security officials’ mass expulsions of asylum seekers from the CBP Encampment, a senior advisor in the Biden Administration decried the Title 42 Process as “violat[ing] our legal obligation not to expel or return [ ] individuals who fear persecution, death, or torture, especially [for] migrants fleeing from Haiti.”

8. But U.S. officials’ abuse of Haitians in Del Rio did not stop with the Title 42 Process. Despite President Biden’s promises to restore dignity and compassion to the U.S. asylum system, senior White House and Department of Homeland Security officials developed a “Haitian Deterrence Policy” to apply the Title 42 Process in a way that subjected Haitian asylum seekers in Del Rio to deplorable conditions while in government custody, was deliberately indifferent to humanitarian concerns, and focused on expelling Haitian asylum seekers as quickly as possible.

Pursuant to this policy, U.S. officials refused to prepare sufficient infrastructure, personnel, and resources in Del Rio to provide for migrants' basic necessities. They also directed the expedited, mass expulsions of migrants to deter other Haitians from seeking asylum in the United States.

9. Unfortunately, Mirard is not alone in the suffering he experienced in Del Rio from the Title 42 Process and the Haitian Deterrence Policy. Thousands of other Haitian asylum seekers in the CBP Encampment were similarly impacted by U.S. officials' calculated indifference. They were denied food, water, and medical care. They were physically and verbally abused. And they were summarily expelled without an opportunity to request asylum and without consideration of the danger they would face in Haiti or Mexico.

10. When the world witnessed the events unfold in Del Rio, President Biden said he "takes responsibility" for the "horrible" treatment of Haitians and promised a swift investigation. In the ensuing three months, however, there has been no accountability for these acts. Instead, U.S. officials have reaffirmed their commitment to the Title 42 Process and continue to use it to expel asylum seekers to Haiti at alarming levels – at least 99 expulsion flights to Haiti carrying more than 10,000 asylum seekers have occurred since the government began to clear the CBP Encampment in September. And the Biden Administration has shown no evidence that it has abandoned its cruel Haitian Deterrence Policy.

11. Plaintiffs – eleven Haitian asylum seekers who were victims of U.S. officials' abusive treatment in the CBP Encampment and expelled without an opportunity to access the U.S. asylum system, and Haitian Bridge Alliance, a community-based organization that has led the legal and humanitarian response to that conduct – bring this lawsuit to ensure accountability and an end to the Biden Administration's harmful, discriminatory, and unlawful policies.

#### **JURISDICTION AND VENUE**

12. This case arises under the Fifth Amendment of the U.S. Constitution; the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.* ("APA"); the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.* ("INA"), and its implementing regulations; the Convention Against Torture, 8 U.S.C. § 1231 note ("CAT"), *see also* Foreign Affairs Reform and Restructuring Act of

1998, Pub. L. No. 105-277, div. G, Title XXII, § 2243, 112 Stat. 2681, 2681-82 (1998) (“FARRA”); and the Public Health Service Act of 1944, 42 U.S.C. § 201, *et seq.*

13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331. The United States has waived sovereign immunity with respect to the claims alleged in this case. See 5 U.S.C. § 702. This Court has jurisdiction to enter declaratory and injunctive relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, Federal Rules of Civil Procedure 57 and 65, and the Court’s inherent equitable powers.

14. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because defendants are agencies of the United States and federal officers of the United States acting in their official capacities and are headquartered or reside in this District and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

## PARTIES

### **I. Plaintiffs**

15. Plaintiff **Haitian Bridge Alliance** (“Haitian Bridge”) is a grassroots and community-based nonprofit organization incorporated in California. Its mission is to advocate for fair and humane immigration policies and to provide humanitarian, legal, and social services to migrants—particularly Black migrants, the Haitian community, and other vulnerable populations. Since 2015, Haitian Bridge has provided services to asylum seekers and other migrants at the border and throughout their U.S. immigration proceedings. As a Haitian-led, Haitian Creole-speaking organization, Haitian Bridge also provides social and humanitarian assistance to and advocacy alongside Black migrant communities at the border, across the United States, and in Mexico, and educates the public about anti-Black racism in the U.S. immigration system. Haitian Bridge provided aid and legal services to asylum seekers in the CBP Encampment in September 2021. Since the encampment was cleared, Haitian Bridge has continued to provide humanitarian assistance and legal services to Haitian asylum seekers expelled from Del Rio.

16. Plaintiffs **Mirard Joseph** and **Madeleine Prosper** are citizens of Haiti. They fled to Chile in 2017 because they felt unsafe in Haiti and feared they could be kidnapped every time

they left their home. Due to their lack of stability in Chile, the couple decided to travel to the United States with their one-year-old daughter to seek asylum.<sup>4</sup> On or around September 11, 2021, Mirard, Madeleine, and their baby arrived in Del Rio, Texas, and were given a numbered ticket by U.S. officials. While waiting to seek asylum, they experienced extreme hunger because U.S. officials provided insufficient food to meet their basic needs. Mirard was thus forced to cross the Rio Grande into Mexico several times to buy food for his wife and their daughter. On September 18, 2021, as Mirard was returning to the CBP Encampment with food, U.S. officials on horseback chased and lashed Mirard, and tried to force him back to Mexico. Two days later, after Mirard and Madeleine had been in the CBP Encampment for approximately nine days, officials called their ticket number and transported the family to a detention center. After being detained there for several days, Mirard and Madeleine were shackled and – without being told where they were going – expelled with their young child to Haiti. They never received an opportunity to seek asylum or explain why they feared returning to Haiti. Mirard is currently in Haiti, where he remains in hiding out of fear of being attacked or kidnapped if he ventures outside. Madeleine has been forced to separate from their family to take their young daughter to Chile for medical care that was unavailable in Haiti for the illnesses she developed in the CBP Encampment. They plan to return to the United States to seek asylum.

17. Plaintiff **Mayco (“Michael”) Cidon and Veronique Cassonell** are citizens of Haiti. Michael fled Haiti after his mother was murdered when he was fifteen years old. Because it was not safe to return to Haiti, his family remained in the Dominican Republic and Chile for over two decades. During that time he married Veronique and they had two children. After suffering discrimination in Chile and seeing multiple Haitians murdered there, Michael and Veronique traveled to the United States with their children, intending to seek asylum. In mid-September 2021,

<sup>4</sup> As used in this Complaint, references to “asylum” or the “U.S. asylum process” are understood to encompass the statutory and regulatory processes by which any non-citizen may seek all relevant forms of non-refoulement relief available under U.S. immigration laws, including asylum, withholding of removal, and relief under the Convention Against Torture. See 8 U.S.C. §§ 1158, 1231 & note.

Michael, Veronique, and their children crossed into Del Rio and presented themselves at the CBP Encampment. They experienced terrible conditions, received very little food and water, slept on the ground, and saw officers on horseback using reins as whips against people in the river. After approximately ten days, U.S. officials sent Michael and Veronique to a detention center, where they were detained separately, each with one of their children. After approximately nine days separated in detention, Michael, Veronique, and their children were expelled in shackles to Haiti, having never been given an opportunity to seek asylum. Conditions in Haiti were so bad that the family has since returned to Chile. Although they face discrimination and threats in Chile because of their race and Haitian nationality, they are marginally safer there than in Haiti. They plan to return to the United States to seek asylum.

18. Plaintiff Wilson Doe and his wife Wideline are Haitian nationals who fled Haiti after Wideline was kidnapped and held for ransom. They eventually made their way to the United States with their two children to seek asylum. On or around September 11, 2021, Wilson, Wideline, and their children crossed the U.S.-Mexico border near Del Rio. They remained in the CBP Encampment for approximately four days hoping they would be given the opportunity to seek asylum. While in the encampment, Wilson, Wideline, and their children received only water, and no food. On or around September 14, 2021, U.S. officials removed Wilson and his family from the CBP Encampment and held them in a detention center for about four or five days, where they separated Wilson and his older child from each other and from the rest of the family. On or around September 19, 2021, U.S. officials expelled Wilson, Wideline, and their two children to Haiti, without giving them an opportunity to seek asylum. Wilson, Wideline, and their children are currently in Haiti, where they remain in constant fear that Wideline or others in their family will again be kidnapped. Wilson and Wideline plan to return to the United States with their children to seek asylum.

19. Plaintiff Jacques Doe, a citizen of Haiti, fled Haiti because a gang had targeted him for death, even following him into the countryside when he tried to escape their reach. He fled to Brazil and then made an arduous journey to the United States to seek asylum. In mid-September

2021, Jacques came to the CBP Encampment, where U.S. officials gave him a numbered ticket. Jacques understood that he would need to identify himself when officials called the number, which they did around eight days later. Instead of receiving the chance to seek asylum, Jacques was taken to two different detention centers for approximately one week, after which he was expelled Haiti. On the expulsion flight, Jacques tried to tell officials that he could not return to Haiti because he faced danger there. But the officials responded only that "there were too many Haitians in the United States" and that they had to send Jacques and others back to Haiti. Jacques is currently in hiding in Haiti, hoping the gang that previously threatened his life will not learn that he is back in the country. Jacques plans to return to the United States to seek asylum.

20. Plaintiffs **Esther and Emmanuel Doe** are citizens of Haiti. They fled Haiti after receiving numerous threats of violence from a gang affiliated with the majority political party. On or around September 18, 2021, Esther, Emmanuel, and their baby son arrived in Del Rio to seek asylum in the United States. In the CBP Encampment, their baby became very sick. When Esther tried to cross the river to find food for him, she was terrorized by officers on horseback. U.S. officials attempted to expel Esther and Emmanuel back to Haiti without giving them an opportunity to seek asylum. Because they were afraid of being expelled to Haiti, Esther and Emmanuel were forced to cross with their son back into Mexico. They are currently living in precarious conditions in Mexico and intend to return to the United States to seek asylum.

21. Plaintiffs **Samuel and Samantha Doe** are Haitian nationals who fled Haiti after Samuel was attacked by a rival political party and threatened at the school where he worked by men armed with machetes. They originally escaped to Chile but struggled to survive there, eventually deciding to seek asylum in the United States. On or around September 16, 2021, Samuel, Samantha, and their two children crossed into the United States near Del Rio, where they were given a numbered ticket and told to wait until their number was called. While in the CBP Encampment, Samuel developed stomach ulcers, their daughter became very sick, and their son contracted an eye infection and a rash after falling on the ground and injuring his eye while running away from U.S. officers on horseback. Everyone in the family went hungry because there was not



enough food in the encampment. Eventually, Samuel and Samantha decided they could not keep their children in such conditions and felt compelled to cross back into Mexico. They are currently in Mexico because they cannot return to Haiti and plan on returning to the United States to seek asylum.

22. Plaintiff **Paul Doe** is a citizen of Haiti.<sup>2</sup> A gang affiliated with the dominant political party in Haiti killed his uncle after he failed to pay back money he owed, then targeted Paul for recruitment. Paul fled because he had only two options in Haiti: join the gang or die. He first escaped to Chile and then made his way to the United States, hoping he would be granted asylum. On or around September 17, 2021, Paul arrived in Del Rio. U.S. officials gave him a numbered ticket and told him to wait until his number was called. While waiting in the CBP Encampment, Paul was provided no shelter and very little food or water. He slept on the ground in the dust and went hungry for several days. He knew he could not survive much longer without adequate food and water. Eventually, Paul saw people being taken from the encampment and heard they had been sent back to Haiti. As more and more people were taken away, he realized that he had no option but to cross back to Mexico because he was weak from lack of food and knew that if he were sent back to Haiti, he was a dead man. Paul was never given an opportunity to speak with U.S. officials to seek asylum. Paul is currently in Mexico and plans to return to the United States to seek asylum.

## II. Defendants

23. Defendant Joseph R. Biden, Jr., is President of the United States. He is sued in his official capacity. In that capacity, President Biden is the Chair of the National Security Council ("NSC"), a forum of the President's senior advisors, and the Domestic Policy Council ("DPC"), which is tasked with driving and implementing the President's domestic policy agenda in the White House and across the Federal Government. Under President Biden's authority, the NSC and

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<sup>2</sup> A motion for leave of the Court for Wilson and Wideline Doe, Jacques Doe, Esther and Emmanuel Doe, Samuel and Samantha Doe, and Paul Doe to proceed under pseudonyms will be filed separately.

DPC each contributed to devising, developing, and implementing the Haitian Deterrence Policy applied to Individual Plaintiffs and others seeking asylum in Del Rio. In his official capacity, President Biden also delegated authority to the Secretary of the U.S. Department of Health and Human Services (“HHS”), the Director of the U.S. Centers for Disease Control and Prevention (“CDC”), and the Secretary of the U.S. Department of Homeland Security (“DHS”) to review, determine, and implement the Title 42 Process that was used to expel Individual Plaintiffs and thousands of others from Del Rio. Pursuant to that delegation of authority and the Haitian Deterrence Policy devised by his White House senior staff, President Biden enabled DHS to prioritize the rapid expulsion of approximately 15,000 Haitian asylum seekers from Del Rio, Texas, to Haiti and Mexico without giving them access to the asylum process or screening them for a fear of return to their home country.

24. Defendant Alejandro N. Mayorkas is the Secretary of Homeland Security. He is sued in his official capacity. In that capacity, Secretary Mayorkas is responsible for the administration of U.S. immigration laws. See 8 U.S.C. § 1103. Secretary Mayorkas directs each of DHS’s components, including the components responsible for the processing, apprehension, detention, and removal of noncitizens present at or between U.S. ports of entry and the components charged with implementing and applying the Title 42 Process and the Haitian Deterrence Policy to Individual Plaintiffs and others seeking asylum in Del Rio.

25. Defendant U.S. Department of Homeland Security is a federal cabinet-level department of the U.S. government. DHS is an “agency” within the meaning of the APA. See 5 U.S.C. § 551(1). It is responsible for administering U.S. immigration laws, including those relating to the processing, apprehension, detention, and removal of noncitizens present at or between U.S. ports of entry. See 8 U.S.C. § 1103. DHS, in coordination with HHS and CDC, is responsible for implementing the Title 42 Process. Its components include U.S. Customs and Border Protection (“CBP”) and U.S. Immigration and Customs Enforcement (“ICE”), which are responsible for implementing and applying the Title 42 Process and the Haitian Deterrence Policy.

26. Defendant Chris Magnus is the Commissioner for CBP. He is sued in his official

capacity. In that capacity, Mr. Magnus is a supervisory official responsible for overseeing the processing, apprehension, and detention of noncitizens arriving at or between U.S. ports of entry. Mr. Magnus is also responsible for implementing the Title 42 Process and the Haitian Deterrence Policy and for conducting expulsions of noncitizens subject to the Title 42 Process and the Haitian Deterrence Policy.

27. Defendant William A. Ferrara is the Executive Assistant Commissioner of CBP's Office of Field Operations ("OFO"). He is sued in his official capacity. OFO is responsible for border security, including immigration and facilitating travel through U.S. ports of entry. As Executive Assistant Commissioner, Mr. Ferrara oversees OFO personnel and the operation of 20 major field offices and 328 ports of entry along the U.S. border. He is a supervisory official responsible for implementing the Title 42 Process at U.S. ports of entry and applying the Haitian Deterrence Policy.

28. Defendant Raul L. Ortiz is the Chief of U.S. Border Patrol ("Border Patrol"), which is a sub-office of CBP. He is sued in his official capacity. Border Patrol is the mobile, uniformed law-enforcement arm of CBP and is the primary federal law enforcement agency responsible for border security and enforcement of U.S. immigration laws between U.S. ports of entry. As Chief of Border Patrol, Mr. Ortiz oversees all Border Patrol personnel and is a supervisory official responsible for implementing the Title 42 Process between U.S. ports of entry and applying the Haitian Deterrence Policy.

29. Defendant U.S. Customs and Border Protection is a sub-agency of DHS and an "agency" within the meaning of the APA. *See* 6 U.S.C. § 271; *see also* 5 U.S.C. § 551(1). It is responsible for the processing, apprehension, and detention of noncitizens present at or between U.S. ports of entry. CBP has primary responsibility for implementing the Title 42 Process and the Haitian Deterrence Policy and conducting expulsions of noncitizens subject to the Title 42 Process and the Haitian Deterrence Policy.

30. Defendant Tae D. Johnson is the Acting Director of ICE. He is sued in his official capacity. In that capacity, Mr. Johnson oversees all ICE personnel and is a supervisory official

responsible for overseeing immigration detention, including the detention of noncitizens subject to the Title 42 Process and the Haitian Deterrence Policy, and carrying out expulsion flights of noncitizens subject to the Title 42 Process and the Haitian Deterrence Policy.

31. Defendant U.S. Immigration and Customs Enforcement is a sub-agency of DHS and an “agency” within the meaning of the APA. *See* 6 U.S.C. § 271; *see also* 5 U.S.C. § 551(1). It is responsible for executing removal orders and overseeing immigration detention, including the detention of noncitizens subject to the Title 42 Process and the Haitian Deterrence Policy. It also conducts air operations to expel or remove noncitizens from the United States through its Office of Enforcement and Removal Operations. ICE is responsible for scheduling and coordinating expulsion flights of noncitizens subject to the Title 42 Process and the Haitian Deterrence Policy who cannot be expelled directly to Mexico through a U.S. port of entry.<sup>3</sup>

32. Defendant Xavier Becerra is the Secretary of HHS. He is sued in his official capacity. In that capacity, Secretary Becerra directs each component of HHS, including CDC.

33. Defendant U.S. Department of Health and Human Services is a federal cabinet-level department of the U.S. government. HHS is an “agency” within the meaning of the APA. *See* 5 U.S.C. § 551(1). It is responsible for administering health and human services aimed at promoting public health. Its components include CDC. HHS, through CDC, is responsible for issuing the public health orders and regulations underlying the Title 42 Process.

34. Defendant Rochelle P. Walensky, M.D., M.P.H., is the Director of CDC. She is sued in her official capacity. In that capacity, Dr. Walensky issued the public health orders underlying the Title 42 Process in this case.

35. Defendant Centers for Disease Control and Prevention is a sub-agency of HHS and an “agency” within the meaning of the APA. *See* 5 U.S.C. § 551(1). CDC is charged with fighting

<sup>3</sup> Defendants Magnus, Ferrara, Ortiz, and CBP are referred to collectively as “CBP Defendants.” Defendants Johnson and ICE are referred to collectively as “ICE Defendants.” CBP Defendants, ICE Defendants, and Defendants Mayorkas and DHS are referred to collectively as “DHS Defendants.”

public health threats, including communicable diseases. It is responsible for issuing the public health orders and regulations underlying the Title 42 Process.<sup>4</sup>

### **FACTUAL ALLEGATIONS**

#### **I. The United States' history of anti-Haitian immigration policies.**

36. Anti-Black racism and white supremacy motivated the earliest U.S. immigration policies and have continued to shape immigration laws through the present.<sup>5</sup> Haitians have been one of the most common targets of the United States' racist, exclusionary policies.<sup>6</sup>

37. Haiti's history as an independent country begins in the early 1800s, when Black Africans liberated themselves from slavery and colonial rule. The Haitian Revolution in 1804 marked not only the end of nearly two centuries of French control, but also the creation of the first free Black nation in the Western Hemisphere, and the only one to gain independence through the uprising of enslaved people. With this revolution, Haiti abolished slavery almost sixty years before President Abraham Lincoln's Emancipation Proclamation. Today, Haiti is at least 95% Black and has one of the highest percentages of Black nationals in the Western Hemisphere. With its independence, Haiti inspired enslaved Black people across the world and offered freedom and citizenship to all Black and indigenous people of the Americas.

#### **A. The United States has long supported the economic and political subjugation of Haitians.**

38. Following the Haitian Revolution, the United States viewed the new nation as an

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<sup>4</sup> Defendants Becerra, HHS, Walensky, and CDC are referred to collectively as "HHS Defendants."

<sup>5</sup> See, e.g., Kat Murdza and Walter Ewing, Ph.D., *The Legacy of Racism within the U.S. Border Patrol*, American Immigration Council (2021), <https://www.americanimmigrationcouncil.org/research/legacy-racism-within-us-border-patrol>.

<sup>6</sup> See, e.g., Fabiola Cúneas, *Why America Keeps Turning Its Back on Haitian Migrants*, Vox (Sept. 24, 2021, 1:40 PM), <https://www.vox.com/21689472/haitian-migrants-asylum-history-violence> ("[E]very presidential administration since the 1970s has treated Haitians differently than other migrant groups, rejecting asylum claims, holding them longer in detention, and making it harder for them to settle down in safety.")

existential threat of Black uprising and liberation and did not diplomatically recognize Haiti for more than half a century. Throughout the subsequent 200 years, the United States has actively oppressed and discriminated against Haitians.

39. In 1825, when France demanded that Haiti pay the present-day equivalent of billions of dollars for the so-called loss of enslaved human labor, American banks lent to Haiti at usurious interest rates so the nation could avoid French reoccupation.<sup>7</sup>

40. In part to ensure continued payment of this debt, the United States forcibly occupied Haiti from 1915 to 1934. During that period, U.S. officials engaged in violent and deadly repression of Haitians while restructuring the nation's economy and constitution to benefit American interests.<sup>8</sup> The United States ultimately withdrew, following mass, organized resistance by the Haitian people.

41. Following this occupation, the United States continued to promote its financial and political interests in Haiti to the detriment of the Haitian people. It supported the brutal dictatorships of Francois and Jean-Claude Duvalier, which, over a thirty-year-period, contributed to inequality, impunity, destabilization, and mass poverty in Haiti and resulted in the deaths of tens of thousands of Haitians and a diaspora of thousands of others fleeing violence.

42. In more recent years, the United States has intervened to prop up corrupt leaders in Haiti, further undermining the rule of law and human rights. The United States was instrumental in the election of Michel Martelly and his hand-picked successor Jovenel Moïse, despite Martelly's increasing slide toward authoritarianism and Moïse's fraudulent election and subsequent dissolution of parliament.

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<sup>7</sup> See Marlene Daut, *France Pulled Off One of the Greatest Heists Ever. It Left Haiti Perpetually Impoverished*, Miami Herald (July 15, 2021), <https://www.miamiherald.com/opinion/oped/article252809873.html>.

<sup>8</sup> See Emmanuela Douyon and Alyssa Spinwall, *Earthquakes and Storms Are Natural, but Haiti's Disasters Are Man-Made, Too*, Wash. Post (Aug. 20, 2021, 6:00 AM), <https://www.washingtonpost.com/outlook/2021/08/20/earthquakes-storms-are-natural-haitis-disasters-are-man-made-too/>.

43. In the face of this long history of political and economic instability, Haitians have remained steadfast in their struggle for autonomy against external and internal forces seeking to exploit them. It was this resolute spirit that U.S. Special Envoy to Haiti Daniel Foote referenced in his September 22, 2021 letter resigning his post in protest of the Biden Administration's actions in Del Rio that month. Citing the United States' long history of intervention and the inhumane treatment of Haitians, Ambassador Foote remarked: "[W]hat our Haitian friends really want, and need, is the opportunity to chart their own course, without international puppeteering and favored candidates."

**B. The United States uses its immigration policy to discriminate against Haitians.**

44. As the United States was interfering with Haitian affairs and contributing to burgeoning political and economic unrest, it was also crafting immigration policies that specifically targeted Haitians for disparate treatment to keep them off U.S. soil.<sup>18</sup>

45. In 1978, the United States created a policy dubbed the "Haitian Program," which jailed arriving Haitians and universally denied their asylum claims despite the known atrocities being committed by the Duvalier regime at the time.<sup>19</sup>

46. The Haitian Program was struck down in *Haitian Refugee Center v. Civiletti*, which held the government systematically discriminated against Haitian asylum seekers. 503 F. Supp. 442, 450 (S.D. Fla. 1980) ("This case involves thousands of [B]lack Haitian nationals, the brutality of their government, and the prejudice of ours."). The United States quickly implemented a new policy requiring them to be detained without an opportunity to post bail. The policy appeared

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<sup>18</sup> "It is instructive to note that, despite the ideological differences between the Carter, Reagan, Bush I, Clinton, and Bush II administrations, each has persistently discriminated against Haitian entrants . . . ." Roger Daniels, *Guarding the Golden Door: American Immigration Policy and Immigrants Since 1882*, at 213-14 (2004).

<sup>19</sup> See Carl Lindsaog, *Violence and Racism Against Haitian Migrants Was Never Limited to Agents on Horseback*, Wash. Post (Sept. 30, 2021, 6:00 AM), <https://www.washingtonpost.com/outlook/2021/10/02/violence-racism-against-haitian-migrants-was-never-limited-horseback-riders/>.

neutral on its face, but statistics showed selective application to Haitians and discovery sought in a legal challenge to the policy in *Jean v. Nelson* showed that the government was using this policy to continue its “Haitian Program.” 711 F.2d 1455, 1493 (11th Cir. 1983), *on reh’g*, 727 F.2d 957 (11th Cir. 1984), *aff’d*, 472 U.S. 846 (1985). U.S. officials adopted this policy to deter Haitian asylum seekers, even as the then-Deputy Attorney General acknowledged it could create an appearance of “concentration camps” filled with Black people. An Eleventh Circuit panel in *Jean v. Nelson* held that the selective application of the policy to Haitians violated equal protection, particularly in light of the government’s history of discriminatory policies against Haitians. *Id.*

47. During the 1980s and 1990s, the United States began an aggressive interdiction policy to intercept Haitians at sea and return them to Haiti.<sup>44</sup> The policy was designed to prevent Haitian migrants from reaching U.S. soil, where they could request access to the U.S. asylum process and to evade its non-refoulement obligations under international law not to return asylum seekers to a country in which they would be likely to face persecution. Under this policy, U.S. authorities intercepted tens of thousands of Haitian asylum seekers at sea and prevented them from seeking relief in the United States. Indeed, from 1981 to 1991, only *twenty-eight* out of over 25,000 interdicted Haitians were allowed to enter the United States.

48. While the Haitian interdiction policy was in place, the United States singled out Haitian migrants for detention at Guantanamo Bay. At the height of this policy, at least 12,000 Haitians were held at the U.S. military prison.

49. This disproportionate use of detention continues today. Not only are Black migrants in general more likely to be held in immigration detention, but Haitians are particularly targeted. In 2020, Haitians constituted the largest nationality group in family detention. While accounting for only 1 percent of asylum decisions adjudicated in 2020, Haitians represented more than 44

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<sup>44</sup> See *Pushing Back Protection: How Offshoring and Externalization Imperil the Right to Asylum*, National Immigrant Justice Center and FWD.us, 6 (2021), [https://immigrantjustice.org/sites/default/files/content-type/commentary-item/documents/2021-09/Offshoring%20Asylum%20Report\\_Chapter1.pdf](https://immigrantjustice.org/sites/default/files/content-type/commentary-item/documents/2021-09/Offshoring%20Asylum%20Report_Chapter1.pdf).



percent of all families locked in ICE detention during summer 2020. Throughout 2020, the U.S. consistently detained more Haitian families than any other nationality.

50. Contemporary immigration schemes have also aimed to prevent Haitian migrants from reaching the United States to seek asylum. Under a policy known as “metering,” first implemented under President Barack Obama in 2016 in response to an increase in Haitian migrants seeking asylum, U.S. officials limited the number of migrants permitted to request asylum at ports of entry and turned back most asylum seekers to wait in dangerous Mexican border cities for an opportunity to request protection. The policy has since been held unlawful by a federal court, but not before it prevented thousands of Haitians from exercising their rights under U.S. law.

51. In January 2018, DHS announced the termination of Temporary Protected Status for Haitians, despite dire conditions in Haiti. The policy was enjoined after a district court found that the policy was likely “based on race and/or national origin/ethnicity against non-white immigrants in general and Haitians in particular.” *Saget v. Trump*, 345 F. Supp. 3d 287, 303 (E.D.N.Y. 2018); *Saget v. Trump*, 375 F. Supp. 3d 280, 374 (E.D.N.Y. 2019) (“Based on the facts on this record, and under the factors prescribed by *Arlington Heights*, there is both direct and circumstantial evidence a discriminatory purpose of removing non-white immigrants from the United States was a motivating factor behind the decision to terminate TPS for Haiti.”).

C. **The United States’ recent Title 42 Process has been brutally deployed against Haitians.**

52. The most recent example of the United States’ discriminatory immigration policies is the implementation of a purported public health order under the Public Health Service Act, 42 U.S.C. § 265.

53. While the use of Title 42 began under former President Trump, President Biden has continued its use with alarming increases against Haitians. During 2018 and 2019, former Trump Administration official Stephen Miller advocated using the government’s public health powers to restrict immigration and end migrants’ access to asylum. This proposal followed a history of bigoted and xenophobic policies advanced by the Trump Administration to scapegoat immigrants,

particularly those from predominantly Black countries like Haiti that then-President Trump referred to as “shithole countries.”

54. In early 2020, the Trump Administration seized upon the global COVID-19 pandemic as an opportunity to execute Miller’s proposal. Despite objections from CDC public health experts that “there was no valid public health reason” for an order under Section 265, then-President Trump announced on March 20, 2020, that Defendant CDC would issue an order “to suspend the introduction of all individuals seeking to enter the U.S. without proper travel documentation” along the U.S. border. Any migrant subject to the order would be “immediately return[ed]” “without delay.”

55. To implement this immigration authority consistent with then-President Trump’s direction, Defendant CDC issued a regulation, without advance notice and comment, permitting the agency to prohibit the “introduction into the United States of persons” from foreign countries. See 42 C.F.R. § 71.40 (the “Title 42 Regulation”).

56. Pursuant to this purported regulatory authority, Defendant CDC issued an order directing the “immediate suspension of the introduction of” certain noncitizens seeking entry at ports of entry or between ports of entry without proper travel documents. Order Under Sections 362 and 365 of the Public Health Service Act Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists, 85 Fed. Reg. 17,060, 17,061 (Mar. 26, 2020) (eff. date Mar. 20, 2020). Defendant CDC has since reissued similar orders, most recently in August 2021, that continue to prohibit covered noncitizens from entering the United States purportedly to “protect” the public “during the COVID-19 public health emergency.” Public Health Assessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists, 86 Fed. Reg. 42,828, 42,828 (Aug. 5, 2021). In December 2021, Defendant CDC announced that it would keep the Title 42 order in place.

57. Shortly after Defendant CDC’s issuance of the Title 42 Regulation and the March 2020 public health order, Defendant CBP began developing standards implementing the order,

*Cf.* 42 C.F.R. § 71.40(d)(2). By April 2020, Defendant CBP issued an internal memorandum establishing procedures for applying Defendant CDC's order under "Operation Capiro" (the "CBP Capiro Memo" or the "Memo").<sup>12</sup> The CBP Capiro Memo provides that "all processing [of covered noncitizens] will be done in the field" "[t]o the maximum extent possible." It also directs that covered noncitizens should be "immediately returned to Mexico or Canada" at the nearest port of entry or transported to "a dedicated facility for limited holding prior to expulsion" to their home country. The CBP Capiro Memo provides no process for covered noncitizens to seek access to the U.S. asylum process and indicates that U.S. immigration officials are purportedly "not operating pursuant to [their] authorities" under U.S. immigration laws when processing and summarily expelling covered noncitizens.

58. Since January 2021, DHS Defendants have increased the rate of expulsions for Haitians under the Title 42 Process. During the first weeks of the Biden Administration, DHS Defendants effectuated the expulsion of more Haitians under the Title 42 Process than during the entire prior fiscal year under the former Trump Administration. In the past eleven months, Defendant ICE has conducted nearly 130 expulsion flights to Haiti.

## **II. DHS Defendants violate the rights of thousands of Haitian asylum seekers in Del Rio.**

59. DHS Defendants' enforcement of the Title 42 Process against Haitians has always had devastating effects, but it has taken on additional dimensions since September 2021, when thousands of Haitian migrants began to arrive near the Del Rio Port of Entry in Del Rio, Texas.

60. President Biden, through the NSC and DPC, and DHS Defendants began receiving intelligence reports in August 2021 indicating that they could soon anticipate an increase in the number of Haitians seeking asylum in Del Rio. Since that time, their response has been to adopt a series of decisions and policies designed to suppress the growing number of Haitians arriving at the border and to deter Haitians from seeking asylum in the United States in the future

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<sup>12</sup> <https://www.documentcloud.org/documents/6824221-COVID-19-CAPIO.html>

(collectively, the “Haitian Deterrence Policy”).

61. The Haitian Deterrence Policy resulted from a series of discrete decisions made by President Biden’s senior advisors on the NSC and DPC in September 2021, under authority delegated by President Biden. From approximately September 9 to 24, 2021, at least 15,000 Haitians were held in a makeshift CBP field encampment for field processing pursuant to the CBP Capio Memo near the Del Rio International Bridge (the “CBP Encampment”). As directed by the White House and Defendant Mayorkas pursuant to the Haitian Deterrence Policy, DHS Defendants and personnel took no steps to prepare to receive thousands of asylum seekers in Del Rio in contrast to DHS’s approach to similar circumstances involving non-Haitians. As a result, CBP officers deprived individuals in the CBP Encampment of basic human necessities like sufficient food and water, ignored their medical needs, and provided no shelter to protect them from the blazing sun, triple-digit heat, and copious dust. When asylum seekers attempted to provide for such needs themselves, they were often physically or verbally assaulted by CBP officers. Upon information and belief, after allowing Haitian asylum seekers to suffer for days, DHS officers did not screen these individuals for fear of return to their home country or process them for asylum, instead acting to expel them as quickly as possible under the Haitian Deterrence Policy, either on expulsion flights to Haiti or by forcing individuals to Mexico. In the resulting series of expulsion flights to Haiti, ICE officials expelled at least one mother with a days-old-baby *born in the United States*. Some expelled individuals did not even realize they had been sent to Haiti until they got off the plane, because officers had lied about where the asylum seekers were being taken. Many individuals were expelled in shackles; upon information and belief, none were given an opportunity to request asylum or screening for fear or risk of torture and death upon return to Haiti or Mexico.

62. This brutal and rapid expulsion of asylum seekers was intentional. Under the Haitian Deterrence Policy devised by White House senior officials, DHS Defendants applied the Title 42 Process in Del Rio in a manner indifferent to humanitarian concerns and focused on removing Haitian asylum seekers as quickly as possible to discourage other Haitians from

exercising their right to seek asylum. DHS Defendants implemented the policy while taking steps to shield their actions from accountability, including by preventing media access to the CBP Encampment, restricting the air space over the encampment, and expelling thousands of individuals before any human rights abuses could be documented, investigated, or pursued. On information and belief, the adoption and implementation of the Haitian Deterrence Policy was informed by a perception that Haitian asylum seekers are dangerous, violent and criminal; a discriminatory purpose toward Black and Haitian migrants; a desire to keep Black and Haitian migrants out of the country; and a plan to send a message to other Haitian asylum seekers not to come to the United States. For example, a senior DHS official told White House and other DHS officials, including Secretary Mayorkas, that the Haitian migrants in Del Rio were more likely to be violent with no facts to support this statement. On information and belief, this view was adopted by the White House and DHS and resulted in their Haitian Deterrence Policy.

**A. DHS Defendants take no steps to prepare for the anticipated arrival of large groups of Haitian asylum seekers in Del Rio.**

63. By early 2021, President Biden's staff and DHS Defendants were aware that instability and desperate conditions in Haiti had forced numerous Haitians to flee to various Latin American countries and that many Haitians were traveling toward the U.S. border to seek asylum.

64. One month before thousands of Haitians arrived at the CBP Encampment, Defendant Secretary Mayorkas redesignated Haiti for Temporary Protected Status. See Designation of Haiti for Temporary Protected Status, 86 Fed. Reg. 41,863, 41,863-71 (Aug. 3, 2021). In the notice, Secretary Mayorkas concluded that protected status was appropriate because of extraordinary conditions in Haiti, including "a deteriorating political crisis, violence, and a staggering increase in human rights abuses," as well as "rising food insecurity and malnutrition, [ . . . ] waterborne disease epidemics, and high vulnerability of natural hazards, all of which have been further exacerbated by the [COVID-19] pandemic." 86 Fed. Reg. 41,864 (citation omitted).

65. Meanwhile, local officials in Del Rio began alerting the Biden Administration that they expected increasing arrivals of asylum seekers and lacked the resources necessary to manage

those arrivals. As early as February 2021, Del Rio Mayor Bruno Lozano publicly warned President Biden and DHS Defendants that Del Rio needed federal support to assist with growing numbers of border crossings; at least President Biden's senior advisors on the NSC and DPC, as well as DHS Defendants, were informed of the mayor's concerns.

66. In April 2021, President Biden's staff and DHS Defendants received data indicating that Haitian migrants disproportionately arrived and crossed into the United States in the CBP Del Rio Sector. In the following months, they continued to receive intelligence reports that migrant border crossings, particularly of single, male Haitian asylum seekers, continued to increase and that Del Rio lacked resources to meet the needs of arriving Haitians.

67. President Biden and his senior staff and DHS Defendants received regular intelligence in July and August 2021 reflecting the movement of Haitians from South and Central America toward the United States. Western Hemisphere immigration experts warned the Biden Administration of the impending arrival of thousands of Haitians. This information was corroborated by internal intelligence reports and information received from Latin American and local government officials.

68. Despite these warnings, the White House and DHS Defendants decided to take no action to plan for the arrival of these asylum seekers. Senior White House officials dismissed reports from immigration experts and local officials and prevented staff from taking steps to prepare for thousands of arriving Haitians given the known resource shortages in Del Rio.

69. The Haitian Deterrence Policy grew out of and encompassed these decisions. Neither President Biden's senior staff nor DHS Defendants attempted to arrange appropriate infrastructure, personnel, and resources to support the legal processing of the anticipated Haitian asylum seekers and the provision of necessary and appropriate food, water, shelter, and medical care. Instead, as part of the Haitian Deterrence Policy, senior White House and DHS officials blocked internal efforts to prepare humanitarian infrastructure in Del Rio. President Biden's senior staff also stopped efforts to prepare public health resources, including COVID-19 testing and vaccinations, for arriving Haitians.

70. Moreover, while CBP Defendants had, in months prior, coordinated with local officials to create a respite center at a local Del Rio church for arriving migrants, they refused to leverage this additional resource as thousands of Haitians approached the border.

71. President Biden, his senior advisors, and DHS Defendants also refused to take steps to ensure appropriate infrastructure and resources to facilitate screenings for asylum or withholding of removal and protection under the INA or CAT. Senior White House and DHS officials did not make such preparations despite receiving an August 2021 memorandum from DHS's Office for Civil Rights and Civil Liberties advising against expulsions of migrants to Haiti and emphasizing a "strong risk" that such expulsions would violate DHS Defendants' non-refoulement obligations under U.S. and international law. In addition, senior White House staff and DHS Defendants declined to take any steps to arrange for CAT screenings for the Haitians approaching Del Rio, even though they had ordered and implemented the adoption of such CAT screenings for Mexicans in San Diego in July 2021.

72. Pursuant to the Haitian Deterrence Policy, senior White House officials and DHS Defendants blocked efforts to prepare for the arrival of thousands of Haitian asylum seekers in Del Rio, including ensuring the presence of sufficient infrastructure, personnel, and resources to meet Haitians' basic needs and provide adequate screenings for relief required by law. On information and belief, senior NSC, DPC, and DHS officials believed that refusing to make appropriate preparations for arriving asylum seekers would not only deter approaching Haitians from coming to the border to seek asylum, but also deter asylum seekers already in Del Rio from attempting to return if they were expelled.

**B. Thousands of Haitian asylum seekers arrive in Del Rio in September 2021.**

73. As President Biden, his senior staff, and DHS Defendants received reports of large groups of Haitian asylum seekers traveling to the U.S. border through the late summer, border personnel in the Del Rio Sector began to observe an increase in crossings by Haitians. Daily encounters with arriving asylum seekers grew to hundreds and eventually thousands. As the processing of migrants under the Title 42 Policy slowed, in late August 2021 CBP officials set up

a “temporary intake site” near the Del Rio International Bridge, the primary port of entry in Del Rio. The site was located under the bridge to facilitate the field processing of migrants under the CBP Capio Memo.

74. The intake site, however, lacked sufficient resources to meet the basic needs of the arriving Haitian asylum seekers and to provide them adequate screenings for relief under U.S. law. The under-resourced intake station reflected the White House and DHS’s steadfast refusal to organize any appropriate infrastructure to address the anticipated arrival of thousands of Haitian migrants, even as Del Rio Sector personnel continued to report a lack of processing capacity.

75. Beginning in September 2021, thousands of people began crossing the Rio Grande near the Del Rio Port of Entry to seek relief in the United States. Most of the individuals were Haitian and had come to Del Rio to request asylum.

76. According to DHS Defendants, at least 15,000 individuals crossed near the Del Rio Port of Entry by mid-September 2021. Many of the asylum seekers arriving in Del Rio at this time were part of family units. Public reports estimate that approximately 40 percent of those who arrived near the Del Rio Port of Entry in September 2021 were children.

77. As Haitian asylum seekers entered the United States in early to mid-September, the temporary intake site under the Del Rio International Bridge turned into the CBP Encampment as U.S. officials required asylum seekers to remain at the site for longer periods of time to be processed. CBP officers adopted a ticketing system to process arriving migrants, separating them into four groups that were identifiable by a numbered, color-coded ticket: families with children, pregnant women, single men, and single women. When officers called out numbers, the corresponding ticket holders were expected to identify themselves for processing. Migrants were also directed to different sections of the CBP Encampment based on the color of their tickets.

78. As the number of asylum seekers in the CBP Encampment grew, CBP increased the number of personnel monitoring and patrolling the encampment to congregate and secure arriving Haitians. These personnel prohibited asylum seekers from moving freely throughout the CBP Encampment and informed Individual Plaintiffs and other asylum seekers that they were to



wait until their number was called for processing. Upon information and belief, at no point during the existence of the CBP Encampment, were arriving migrants given a reasonable opportunity to present themselves to a U.S. immigration officer and request access to the asylum process. They also were not screened for a fear of return to their home country or vulnerability to persecution or torture upon return, as required under U.S. law.

**C. CBP personnel abuse Haitian asylum seekers in Del Rio pursuant to the Haitian Deterrence Policy.**

79. The lack of amenities near the CBP Encampment meant that any food, water, shelter, and medical care provided to Haitians would need to be provided by CBP personnel. As part of their Haitian Deterrence Policy, however, DHS Defendants made decisions that deprived Haitians in the encampment of such basic human necessities despite knowing for months that thousands of Haitian asylum seekers were approaching Del Rio.

80. Due to the DHS Defendants' deliberate lack of preparation, there was insufficient food, water, and shelter in the CBP Encampment for the thousands of Haitians arriving there in mid-September. At the same time, CBP personnel monitoring the encampment generally prevented Individual Plaintiffs and other migrants from leaving to provide for their own needs. Plaintiff Jacques Doe, for example, was in the CBP Encampment for approximately one week and suffered from severe hunger and thirst. He never tried to leave to find food in Mexico, however, because he saw that personnel patrolling the encampment would not allow it. Defendants also blocked non-governmental and legal organizations, including Plaintiff Haitian Bridge, from entering the CBP Encampment to assist the Haitian asylum seekers or to hand out know-your-rights materials.

81. Plaintiff Samuel Doe reflects that "no human being should have been" in the CBP Encampment. The conditions in the encampment, however, were a direct result of decisions made pursuant to the Haitian Deterrence Policy by President Biden's closest advisors and DHS Defendants to deter other Haitian and Black migrants from seeking asylum in the United States.

82. For example, in a September 2021 meeting addressing how to respond to conditions at the CBP Encampment, senior DHS officials described the Haitian migrants in Del Rio as

“particularly difficult” to deal with when implying that little could be done for the asylum seekers and discussing the need for swift and universal removal of Haitians in the encampment.

83. In a meeting including White House senior advisors to President Biden, Secretary Mayorkas, and DHS leadership, a senior DHS official made a comment implying that the Haitian migrants had engaged in criminal conduct in Mexico, without any evidence.

84. A CBP official in the Del Rio Sector leadership expressed a fear that Haitian asylum seekers would “tear through the walls” if put in detention.

85. Additionally, in internal discussions around the time of the increase in crossings in Del Rio, top DHS officials repeatedly evinced the belief that arriving Haitian asylum seekers in the CBP Encampment were uncivilized, unclean, and like animals—reflecting language and attitudes that, upon information and belief, were not used to describe non-Black migrants arriving at the U.S. border.

86. The result of President Biden and DHS Defendants’ Haitian Deterrence Policy was rampant abuse in the CBP Encampment. Thousands of Haitians who fled violence and persecution were met with insufficient food, water, shelter, and medical care, and physical and verbal abuse, conditions described by one Congressman as “unacceptable by any human standard.” After images of a White CBP officer on horseback assaulting a Black Haitian man went viral, President Biden said he “takes responsibility” for the “horrible” treatment of Haitians in Del Rio.<sup>13</sup>

**I. CBP personnel deprive thousands of asylum seekers in their custody of basic human needs.**

87. As asylum seekers arrived in Del Rio and were given tickets for processing, they lost the ability to provide for themselves and their families. They were forced instead to rely on the CBP personnel supervising the encampment for food, water, and shelter. As a result of the Haitian Deterrence Policy, however, President Biden and DHS Defendants decided not to prepare

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<sup>13</sup> Marissa Dellatto, “Biden ‘Takes Responsibility’ for Mishandling of Haitian Migrant Crisis,” *Forbes* (Sept. 24, 2021, 11:21 AM), <https://www.forbes.com/sites/marissadellatto/2021/09/24/biden-takes-responsibility-for-mishandling-of-haitian-migrant-crisis/?sh=5fc379fc319b>.

or provide sufficient resources to meet these most basic needs until there was a serious humanitarian crisis in the encampment.

**(a) CBP personnel provide inadequate food and water.**

88. Consistent with the Haitian Deterrence Policy, the distribution of food and water to migrants in the CBP Encampment was woefully inadequate.

89. CBP personnel arranged a minimal number of service stations in the CBP Encampment to distribute food and water. Anyone wishing to receive water or food was required to wait in line, often for extended periods of time. And because CBP's service stations were set up in only one section of the CBP Encampment, not all migrants could access the stations while food and water were being distributed. Many who could not receive food or water fainted from lack of nutrition or dehydration.

90. Plaintiff Paul Doe and others describe receiving only one or two pieces of bread or an equivalent and one or two bottles of water each day in the CBP Encampment. Appropriate food was not available in reasonable quantities until World Central Kitchen, a non-governmental organization, was able to negotiate access to the encampment and set up operations to begin providing meals the week of September 19, 2021. But by the time World Central Kitchen had scaled its operations, DHS Defendants had already started clearing out the CBP Encampment. For much of the period between September 9 and 24, CBP personnel denied most individuals in the encampment food and water beyond some bread and water each day.

91. The bottles of water distributed by CBP personnel were often undrinkable when hydration was most needed. They were left on containers covered in plastic with no protection from the sun. With daily temperatures hovering near triple digits, the water in the bottles became so hot that it could not be consumed when it was handed out. Some Individual Plaintiffs and other asylum seekers in the CBP Encampment were forced to drink from the Rio Grande, which is not potable. This lack of clean drinking water caused many Haitians in Del Rio to get sick, including the common development of gastrointestinal illness, particularly among babies and children.

92. CBP Defendants also failed to provide formula or age-appropriate food to migrants

with young children. Plaintiff Esther Doe repeatedly requested age-appropriate food for her one-year-old son, but was told there was only the food and water being provided to adults. When Esther pleaded for something that her baby could eat, CBP personnel refused. Esther was only able to feed her son some rice pudding, which was distributed occasionally at the CBP Encampment. Esther's baby went hungry for days because Esther could not find enough food for him.

93. As starving and dehydrated asylum seekers pleaded without success for additional food and water, many looked to the city across the river in Mexico, Ciudad Acuña, for the resources needed to save themselves, their family members, and other vulnerable people in the CBP Encampment. Pursuant to the Haitian Deterrence Policy, CBP personnel often blocked individuals from leaving the encampment to obtain their own food and water in Ciudad Acuña. This meant that individuals seeking to buy food in Mexico often had to cross the river outside the view of CBP personnel.

94. Asylum seekers wishing to cross to Mexico in search of food and water faced a variety of risks: being stopped by CBP personnel while attempting to leave the CBP Encampment, drowning in the river, and being prevented from returning to the encampment by Mexico or U.S. border officials, which could lead to separation from their families.

95. Despite these risks, many individuals risked the river crossing to secure basic necessities. Plaintiff Mirard left the encampment to find food for his family after he and his wife, Plaintiff Madeleine, received insufficient food and water and were denied age-appropriate food for their one-year-old daughter. Plaintiff Paul Doe also crossed to Mexico to get food for himself and others in the CBP Encampment after surviving several days on only a bottle of water and a tortilla per day. Plaintiff Esther Doe was in the CBP Encampment with her husband Plaintiff Emmanuel Doe and one-year-old son for at least two days during which CBP personnel provided no baby-appropriate food. Esther's son, in desperate need of nourishment, was sick with a fever and diarrhea. Watching her child suffer from sickness and hunger, Esther decided she had no other choice but to cross the river in search of food for her baby.

96. Individuals returning to the CBP Encampment often encountered resistance from

CBP personnel. U.S. border officials, including some on horseback, regularly patrolled the riverbank and physically tried to prevent asylum seekers from crossing the river. Moreover, CBP personnel frequently confiscated and deliberately disposed of the food that starving individuals had brought from Mexico.

**(b) CBP personnel deny asylum seekers any shelter.**

97. Pursuant to the Haitian Deterrence Policy, CBP personnel also failed to meet the basic shelter needs of the migrants in the CBP Encampment. As Haitian asylum seekers first entered the United States and were processed into the encampment, CBP personnel refused to provide beds, cots, blankets, tents, or shelters of any kind.

98. With no shelter, migrants in Del Rio were left fully exposed to the elements. The CBP Encampment was extremely dusty, and the wind—as well as the arrival and departure of helicopters near the bridge—kicked up dirt that gave many individuals, including children, respiratory problems, eye infections, and rashes. Most migrants in the CBP Encampment were held adjacent to the Del Rio International Bridge rather than under it, meaning they were left with no protection from the sun as daily high temperatures reached from 90 to over 100 degrees Fahrenheit. Although some migrants were fortunate to have their own tents, others made makeshift shelters from reeds pulled from the nearby riverbank to offer shade. Plaintiff Samuel Doe recalls seeing pregnant women suffering in the heat and the dirt under the bridge because they had nowhere else to go: “I have never seen anything more horrible in my life.”

99. Asylum seekers with their own tents became targets of CBP searches, with officers regularly opening, or demanding that individuals open, their tents, in the middle of the night. These searches were alarming and disorienting for asylum seekers.

100. Having been denied bedding, most individuals in the CBP Encampment were forced to sleep directly on the ground, often in the dirt or on cardboard. Plaintiffs Esther and Immanuel Doe and their sick baby, for example, were forced to sleep in the dirt each night.

**2. CBP personnel refuse to provide effective medical care.**

101. CBP personnel also refused to provide effective medical care to the thousands of

individuals in the CBP Encampment.

102. Pursuant to the Haitian Deterrence Policy, President Biden and DHS Defendants refused to take the steps needed to secure necessary resources and personnel to meet the anticipated and reasonable medical needs of migrants, including the large number of babies, children, and pregnant and otherwise vulnerable people in the CBP Encampment.

103. For individuals able to seek out medical attention, the care offered to sick and injured Haitians was shamefully inadequate, to the extent any was provided.

104. In some cases, CBP personnel flatly denied migrants' requests for medical care, telling migrants to go back to Mexico instead. Plaintiff Samuel Doe's one-year-old daughter was severely ill while held in the CBP Encampment. As his daughter experienced severe coughing, diarrhea, and vomiting, Samuel begged officers for help. Each time, CBP personnel denied Samuel's pleas, just telling him he should give his daughter water. It was only after Samuel and his family were forced to return to Mexico that his daughter was able to obtain medical treatment.

105. At other times, CBP personnel ignored pleas for assistance, often from pregnant people and children, only acting when the condition became an obvious medical emergency. In one situation, a pregnant Haitian asylum seeker went into labor while sitting in the dirt. CBP eventually took the woman out of the CBP Encampment, but returned her to the encampment mere hours after delivery. Plaintiff Mirard also observed a pregnant woman complain of pain. On information and belief, she went into labor in the CBP Encampment, but was not taken to another facility to deliver her child until she had suffered for hours.

106. Ms. Jozef, Founder and Executive Director of Plaintiff Haitian Bridge, encountered several infants who had been transported to hospitals after suffering dehydration in the CBP Encampment. One baby nearly died; he survived only after Haitian Bridge intervened and advocated for his admission to a hospital in Del Rio. The newborn's condition had grown so precarious that, after he was finally removed from the CBP Encampment, he had to be airlifted to a hospital in San Antonio where specialists were able to save his life.

107. The medical care others received often had no effect. Plaintiff Esther Doe's baby

developed a fever and diarrhea while they were being held in the CBP Encampment. When Esther took him to the medical tent to seek help, the medical personnel appeared more focused on taunting her about being deported and going to jail than on treating her baby. They gave Esther some liquid medication and an ice pack, which did nothing to alleviate her baby's illness.

108. Similarly, Plaintiff Paul Doe suffered from bloating and diarrhea because of the inadequate food and water provided in the CBP Encampment. When Paul sought treatment, an on-site doctor provided him a single pill without explaining what the pill was. The pill did not improve Paul's symptoms, and he soon learned that others seeking medical treatment were provided the same unidentified pill, regardless of their symptoms.

109. Many asylum seekers were unaware that medical personnel were even available. After his baby daughter developed a severe cough and diarrhea in the CBP Encampment, Plaintiff Mirard was unaware that any medical treatment was potentially available for her, and CBP personnel in the encampment did not offer any assistance to Mirard as his daughter suffered. His daughter is still ailing from health conditions that developed during their time in Del Rio.

110. CBP Defendants' refusal to provide adequate medical care resulted in prolonged illness and lasting suffering for many Haitians in the CBP Encampment. Even today, months after DHS Defendants unlawfully expelled thousands of asylum seekers from the encampment, Individual Plaintiffs, their families, and others continue to experience persistent illness from their ordeal in Del Rio. On information and belief, at least one Haitian who was in the CBP Encampment died after the encampment was cleared, due in part to the poor conditions and lack of medical care.

### **3. CBP personnel physically and verbally abuse asylum seekers in Del Rio.**

111. The Haitian Deterrence Policy did not merely result in the willful deprivation of life-sustaining necessities in the CBP Encampment. Haitian asylum seekers also found themselves to be victims of physical and verbal assaults by CBP personnel who were enabled by the policy.

112. CBP personnel frequently targeted migrants for abuse when they were returning to the CBP Encampment from Mexico with desperately needed food and water. One of the most well-

known examples of the Haitian Deterrence Policy occurred on or about September 18, 2021, and involved CBP personnel, supported by mounted Border Patrol officers, driving Haitian asylum seekers back into the river as they returned to the CBP Encampment.

113. Plaintiff Mirard was one of those asylum seekers. While crossing back to the CBP Encampment with food for his wife and their daughter, Mirard encountered a mounted officer who lashed at him with split reins and attempted to drag Mirard back to the river. All Mirard could think about through the ordeal was his duty to hold onto the food at all costs, and his need to return to the CBP Encampment so he could feed his sick and hungry baby. The officer released him only when his horse was about to trample Mirard.

114. Plaintiff Esther Doe was also assaulted by mounted officers after going to Mexico to get food for her sick baby. As Esther attempted to return to the CBP Encampment, she was chased back into the river by mounted officers who attempted to force her back to Mexico. As Esther pleaded in English that she was attempting to return to reach her baby in the encampment, the officers ignored her. They continued to force her deeper into the river, nearly running her down with their horses. Esther needed to get back to her husband and baby, so she tried to reach the shore in Del Rio again, slightly away from the officers on horses. When the officers turned their horses to chase other people crossing the river, she was able to pass by them and reunite with her family.

115. Officers did not merely target Haitians returning from Mexico with food. They also chased individuals who even gathered near the river, which was commonly used for bathing, washing clothes, and cooling off. For example, when Plaintiff Samuel Doe brought his eight-year-old son to the river to clean themselves, mounted officers appeared and began running after migrants. As his terrified son tried to run away from the horses, he fell and hurt himself.

116. Through this ordeal, CBP personnel spewed racist and demeaning invective at Haitian asylum seekers in the CBP Encampment. One example captured on video includes a mounted officer shouting at a group of migrants: "This is why your country's shit, because you use your women for this." The officer then reared his horse, directing it at a group of children.



117. CBP officers also deliberately imperiled the safety of migrants crossing in the river in an attempt to keep them from entering the CBP Encampment.

118. As Plaintiff Paul Doe was attempting to return to the United States with food for himself and others, an officer deliberately cut a rope that had been set up to help migrants maintain balance as they traversed the river. Paul was in the middle of the Rio Grande when the officer threw the cut rope into the water and shouted to the crossing Haitians that they could not return. As the officer cut the rope, Paul watched in terror as numerous other Haitians crossing in front of him who were deeper in the water went under the water and struggled not to drown. He also saw other migrants closer to the Del Rio side of the river, including one of Paul's friends, who were hit and shoved back into the river by CBP personnel. While the CBP personnel were busy knocking Haitians into the water, Paul walked and swam downstream to find a place to cross that was not blocked by officers.

119. Haitians crossing the river observed that the water level of the river would also change throughout the day. At most times, the water level was below migrants' waists, permitting individuals to safely wade across with the assistance of a guide rope. Sometimes when individuals would cross from Mexico, the water level would inexplicably rise, often to an unsafe shoulder-high level that risked causing drownings. On information and belief, authorities could and did manipulate the flow of water in the Rio Grande to prevent Haitian asylum seekers from crossing. On information and belief, at least three Black migrants believed to be Haitian asylum seekers drowned while attempting to cross the river and reach the CBP Encampment.

120. CBP personnel also used helicopters, motorcycles, and other official vehicles to stir up dust in areas of the CBP Encampment where Haitians were congregating and sleeping. On information and belief, this conduct created respiratory problems that persist today.

121. While these abuses occurred, DHS personnel deliberately restricted the press and humanitarian aid and legal service organizations from entering the CBP Encampment or documenting the conduct of DHS personnel therein. For example, when Haitian Bridge attempted to enter the CBP Encampment to provide Know Your Rights information and humanitarian

assistance, CBP officials told Haitian Bridge staff they were not permitted to enter and denied their entry. The only press DHS personnel permitted to access the encampment was Fox News. DHS personnel also restricted the air space over the CBP Encampment to prevent aircraft from taking aerial footage of the encampment. On information and belief, DHS personnel prevented press and neutral observers from entering the CBP Encampment in an attempt to conceal the concerted and deliberate misconduct that occurred pursuant to the Haitian Deterrence Policy.

**D. DHS Defendants summarily expel thousands of Haitian asylum seekers from Del Rio in unprecedented fashion.**

122. After refusing for weeks to take action to prevent or mitigate the growing humanitarian crisis in the CBP Encampment, senior advisors in the White House and DHS Defendants suddenly switched into swift and unprecedented action in mid-September to expel thousands of Haitian asylum seekers to Haiti and Mexico. Indeed, in the final days of the CBP Encampment, DHS officials rushed to clear the camp as quickly as possible and began to force groups of people onto buses for expulsion, often by tying their hands with plastic zip ties, rather than reading their ticket numbers one by one. Many people did not want to get on the buses as they feared deportation to Haiti, but were nevertheless forced on by DHS personnel.

123. The move to rapidly expel Haitians from the CBP Encampment was likely prompted by a district court decision issued on September 16, 2021, which found that the Title 42 Process was likely unlawful and enjoined the process from being enforced against families with minor children, but temporarily stayed the injunction until September 30. *See Huisha-Huisha v. Mayorkas*, ---F. Supp. 3d---, 2021 WL 4206688 (D.D.C. Sept. 16, 2021), *appeal docketed*, No. 21-5200 (D.C. Cir. Sept. 17, 2021). If the preliminary injunction went into effect, it would take away DHS Defendants' authority to expel Haitian families.

124. On September 15, 2021—the day *before* the district court's decision—Defendant Border Patrol stated that it would take between ten and fourteen days to set up infrastructure necessary to complete the processing of the Haitian migrants in the CBP Encampment. But within days after the day the district court issued its injunction, Defendant Ortiz, Chief of the U.S. Border

Patrol, stated that the CBP Encampment would be cleared within *seven days*. On information and belief, it was around this same time that senior White House and DHS officials met and expanded the Haitian Deterrence Policy to include a rapid mass expulsion strategy, and directed DHS Defendants to expel the Haitian asylum seekers in Del Rio as quickly as possible.

125. The number of daily expulsion flights to Haiti rose swiftly after September 16. After a single expulsion flight on September 15, daily flights began on September 19, increasing from three flights per day on September 19 to five flights per day on September 23, and then seven flights per day on September 30. Each flight carried at least 100 people. The number of Haitian asylum seekers in the CBP Encampment dwindled as migrants were processed and sent to detention centers to be staged for expulsion flights. Other migrants, already suffering from the conditions in the CBP Encampment, learned that fellow asylum seekers were being deported to Haiti and felt compelled to flee the CBP Encampment back to Mexico to avoid being returned to Haiti.

126. In authorizing and carrying out expulsions pursuant to the Haitian Deterrence Policy and the Title 42 Process, President Biden and DHS Defendants ignored the high risk of unlawful refoulement that their own attorneys had warned would arise from expulsions of Haitians. Upon information and belief, President Biden or DHS Defendants did not take steps to ensure that migrants were allowed to request asylum or were screened for fear or vulnerability.

127. President Biden's advisors and DHS Defendants were aware that some of the asylum seekers in the CBP Encampment either were not Haitian nationals, were adult nationals of other countries, or otherwise had no ties to Haiti, such as children of Haitian nationals who had been born and grew up in countries other than Haiti. Upon information and belief, President Biden's advisors and DHS Defendants affirmatively decided not to adopt any processes or protections to ensure that such individuals were not expelled to Haiti, a country that these individuals may have never visited in their lives. This decision was consistent with the Haitian Deterrence Policy and the desire to send a message to future Haitian and Black asylum seekers that they are not welcome in the United States.

128. When crafting and implementing the rapid mass expulsion strategy under the Haitian Deterrence Policy, a senior CBP official also stated that personnel should prioritize expelling single Haitian men because they were likely to be dangerous and violent, despite offering no evidence for the assertion.

129. In mid-September, DHS personnel expelled nearly 4,000 people to Haiti, including hundreds of families with children. By the end of the month, DHS Defendants had effectuated the expulsion of thousands of asylum seekers of Haitian descent to Haiti and Mexico. ICE had chartered close to 40 expulsion flights to Haiti in one of the largest mass expulsions in recent American history, and some 8,000 Haitian asylum seekers had fled to Mexico to avoid being returned to Haiti. The expulsion flights continued after the CBP Encampment was empty: between September 19 and October 19, 2021, DHS personnel expelled approximately 10,831 migrants to Haiti, including nearly 2,500 women and 1,800 children.

**1. DHS Defendants expel thousands of asylum seekers from Del Rio to Haiti.**

130. As DHS Defendants began implementing their unprecedented expulsion plan, CBP officers were charged with summoning asylum seekers in the CBP Encampment at all hours of the day and night for expulsion. CBP personnel would make loud announcements on speakers throughout the CBP Encampment, broadcasting numbers on the color-coded tickets that each migrant had received after arriving in the encampment.

131. Individuals whose numbers were announced were placed onto buses. Once the buses were full, DHS personnel transported the asylum seekers to formal detention facilities to await expulsion.

132. At DHS detention facilities, guards continued to harass and abuse migrants. Some guards taunted the migrants, calling them “pigs” and saying they would “trash this place like they trashed their country.” Migrants were denied adequate food, medical care and sanitation, and sleeping provisions. Plaintiff Jacques Doe, for example, was only given two small pieces of bread

and two bottles of water per day and was forced to sleep on the ground in a holding cell with approximately 30 other men before he was eventually expelled.

133. DHS personnel also separated some family units and prevented family members from contacting each other. For example, on or about September 14, 2021, officers took Plaintiff Wilson Doe, and his wife Wileline, and their family to a detention facility, where they remained for four or five days. Wilson and his sixteen-year-old son were separated from each other and from the rest of the family. U.S. authorities did not allow Wilson to speak to anyone. When he asked a guard what they were planning to do to the detained migrants, the guard answered that Wilson had to wait to be called upon to speak. Every time Wilson tried to see anyone in his family, the guards would yell at him and prevent him from doing so. At one point, an officer screamed at Wilson, yelling that “no one told you to come to the U.S.” Wilson and his family were unable to shower, wash their faces, or brush their teeth at this facility. When Wilson asked for a painkiller for a toothache, an official laughed, responded that he, too, had a toothache, and provided no medication.

134. Plaintiff Michael and his family experienced similarly abusive conditions. When his family arrived, officers told Michael and others that they smelled because they were Haitian. Michael and his wife Veronique were detained separately, with each keeping one of their two children with them. When Michael requested milk for his child, he was handcuffed, told to “shut up,” and separated from his child for an hour. The experience brought Michael and his family to tears. No one in Michael’s family was provided an opportunity to bathe while detained.

135. After spending at least a few days in more formal detention settings, Haitian asylum seekers subject to expulsion were transported to airports in large groups, made to board airplanes, and returned to Haiti. Upon information and belief, they were given no opportunity to access the U.S. asylum process, request the assistance of counsel, or receive any legal information. If asylum seekers asked where they were being transported, DHS officers not only withheld information but sometimes lied, stating that they were being transferred to another detention facility and were not

going to be deported. Compounding the trauma and abuse they inflicted, DHS personnel indiscriminately handcuffed and shackled nearly all adults during the long flights to Haiti.

136. For example, on or about September 19, 2021, officers woke Plaintiff Wilson Doe and his family in their detention cells in the middle of the night and placed them on a bus with other migrants. When Wilson asked where they were going, officers lied and said they were transferring Wilson and his family to another "prison" in Florida. After the bus drove for approximately two hours, Wilson realized that they were arriving at an airport.

137. When the bus parked at the airport, none of the migrants wanted to get off the bus because it was clear they were going to board a plane. Wilson and others tried to stay on the bus, stating that they did not want to leave the United States and get on the plane without knowing where they were going. In response, officers boarded the bus and beat Wilson and several others. In front of Wideline and their children, the officers beat Wilson so savagely that they ripped his clothes off and he lost his shoes. Eventually the officers forced Wilson off the bus. Wilson saw officers strike at least four other migrants.

138. When Wilson got to the steps to board the plane, he said he would not board the plane without knowing where it was going. The officers beat Wilson again, and at one point, an officer placed a foot on Wilson's neck, while pinning his arms against his back. As the officer continued to apply pressure, Wilson tried to say, "I can't breathe."

139. After beating Wilson, officers handcuffed him. The restraints were placed so tightly that they cut into his wrists and drew blood. Officers forced Wilson on the plane. They also threatened a sobbing Wideline that they would arrest Wilson if she did not get on the plane. Wilson sat through the entire flight without a shirt or shoes. Wilson and Wideline's family, and everyone else on the plane, were expelled to Haiti.

140. Now in Haiti, Wilson has scars on his wrists from the handcuffs. His oldest child, who once dreamed of living in the United States and joining the U.S. Army, cries every day. His younger child keeps repeating "they hurt you, they hurt you." The entire family is devastated to be back in Haiti after all that they endured to seek asylum in the United States.

141. Similarly, after approximately nine days at a detention facility, Plaintiff's Michael and Veronique's names were called. Michael asked an officer if they were being sent back to Haiti. The officer replied that Michael, Veronique, and the others were being transferred to a different detention facility. U.S. officials then handcuffed the adults on waists, legs, and hands before loading them onto a bus. Seeing Michael being handcuffed made his daughter cry. The bus left the detention facility with a police escort.

142. On the bus, Michael again asked another officer if they were being returned to Haiti. He told the officer that sending them to Haiti would be the equivalent of a death sentence. "You might as well just kill us." The officer replied that they were not being returned to Haiti, but instead being transferred to another detention facility.

143. Veronique had the couple's two-year-old daughter on her lap during the bus trip. At one point, their daughter fell off her lap and became stuck under the seat. Veronique was unable to pick up her child because she was handcuffed. In tears, Michael and Veronique pleaded with the officers for help, saying: "Our baby is under there, we need to get the baby out. Please help us." The officers did not respond until other migrants also began shouting that there was a baby stuck under the seat. An officer eventually released one of Veronique's hands so she was able to reach down and pull her child back into her lap.

144. It was not until they arrived at the airport that Michael and Veronique realized they were being expelled to Haiti. They remained handcuffed on the waist, legs, and hands during the duration of the flight to Haiti. Although Michael asked for his handcuffs to be removed so he could use the restroom, officers refused to remove them for the entire trip from the detention facility to Haiti, preventing him from using the restroom.

145. Michael saw a woman on the bus who had given birth to a baby a few days earlier while in the CBP Encampment. That woman was also handcuffed, and she and her newborn were expelled to Haiti on the same flight as Michael and Veronique's family.

146. Similarly, when Plaintiff's Mirard and Madeleine and their two-year-old daughter were expelled, all the adults on their flight were shackled at the waist and legs. Any adult who did

not have to hold a small child was also handcuffed, including Mirard. The humiliation alone caused Mirard, a proud father and man of faith, to break down in tears. At no time did Defendants inform Mirard or Madeleine that they were being returned to Haiti. Only when they landed in Port-au-Prince did Mirard realize that they were being sent back to the country that he and Madeleine had fled and his daughter had never known.

147. Upon information and belief, at no time during the entire expulsion process—from processing at the CBP Encampment to holding at the detention facility to being transported to the airport and expelled to Haiti—did U.S. officials ever ask if Individual Plaintiffs or any other asylum seeker had a fear of returning to Haiti or wished to seek asylum.

148. Officers' refusal to screen for fear or vulnerability to refoulement was not a mistake. In authorizing and enabling mass expulsions under the Haitian Deterrence Policy, President Biden and DHS Defendants understood that asylum seekers would be expelled without further access to the statutory or procedural protections required under U.S. law.

149. DHS Defendants' failure to abide by their statutory obligations resulted in erroneous expulsions. In at least one case, a Black migrant from Angola was expelled to Haiti on the presumption that he was Haitian, despite repeatedly explaining to officers that he was not Haitian and had never been to Haiti. On information and belief, such errors were reported to senior DHS officials and President Biden and DHS Defendants took no action to prevent similar erroneous expulsions from occurring.

**2. DHS Defendants expel thousands of asylum seekers from Del Rio to Mexico.**

150. Through their conduct taken pursuant to the Haitian Deterrence Policy, DHS Defendants also effectuated the expulsion of approximately 8,000 asylum seekers to Mexico. These asylum seekers were compelled to cross back to Mexico because despite the dangerous conditions they would face there, many believed that being summarily expelled to Haiti posed an even graver threat.



151. For example, Plaintiffs Samuel and Samantha Doe were unwilling to risk being sent back to Haiti because they knew if they went back, they would die there. In addition, their children were sick, their son had been injured after running away from a mounted CBP officer chasing Haitians in the river, and they were starving from lack of food. Samuel describes the CBP Encampment as “the worst thing in my life that I can describe.” Because Samuel feared the family would be returned to Haiti, they took their children back to Mexico.

152. Similarly, after Plaintiffs Esther and Emmanuel Doe had spent about one week suffering in the CBP Encampment waiting to seek asylum, they were awoken early in the morning by U.S. officials and told to get on the “last” bus. Because they were afraid of being sent back to Haiti if they got on the bus, Esther and Emmanuel crossed into Mexico with their son. Although Esther and her family had come to the CBP Encampment to request asylum, they were never asked if they wanted to seek asylum and were not given the chance to express a fear of return to Mexico or Haiti. “They never asked me that. Even if you wanted to, they didn’t give you the chance to talk to them.”

**E. Asylum seekers expelled from Del Rio face danger in Haiti and Mexico.**

153. The common consequence of Defendants’ implementation of the Title 42 Process and Haitian Deterrence Policy is that thousands of Haitian asylum seekers now live under constant threat in Haiti and Mexico. The danger faced by these asylum seekers is the predictable result of deliberate choices by President Biden’s senior staff and DHS Defendants to expel Individual Plaintiffs and other vulnerable individuals without first affording them any access to the U.S. asylum process or required non-refoulement screenings.

154. Individuals expelled to Haiti face constant threats to their safety due to that country’s political instability, violent crime by gangs and cartels, and acute food insecurity. Years of devastating natural disasters have crippled critical infrastructure and local economies, while progressively brutal feuds among cartels and political factions have left the government unable to provide basic services or to prevent violence and kidnappings.

155. This situation has deteriorated in recent months following the assassination of President Jovenel Moïse and the 7.2 magnitude earthquake that debilitated the country's south. Aid groups in Haiti believe that the insecurity is the worst they have seen in decades. The State Department has issued a "Level 4" Travel Advisory for Haiti, advising U.S. citizens not to travel there because "kidnapping is widespread" and "violent crime, such as armed robbery and carjacking, is common." U.S. government employees are encouraged not to walk in the capital city of Port-au-Prince at any time and must receive approval to visit certain parts of the city.

156. Fearing the escalating violence, many expelled migrants in Haiti have gone into hiding. Plaintiff Jacques Doe is currently in hiding from the gangs that forced him to flee Haiti originally. Plaintiff Wilson Doe and Wideline likewise do not venture far beyond their front porch, fearful that Wideline or others in their family could be kidnapped again. Other individuals have no choice but to live on the street or sleep in temporary shelters. Most migrants struggle to find food, housing, and jobs in a country they had fled and no longer recognize. They spend their days trying to survive amidst rampant robberies, murders, and kidnappings.

157. President Biden and DHS Defendants were aware of these circumstances and the danger that awaited Individual Plaintiffs and asylum seekers in Haiti when they were expelled.

158. One month before thousands of Haitians arrived at the CBP Encampment, around the same time Secretary Mayorkas redesignated Haiti for TPS because of the extraordinary conditions there, DHS's civil rights office confirmed that there would be a strong risk of unlawful refoulement if DHS were to expel asylum seekers to Haiti.

159. President Biden and DHS Defendants nonetheless ignored these warnings and authorized and effectuated the expulsion of thousands to Haiti where there is no infrastructure in place to receive and provide resources to expelled individuals. Many individuals had not been to Haiti for years and have no network, family members, or place to call home. In fact, the head of Haiti's National Migration Office protested in mid-September that Haiti was unable to receive expelled migrants. As DHS personnel were expelling Haitians from the CBP Encampment, U.S. Special Envoy for Haiti Daniel Foote resigned, declaring that he refused "to be associated with the

United States]) inhumane, counterproductive decision to deport thousands of Haitian refugees<sup>9</sup> to Haiti. Ambassador Foote noted that the “collapsed state is unable to provide security or basic services” and “simply cannot support the forced infusion of thousands of returned migrants lacking food, shelter, and money without additional, avoidable human tragedy.”

160. Individual Plaintiffs and other Haitian asylum seekers expelled from Del Rio to Mexico also face insecurity and experience harm. Black migrants encounter increased challenges in Mexico due to pervasive anti-Black racism from Mexican immigration authorities, the police, and the local community. For example, after fleeing to Mexico to avoid being expelled to Haiti, Plaintiff Paul Doe had difficulty finding a room to rent and still has not been able to find a job, despite making multiple applications. He has also been stopped multiple times by the police, who question him about who he is and where he is going. To avoid being targeted this way, he now remains at home as much as possible.

161. These migrants are regularly denied adequate medical care, housing, and employment in Mexico. Vendors frequently refuse to serve Haitians and other Black migrants food or water and Mexican police officials are known to extort these migrants, threatening to deport them to their country of persecution. Scores of Haitian migrants have been kidnapped and held for ransom as they traveled to the United States and after being expelled by U.S. officials. Because of these dangers, many migrants are in hiding in Mexico.

**III. President Biden and DHS Defendants’ Haitian Deterrence Policy applied in Del Rio diverges from standard practices and is driven by discriminatory purpose.**

162. The suffering and harm experienced by Individual Plaintiffs and thousands of others in the CBP Encampment and during their subsequent detention and expulsions are a direct result of President Biden and DHS Defendants’ Haitian Deterrence Policy. This overarching policy, which aimed to remove Haitians from the United States and prevent others from coming to seek protection under the U.S. asylum system, resulted from a series of discrete decisions that departed from standard practices and were made by senior White House and DHS officials as the situation in the CBP Encampment evolved.

**A. The treatment of Haitian migrants in Del Rio diverged from standard practices Defendants applied to other asylum seekers.**

163. The decision to deprive Haitian asylum seekers of necessities like food, water, shelter, and medical care departed from DHS Defendants' typical procedures for processing asylum seekers pursuant to the Title 42 Process and for providing humanitarian aid to large groups of arriving migrants in several ways.

164. First, the high level of involvement by top White House and agency officials in decision-making relating to the treatment of asylum seekers in Del Rio was unusual. On information and belief, senior and Cabinet-level officials do not generally take an active role deciding how aid and necessities are provided at field processing centers like the CBP Encampment.

165. Second, President Biden, his senior advisors in the NSC and DPC, and DHS Defendants disregarded months of intelligence indicating that thousands of Haitian asylum seekers were traveling to the U.S. border and stopped internal efforts to discuss and organize necessary infrastructure, personnel, and resources to prepare for their arrival. It is uncommon for an agency to ignore its own intelligence and the recommendations of its experts, particularly where, as here, the intelligence is corroborated by reports from sources and partners with first-hand knowledge.

166. Third, despite the insufficient resources available at the CBP Encampment to meet the needs of Haitian asylum seekers, DHS Defendants did not seek out assistance from non-governmental organizations ("NGOs"). In similar situations, agencies like DHS and CBP generally engage with humanitarian aid organizations when circumstances prevent the agency from meeting reasonably anticipated needs.

167. Fourth, Defendants diverged from their typical practice of accounting for people in CBP custody and tracking important information about them, including the existence of fear-based claims. On information and belief, DHS Defendants lacked information regarding the number of fear-based claims Haitians in the CBP Encampment had raised, did not know how many people were in their custody, and lost at least one child for hours. On information and belief, this lack of

information represented a marked departure from DHS Defendants' protocols and processing of other large groups of asylum seekers at the border.

168. The decision to expel Haitians in the CBP Encampment as quickly as possible was also inconsistent with DHS Defendants' standard practice in similar situations.

169. First, DHS Defendants departed from how they typically addressed the needs of groups of asylum seekers arriving at the border, including other large and fast-growing groups. For example, when thousands of people were severely overcrowded without food or other necessities in a temporary outdoor processing site under the Anzalduas International Bridge in Mission, Texas, in spring 2021, DHS personnel relocated individuals to other sites for processing to alleviate the humanitarian crisis near the port of entry. They also engaged local NGOs and provided greater resources to asylum seekers, including food, cots, benches, and water misters.

170. Second, despite being informed in advance that expulsions of Haitian asylum seekers would create a "high risk of refoulement" in violation of U.S. and international law, President Biden and DHS Defendants did not take this risk into account and failed to ensure that any non-refoulement screenings or interviews were offered to asylum seekers prior to expulsion. This lack of screenings is a departure from general practice, mandated by law, to ensure adequate safeguards against unlawful refoulement of asylum seekers.

171. Third, DHS Defendants expelled asylum seekers to Haiti despite knowing that there was no infrastructure set up to receive and process them. Only days after the expulsion flights began, on or about September 20, 2021, did White House officials and DHS Defendants discuss the lack of infrastructure and any steps to be taken to remedy it. These actions are inconsistent with standard procedures, which call for reception infrastructure prior to expulsions on the scale that DHS Defendants were conducting.

172. Fourth, DHS Defendants and personnel did not discuss or take any steps to mitigate the health risks of expulsion, including COVID-19, to vulnerable asylum seekers who were sick, tender-aged, or pregnant, even though Defendants generally consider health vulnerabilities of

migrants when making expulsion decisions under the Title 42 Process. At least one woman went into labor while on the larrnac awaiting expulsion.

173. Fifth, DHS Defendants had a default policy not to subject families from Central America and Mexico to the Title 42 Process. This policy included screening families for vulnerability and providing family units with minor children with humanitarian exemptions to the Title 42 Process. DHS Defendants departed from this default policy specifically for Haitian families in Del Rio, expelling large numbers of families, including those with infants, and including at least one family with a days-old U.S. citizen child born in the CBP Encampment, without screening them for vulnerability or exemptions.

**B. Discriminatory intent drove the treatment of Haitian asylum seekers in Del Rio.**

174. The Haitian Deterrence Policy also arose from discriminatory intent based on race and national origin.

175. At the direction of the White House and DHS Defendants, CBP personnel treated all asylum seekers in the CBP Encampment as presumed Haitian nationals, regardless of whether they were in fact Haitian. DHS personnel also initially miscounted the number of Haitians in the encampment because they assumed that non-Haitian Black asylum seekers were Haitian. On information and belief, DHS Defendants took no action to prevent errors in reporting the nationality of individuals in Del Rio.

176. On information and belief, DHS officials tasked with addressing the developing humanitarian crisis in Del Rio viewed Haitian and Black asylum seekers as dangerous, barbaric, and criminal. On one occasion, a CBP official in senior leadership for the Del Rio Sector remarked to DHS officials that Haitians would “tear through the walls” of a detention facility. In a meeting relating to the CBP Encampment, top DHS officials described Haitians as “particularly difficult,” and a senior DHS official reported to Secretary Mayorkas, without evidence, that Haitian asylum seekers had engaged in criminal conduct in Mexico.

177. On information and belief, DHS Defendants believed that Haitians were more likely to break the law, be embedded with smugglers, or move through irregular channels than other groups. On September 16, 2021, when preparing the mass expulsion strategy, a senior CBP official stated that removing single Haitian men must be a priority because they were likely to be dangerous and violent. DHS personnel also refused to allow the inclusion of toothbrushes or combs in some hygiene kits that were distributed at the CBP Encampment, out of concern that the Haitian asylum seekers might use them as weapons.

178. On information and belief, perspectives such as these shaped the decisions that senior White House and DHS officials made in adopting and implementing the Haitian Deterrence Policy. These decisions included, among others, the decision not to prepare adequate food, water, medical care, or shelter for asylum seekers arriving in the CBP Encampment; the decision that DHS personnel effectuating the expulsions of Haitians should lie about where such Haitians were being transported; the decision that DHS personnel should shackle Haitians, including mothers with children, on expulsion flights; and the decision to expel Haitians swiftly, without access to non-refoulement screenings, in one of the largest mass expulsions in U.S. history.

#### **IV. Defendants' Title 42 Process applied in Del Rio is unlawful.**

179. Beyond the abuses described above, the procedures ostensibly being applied to Individual Plaintiffs and Haitians in Del Rio in connection with the Haitian Deterrence Policy (the Title 42 Process) are themselves unlawful. The Title 42 Process deprives asylum seekers of their statutory and procedural protections under U.S. law despite lacking any authority to do so. Moreover, although Defendants pretextually portray the Title 42 Process as a public health measure, it instead undermines public health.

##### **A. The federal government's public health powers provide no support for the mass, summary expulsion of asylum seekers.**

180. The Title 42 Process that was used to expel thousands of Haitian asylum seekers in Del Rio is grounded in the federal government's purported public health authority.

181. These statutory public health powers have their origins in an 1893 statute

authorizing the Executive Branch to undertake certain acts to address the spread of contagious diseases originating outside of the United States. *See* Act of Feb. 15, 1893, ch. 114, § 7, 27 Stat. 449, 452. Now codified at 42 U.S.C. § 265, the statute authorizes the CDC Director to address “a serious danger of the introduction of” a “communicable disease” from a foreign country “into the United States” by “prohibit[ing], in whole or in part, the introduction of persons or property.”

182. Over the 128 years that the statute and its predecessors have been in force, this provision has never been used to expel noncitizens from the United States. Indeed, despite several infectious disease outbreaks during that period, no regulation has ever before been promulgated purporting to authorize the immigration powers asserted through the Title 42 Process.

183. This historical context fits with the framework of the Public Health Service Act, which confirms that these public health powers do not include the broad powers claimed by Defendants. Among other reasons, the statutory language expressly provides the power to prohibit “the introduction of persons and property,” but makes no reference to an authority to expel individuals under the act. That Section 265 applies to U.S. citizens and noncitizens further supports the plain language interpretation that “introduction” does not mean “expulsion.” Finally, the act references Section 265 as a “quarantine” provision, and provides specific penalties for its violation, none of which include expulsion. *See* 42 U.S.C. § 271(a) (violation of Section 265 “shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both”).

184. In short, the sole statutory authority underlying the Title 42 Process and relied on in applying the process to Individual Plaintiffs and Haitian asylum seekers in Del Rio does not authorize the expulsion of noncitizens from the United States.

**B. Defendants’ Title 42 Process deprives asylum seekers of protections guaranteed under U.S. law.**

185. Defendants’ Title 42 Process relies not only on a novel, atextual construction of Section 265, but also on the unprecedented and extraordinary claim that Defendants may ignore clear protections for asylum seekers mandated under U.S. immigration laws.



186. The United States' modern asylum system has its roots in the aftermath of World War II, when U.S. lawmakers created the nation's first formal asylum protections to prevent a recurrence of the United States closing its borders to individuals seeking safety from Nazi persecution.

187. Currently, three primary statutory frameworks operate to protect individuals fleeing persecution and torture. Together, they provide individuals coming to the United States with a right to seek immigration relief through the specific procedures set forth in those laws.

188. First, the INA provides that "[a]ny [noncitizen] who is physically present in the United States or who arrives in the United States" – regardless of their place of entry, interdiction, or status – "may apply for asylum." 8 U.S.C. § 1158(a)(1).

189. Second, the INA sets forth the duty of non-refoulement, an international law principle providing that a country may not expel or return an individual to a country where they have a well-founded fear of persecution or serious harm. Consistent with the United States' obligations under the 1951 Convention on the Rights of Refugees and the 1967 Protocol, the INA's withholding of removal provision prohibits the United States from removing any individual to a country where it is more likely than not that the individual's "life or freedom would be threatened in that country because of [their] race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3)(A).

190. Third, FARRA implements the United States' non-refoulement duties set forth in Article 3 of the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In relevant part, FARRA prohibits the United States from expelling an individual to a country where it is more likely than not that they will be tortured. See 8 U.S.C. § 1231 note.

191. DHS Defendants and personnel have applied the Title 42 Process in a manner that violates each of these fundamental protections of the U.S. asylum system.

192. When applying the Title 42 Process to persons in the CBP Encampment, DHS personnel refused to allow Individual Plaintiffs and thousands of others to "apply for asylum" as

required under the INA, 8 U.S.C. § 1158(a)(1). Rather than inspect all people in the encampment to determine whether they would “indicate[] either an intention to apply for asylum . . . or a fear of persecution,” 8 U.S.C. §§ 1225(a)(3), (b)(1)(A)(i)-(ii), DHS personnel actively refused to engage with Individual Plaintiffs or other asylum seekers.

193. DHS Defendants also effectuated the expulsion of Individual Plaintiffs and others to Mexico and Haiti without considering whether they would likely be persecuted or tortured upon their return. DHS Defendants’ refusal to provide adequate safeguards against refoulement, including screenings for withholding of removal and protection under CAT, is inconsistent with their mandatory duties under the INA and FARRA.

194. Indeed, in a memorandum dated shortly after DHS cleared the CBP Encampment, entitled “Tending Title 42 return flights to countries of origin, particularly Haiti,” senior State Department advisor Harold Koh concluded that Defendants’ “current implementation of the Title 42 authority continues to violate our legal obligation not to expel or return (“refouler”) individuals who fear persecution, death, or torture, especially migrants fleeing from Haiti.” Koh explained that the Title 42 Process, particularly as it was applied to asylum seekers in Del Rio, was inconsistent with DHS Defendants’ duties under the INA and FARRA and created “an unacceptably high risk that a great many people deserving of asylum” will be unlawfully returned to countries where they fear persecution, death, or torture.

195. Finally, DHS Defendants’ expulsions of Haitian asylum seekers under the Title 42 Process also conflicts with the INA’s provisions governing the removal of noncitizens. With few exceptions, removal proceedings before an immigration judge are the “sole and exclusive procedure” for determining whether an individual may be removed from the United States, 8 U.S.C. §§ 1229a(a)(3), 1225(b)(1). Summary expulsions under the Title 42 Process offer none of the procedural protections mandated by the INA for noncitizens who fear removal.

**C. Defendants’ Title 42 Process does not advance public health.**

196. Although Defendants’ purported goal in implementing the Title 42 Process is to promote public health, scientific experts and legal scholars have denounced the process as

undermining public health and welfare.

197. Defendants' Title 42 Process has never been about public health. Instead, the government's public health powers were used to serve former President Trump's political ends of restricting immigration and circumventing critical protections for asylum seekers.

198. When THIS Defendants' own public health experts initially refused to sign onto the first Title 42 health order, top Trump Administration officials ordered them to fall in line. It is widely reported that former Vice President Mike Pence directed former CDC Director Dr. Robert Redfield to issue the Title 42 order and Title 42 Regulation after Redfield expressed that there was no valid public health reason to issue such an order. In her testimony to Congress shortly after Defendants' use of the Title 42 Process at the CBP Encampment, Anne Schuchat, the former Deputy Director of CDC, testified that the issuance of the first Title 42 order "wasn't based on a public health assessment at the time."

199. The public health justifications for the Title 42 Process are no more compelling now than they were twenty months ago. Indeed, any public health justifications are weaker now due to the wide availability in the U.S. of vaccines that are highly effective in combatting the transmission and spread of COVID-19.

200. Shortly after Defendants applied the Title 42 Process to thousands of Italians in Del Rio, Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases and the Chief Medical Advisor to the President, stated that "expelling" immigrants "is not the solution to an outbreak." He affirmed: "Certainly immigrants can get infected, but they're not the driving force of this, let's face reality here." Dr. Raul Gutierrez, co-chair of the American Academy of Pediatrics' Council on Immigrant Child and Family Health, echoed this sentiment, stating: "I don't think that there's a defensible public health reason to keep Title 42 in place."

201. After observing the expulsion of Individual Plaintiffs and thousands of Haitians "without any assessment of their safety," hundreds of Defendant Walensky's former colleagues signed a letter to oppose Defendants' Title 42 Process, calling it "a political measure to prevent legal immigration under the rhetoric of public health."

202. A principal justification for Defendants' continued extension and application of the Title 42 Process is the "congregate nature" of CBP and Border Patrol stations along the U.S. border, which purportedly risks the introduction, transmission, and spread of COVID-19 from arriving migrants.

203. Although DHS Defendants "recognize[] the availability of testing, vaccines, and other mitigation protocols [that] can minimize risk in this area," and "anticipate[] additional lifting of restrictions" as DHS facilities employ these protocols, DHS Defendants have continued to enforce the Title 42 Process for months without taking advantage of any widely available mitigation measures. For example, the CBP Caplo Memo provides no policies or procedures related to COVID-19 testing or the provision of COVID-19 vaccinations. And, although President Biden and DHS Defendants were aware for months that thousands of Haitian asylum seekers were traveling towards Del Rio, they refused to make any preparations for offering testing or vaccination to asylum seekers as they waited days or weeks in the CBP Encampment.

**V. Defendants' Title 42 Process and Haitian Deterrence Policy continue, even as tens of thousands of Haitians again head to the U.S. border.**

204. The abuses that occurred in the CBP Encampment and in connection with the expulsion of thousands of Haitians are likely to continue under DHS Defendants' enforcement of the Title 42 Process and the Haitian Deterrence Policy.

205. Public reporting indicates that thousands of individuals, many of whom are Haitian, are traveling to the United States to seek asylum at this time. Each Individual Plaintiff has likewise expressed an intent to return to the United States to seek asylum.

206. No Defendant, however, has taken any appropriate corrective steps to ensure that the abuses and mass expulsions that happened in Del Rio are not repeated and to discontinue either the Title 42 Process or the Haitian Deterrence Policy.

207. In December 2021, CDC conducted its periodic reassessment of the circumstances underlying CDC's August 2021 order and announced that the Title 42 Process would remain in place for at least another sixty days. In addition, President Biden and DHS Defendants have

blocked the efforts of internal staff to engage in an after-action review of the events at the encampment and DHS Defendants' treatment of Haitian asylum seekers. On information and belief, President Biden and DHS Defendants have not taken appropriate corrective action to end the Haitian Deterrence Policy.

208. With Defendants' Title 42 Process and Haitian Deterrence Policy still in place, there are no safeguards to ensure that the abuses that occurred in Del Rio will not reoccur if and when Individual Plaintiffs and other Haitians arrive at the border to seek access to the U.S. asylum process. As the local sheriff stated shortly after the CBP Encampment was cleared, "I've never seen anything like [the Del Rio Encampment], but it's going to happen again."

#### **VI. Individual Plaintiffs were harmed by Defendants' policies implemented in Del Rio**

209. Defendants' adoption and implementation of the Title 42 Process and the Haitian Deterrence Policy has caused Individual Plaintiffs and all other similarly situated individuals substantial, concrete, particularized, and irreparable injury.<sup>14</sup>

210. As Defendants' relevant policies are ongoing, so too is the harm these policies cause. As detailed below, Individual Plaintiffs suffer ongoing harm from their treatment at the CBP Encampment and their unlawful expulsions to Haiti or Mexico. Because Individual Plaintiffs intend to return to the United States to seek asylum and Defendants' policies are ongoing, the harms detailed herein are likely to continue and recur.

##### **A. Plaintiffs Mirard Joseph and Madeleine Prospere**

211. Mirard and Madeleine fled Haiti around 2017 in fear for their lives, escaping to Chile. They had a baby in Chile, but Mirard could not secure residency or work authorization there. After months of instability in Chile, the family decided to travel to the United States to seek asylum. The arduous journey to Mexico took the family almost a month with their young child.

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<sup>14</sup> In addition to the claims asserted in this Complaint, each Individual Plaintiff is exploring individual claims based on the Federal Tort Claims Act and reserves the right to amend this Complaint to add such claims after satisfying the necessary administrative exhaustion requirements.

While traveling, bandits robbed Mirard and Madeleine and took all their money and belongings.

212. On or around September 11, 2021, Mirard, Madeleine, and their young daughter finally arrived in Del Rio. U.S. officials gave Mirard a blue ticket. He understood that the blue ticket was being assigned to families and meant he should wait until his number was called.

213. In the CBP Encampment, the family was forced to sleep on cardboard. Temperatures soared during the day and there was no shade. As a result, Mirard was severely sunburnt and dehydrated. The encampment was so dirty and dusty that their daughter developed respiratory and gastrointestinal issues that persist to this day. Mirard never saw or was aware of a doctor in the encampment who might assist his daughter.

214. Mirard, Madeleine, and their daughter were given only water and bread, plus a single diaper each day. There was so little food available in the CBP Encampment that Mirard and others were forced to cross the river to Mexico to purchase food and water for their families.

215. On or about September 18, 2021, when crossing back from Mexico with food for his family, Mirard was assaulted by a horse-mounted officer who lashed at him with reins, attempted to drag him back into the water, and nearly trampled him. This abuse has left him traumatized.

216. Approximately two days after this trauma, officials transported Mirard, Madeleine, and their daughter to a detention facility. After being held there in conditions unfit for human life, U.S. immigration authorities called Mirard and his family, along with other detained Haitians, and handcuffed them and put shackles on their feet and waist. Madeleine, though shackled, was not handcuffed so that she could hold the baby. No authorities informed Mirard and Madeline where they were being taken when they were forced onto a plane and expelled to Haiti. Neither Mirard nor Madeline had ever been given an opportunity to seek asylum or otherwise explain why they feared being sent back to Haiti.

217. Mirard is now in hiding in Haiti. Madeleine and their daughter were forced to travel to Chile to access medical treatment for the illnesses their daughter developed in the CBP Encampment. If they had the means, they would come back to the United States "right this second"

to seek asylum. They plan to save any money they can so that they can make another journey to the U.S. border to seek asylum.

**B. Plaintiff's Mayo ("Michael") Celon and Veronique Cassonell**

218. Michael's family fled Haiti when he was only fifteen years old after the murder of his mother and lived in the Dominican Republic and then in Chile for over two decades. During that time, Michael and Veronique married and had two children, Michael, Veronique, and their children—now ages two and eight—fled Chile after conditions became extremely difficult for Haitians, who were being targeted there for violence and discrimination.

219. After crossing the river in mid-September 2021 to seek asylum near Del Rio, Michael and his family experienced deplorable conditions at the CBP Encampment. U.S. officials provided very little food and water to Michael's family. Michael and Veronique often gave what little they received to their children. Michael saw fellow migrants pass out from thirst, heat, and hunger. "After days of being outside like that I realized I couldn't stay there anymore and thought about returning back to Mexico."

220. In the CBP Encampment, migrants were using their own clothes to shade themselves from the sun and to sleep on the ground. In the morning, officers would yell "wake up, wake up" and kick migrants to awaken them. When people complained about the sun, asked about the availability of food and water, or asked when they would be processed, officers would yell and tell them to "sit down and shut up." Michael saw U.S. officials handcuff other migrants, seemingly because they had been asking questions. He also saw mounted officers using reins as whips against people in the river. He felt like the officers did not treat the Haitians in the encampment as people.

221. After about three days in the CBP Encampment, Michael was given a numbered ticket. Other Haitians in the CBP Encampment had explained to Michael that he had to wait to receive a ticket, and then wait for his ticket number to be called in order to be interviewed about his case and either remain in the United States or be deported.

222. About a week later, Michael, Veronique, and their two children had their number called and they were taken to a detention facility. After being separated and detained for over one

week, Michael and Veronique were shackled and expelled to Haiti with their children.

223. After being expelled to Haiti, Michael and his wife did not have enough money to feed their family. One of their daughters became ill from drinking Haiti's contaminated water, and the family was unable to obtain medical care for her due to the country's instability. While back in Haiti, Michael expressed extreme fear for his and his family's safety. "Ever since I've been here I've been fearing for my life. I'm in hiding. I'm at risk every day."

224. Michael and his family have since returned to Chile, where they face discrimination and threats because of their race and Haitian nationality. They plan to seek asylum in the United States again.

**C. Plaintiff Wilson Doe**

225. Plaintiff Wilson Doe and his wife Wideline fled Haiti in 2016 after Wideline was kidnapped and held for ransom. Wilson's family had to collect a great deal of money to secure her release, and they still do not know exactly who kidnapped her. After receiving more kidnapping threats, Wilson, Wideline, and their young son fled Haiti to seek safety in Chile.

226. Wilson and Wideline lived in Chile for almost five years, and their daughter was born there. As the family faced instability and Wilson and Wideline could not obtain employment documents or seek asylum, the couple decided to seek asylum in the United States.

227. On or about September 11, 2021, Wilson and Wideline arrived in Del Rio with their sixteen-year-old son and their four-year-old daughter. They spent around four days in the CBP Encampment. During this time, U.S. officials gave them only water, but no food. The family had nothing to eat for a full day and was eventually able to eat only after a friend gave them some money, which allowed Wilson to cross into Mexico to purchase food and water.

228. On or about September 14, 2021, U.S. officials took Wilson and his family to what Wilson described as a "prison," where they separated Wilson from his children and held them for what he thinks was four or five days. While in detention, Wilson was never given an opportunity to state that he had a fear of returning to Haiti. When Wilson tried to speak to a U.S. official, the official told Wilson that he had to wait to be called to speak to someone.



229. On or about September 19, 2021, U.S. officials woke Wilson and his family in the middle of the night and placed them on a bus with other detained migrants. When Wilson asked where they were going, U.S. officials lied and said they were transferring Wilson and his family to another “prison” in Florida. After seeing they were brought to an airport, Wilson and others tried to stay on the bus, stating that they did not want to leave the United States and get on the plane without knowing where they were going. In response, U.S. officials boarded the bus and physically beat Wilson and several others. In front of Wideline and their children, the U.S. officials beat Wilson so savagely that they ripped his clothes off and he lost his shoes. Eventually the officials forced them off the bus and beat them further on the tarmac. Wilson tried to run on the tarmac, but an officer stopped him, threw him on the ground, and placed a foot on his neck while pinning his arms against his back, temporarily cutting off Wilson’s ability to breathe.

230. U.S. officials then handcuffed Wilson so tightly that the handcuffs cut into Wilson’s wrists and drew blood. Officers forcibly placed Wilson on the plane and threatened a sobbing Wideline that they would arrest Wilson if she did not get on the plane. Wilson sat through the flight without a shirt or shoes and with the handcuffs cutting into his wrists. Wilson and Wideline’s family, and everyone else on the plane, was expelled to Haiti. The entire family is traumatized.

231. With nowhere else to go, Wilson, Wideline, and their family are staying with a relative, never leaving the house out of fear of being attacked or kidnapped. Haitians who have recently been deported back to Haiti are often targeted by gangs because the gangs believe that such people have money. Although Wilson and his family have no financial resources, they live in constant fear that someone will learn where they are and target them. Their plan is to save money so that they can travel back to the United States to seek asylum again. “We didn’t want to go back to Haiti,” Wilson has said. “My wife especially didn’t want to return because of what happened to her. There was nothing left in Haiti for us. There is insecurity, kidnappings, and no money. Haiti is in a very difficult situation right now and that’s why I resisted getting on the plane.”

#### **D. Plaintiff Jacques Doe**

Jacques used to be a trade student and worked in construction before he was forced to flee

Haiti in 2019. A gang threatened his life after he refused their recruitment efforts and reported them to the police. Although the police arrested several gang members based on Jacques's tip, a neighbor told the gang what Jacques had done, and the gang started threatening his life. The death threats continued even when he tried to escape by moving out of the city, into the countryside.

232. Fearing for his life, Jacques fled Haiti for Brazil. He then decided to seek asylum in the United States. The journey was difficult and took many days, including some days when Jacques walked up to 40 miles at a stretch.

233. When he finally arrived in Del Rio on or about September 17, 2021, U.S. officials gave Jacques a numbered ticket. Other asylum seekers in the CBP Encampment told him that if officials called his number, he would need to identify himself to them. Although Jacques knew that people whose numbers were called were taken to prison, he thought that in prison he would be able to ask for a lawyer and get an interview with an immigration official, who would hear why he left Haiti and decide whether he could stay in the United States. He spent approximately one week in the CBP Encampment, waiting for his number to be called. Because officers called ticket numbers at all hours of the night and day, he often stayed awake at night so that he would not miss his number being called.

234. While in the CBP Encampment, Jacques and other asylum seekers had no choice but to sleep on the ground. Some resorted to cleaning themselves in the river because there was no other option, but he saw people get sick from the river water. "A lot of people were sick. That's what shocked me the most." Apart from the riverbank, U.S. officials typically did not allow Jacques or others to go anywhere else. But there was not enough food in the encampment. "People were starving there." During the week Jacques spent in Del Rio, U.S. officials gave him only two small sandwiches and two bottles of water per day. The bottles of water were left out in the hot sun, so whenever he got one, the water was so hot it burned his mouth. When Jacques asked for more food, U.S. officials turned him away.

After approximately one week in the CBP Encampment, U.S. officials called Jacques's ticket number in the middle of the night. He was relieved to have his number called, because he

thought his chance to ask for asylum had finally come.

235. Instead, Jacques was sent to two detention facilities. U.S. officials conducted a short interview and took his biometrics, but at no point did they ask him if he was afraid to return to Haiti or if he intended to seek asylum in the United States, nor was he allowed to ask questions or say anything other than answer the officials' questions. At the second detention facility, the officials did not provide Jacques with bedding, a change of clothing, or an opportunity to shower or brush his teeth. Jacques slept on the floor with around thirty other individuals. Generally, he was given only two pieces of bread and two water bottles each day.

236. After Jacques had been detained for approximately four days at the second facility, U.S. officials woke him up at midnight and placed him on a bus. They refused to tell Jacques where they were being taken. When Jacques asked whether he was being taken back to Haiti, U.S. officials said no. "They lied to us." Jacques did not realize he was being expelled to Haiti until he was shackled with chains across his ankles, thighs, and hands and put on the airplane. "It was absolutely terrible: I couldn't do anything. The situation made me cry. I felt helpless." When he realized that he was being deported, Jacques tried to tell officials on the plane that he could not return to Haiti because he faced danger there. But the officials said there were too many Haitians in the United States, so he had to go back.

237. When Jacques landed in Haiti, he was terrified that the gang would find out he was back and carry out their death threats. He immediately went into hiding, where he has been ever since, because he does not currently have enough money to leave Haiti. As a result, even though he got sick with a bad flu he contracted after being expelled, he has not been able to get any medical treatment. Because his life is in danger, Jacques plans to travel to the United States to seek asylum again.

#### **E. Plaintiff's Esther and Emmanuel Doe**

238. Esther fled Haiti in 2017 due to threats to her life because of her family's political connections. After Esther's family suffered home invasions and threats of violence from a gang supporting a rival political party, Esther's father decided to send her to Chile for her own safety.

Emmanuel joined her there in 2018.

239. Esther and Emmanuel lived in Chile and had a baby there. They struggled to survive in Chile, where they were unable to obtain permanent residence, and also faced repeated threats and extortion from drug dealers who targeted them because they were Haitian. Esther and Emmanuel decided to seek asylum in the United States, where they hoped that they could build a new life with their child.

240. On or about September 18, 2021, Esther, Emmanuel, and their then-fifteen-month-old son crossed the U.S. border near Del Rio. When they arrived at the CBP Encampment, a U.S. immigration official gave them a numbered ticket. They observed that U.S. officials would call out numbers, and people with those numbers on their tickets would identify themselves and be taken away from the camp. Esther and Emmanuel believed that when their number was called, they could request the opportunity to remain in the United States.

241. In the CBP Encampment, the family slept on the ground and their son became sick with diarrhea and fever. U.S. officials distributed almost no baby-appropriate food, and Esther's son went hungry. Despite her fear of Mexican immigration officials, Esther crossed the river alone because she was desperate to find food for her sick and hungry son.

242. Esther bought what she could on the Mexico side of the river and tried to hurry back to the encampment. But when she was in the middle of crossing the river, she was charged by CBP officers on horseback yelling, "Go back to Mexico!" Although she shouted in English that she had a baby who was in the CBP Encampment, they told her "no, go back to Mexico." She had to run backwards towards Mexico to avoid being trampled by the horses. It was only because the officers then turned their horses to chase other migrants in the river that Esther was able to pass by them and reunite with her family.

243. For several more days in the encampment, Esther, Emmanuel, and her family slept on the ground and went hungry. Her son had constant diarrhea and developed a high fever. Eventually Esther's son was so ill that she twice sought help at a medical tent where there were personnel who appeared to be doctors. Visiting the doctors was an incredibly brutal experience

for Esther, because the medical personnel treated her baby “like he was nothing.” Instead of paying attention to and treating her son, they kept taunting her by asking Esther when her number would be called so that she would be put in jail and then deported. Eventually they gave her some liquid drops and some ice gel packs for his fever, but they did not appear to help.

244. Esther and Emmanuel saw the numbers in the encampment dwindle as people’s numbers were called and they were taken away. Finally, Esther and Emmanuel were awoken early in the morning by officials calling for people to get on the “last” bus. It was clear that officials were trying to clear the encampment. But they were afraid of being sent back to Haiti because of the threats of violence made against their family, and knew it was safer for them to cross the river back to Mexico than to get on the bus and be expelled.

245. Esther, Emmanuel, and their son are currently living in precarious conditions in Mexico. Emmanuel has already been attacked a knife-point, and Esther feels very visible, and vulnerable, as a Haitian in the Mexican town where they are renting a room. They plan on waiting until conditions are safer before returning to the United States to seek asylum.

**F. Plaintiff’s Samuel and Samantha Doe**

246. Samuel is a primary school teacher and credit union employee who fled Haiti in 2016 after being attacked by a rival political party and receiving death threats by armed men at his workplace. After seeking safety in Chile, he saved enough money for his wife Samantha and their son to join him. Samuel, Samantha, and their family struggled in Chile, where they faced discrimination. Around July 2021, Samuel, Samantha, their eight-year-old son, and their one-year-old daughter, who was born in Chile, began their journey to the United States to seek asylum.

247. On or about September 16, 2021, the family arrived at the CBP Encampment. U.S. officials gave Samuel a numbered ticket and told him to go with the officials when his number was called. He believed that would be his opportunity to speak with U.S. immigration officials.

248. While in the CBP Encampment, Samuel, and his family struggled. Because there was no shelter from the extreme sun, wind, and large amounts of dirt in the air, people had to search for branches to create shade for themselves. His family slept on the ground.

249. The family also suffered from the lack of food at the encampment. When Samuel and his family first arrived, there was no food available for them to eat. As U.S. officials began handing out food and water, Samuel waited in line with hundreds of others to receive a bottle of water and a piece of bread or tortilla. As he waited for food, Samuel observed that the officials distributing the food humiliated the asylum seekers by throwing water bottles at them. Samuel recalls, "It was humiliating. It felt like at home how you would throw food for chickens on the floor. That's how they treated us." The food that his family received in the CBP Encampment was not enough to sustain them. "It felt like they did enough so we wouldn't die but no more than that. It felt like a nightmare."

250. Because of the wind and large amounts of dirt in the air, Samuel and Samantha's young daughter became very sick with diarrhea, vomiting, and coughing. She became so ill that Samuel pleaded for help from a U.S. official at the encampment. The official said they could not help them and suggested Samuel give his daughter water.

251. As Samuel and his family waited longer in the CBP Encampment, they began to fear what would happen when their number was called. Samuel and Samantha had heard that people who had their numbers called went to be processed by immigration officials thinking that they were going to be released, but instead were sent back to Haiti. Samuel knew that if his family was returned to Haiti, they would die there.

252. Samuel took their eight-year-old son to the river to clean himself. Officers on horseback slowed up and chased after the migrants by the river. Terrified, Samuel's son ran from the horses, fell, and injured his eye, which then became painfully inflamed. After seeing mounted officers charge at migrants returning from Mexico with food, Samuel knew that his family had to leave the CBP Encampment as quickly as possible to protect his children.

253. Given how ill their children were, the lack of food in the CBP Encampment, their encounter with mounted officers, and the possibility of being expelled to danger in Haiti, Samuel and Samantha felt their only choice was to cross the river back into Mexico. At no point while they were in the CBP Encampment did Samuel or Samantha have an opportunity to tell U.S.

immigration officials that they were afraid to return to Haiti and wished to seek asylum.

254. After initially staying at a shelter in Mexico, Samuel, Samantha, and their children were expelled from the shelter. They continue to live in precarious conditions in Mexico. Samuel's son suffers from the painful eye condition he developed in the CBP Encampment. Samuel and Samantha fear that if their family returns to Haiti, they will be killed. "If we were to go back to Haiti, we are 99.9 percent dead. So there was no way I would take that risk." They hope to seek asylum in the United States and plan to return to the border when they can safely do so.

**G. Plaintiff Paul Doe**

255. Paul was pursuing a degree in economics in Haiti but was forced to flee the country in 2017 after a gang associated with a dominant political party threatened his life because Paul refused to work for them to pay off an uncle's debt. The gang had killed Paul's uncle when he could not repay money he owed. Opposed to the gang's activities and unwilling to engage in their violence, Paul fled Haiti to seek safety in Chile. "I had to leave Haiti because I either had to be involved with the gang, or die. Those were my only two options."

256. Paul traveled from Chile to the United States to seek asylum because it remains his hope that he can live without constant fear that he or his family might be attacked or killed. On or about September 17, 2021, Paul arrived at the CBP Encampment and was directed to a tent with officers who gave him a ticket with a number on it. They told him to wait under the bridge until his number was called. Other asylum seekers explained that Paul would be taken on a bus to a detention center when his number was called.

257. For approximately the next week, Paul waited in the CBP Encampment for his number to be called. The conditions in the encampment were some of the hardest he has ever endured. Paul was forced to sleep on the ground in the dust, without even a blanket. For the first several days Paul was at the CBP Encampment, officials gave him no more than a bottle of water and a tortilla each day. Often the water was undrinkable because it had been left sitting out in the sun. Around the fifth day, the officials began giving out a portion of rice and beans with the tortilla, and sometimes a box of juice. The food, however, gave him diarrhea, and when he sought medical

treatment, a doctor only gave him a pill that had no effect. Paul soon noticed it appeared to be the same pill that the doctors gave to anyone seeking care. Although he continued to feel ill, Paul did not seek medical care because everyone was given the same pill, regardless of symptoms.

258. Paul eventually became so hungry that he decided to cross the river to get food in Mexico. He also hoped to get medicine for a friend's sick baby. As Paul reached the river, he observed U.S. officers beating asylum seekers returning to the CBF Encampment and pushing them back into the river. When Paul attempted to cross using a rope that had been set up to aid migrants through the river, officers deliberately cut the rope, threw it back into the river, and told Paul and others that they could not cross. Paul was forced to walk and swim downstream until he could cross safely.

259. Paul was never asked by U.S. immigration officials if he had a fear of return to Haiti or provided an opportunity to request asylum while in the CBF Encampment. As Paul started seeing people leave the encampment, he understood that they were being deported. A U.S. official told him that "the U.S. is not a money tree - you can't just come here and get money."

260. Paul knew that if he were to be sent back to Haiti, the gang would kill him. He felt that he had no choice but to go back to Mexico and wait there for another opportunity to seek asylum in the United States. What troubles Paul most about his experience in the CBF Encampment is that a country he has dreamed about since he was child had humiliated him and so many others from his country, rather than providing them refuge.

261. In Mexico, Paul regularly encounters discrimination. It was incredibly difficult for him to find a room to rent - after being denied by approximately ten people advertising rooms for rent, he finally found someone willing to rent to him. Paul has also been unable to find work. He has applied to approximately six workplaces that advertised they were hiring, but when Paul applied, he was told they were no longer hiring. Without a job, Paul worries about how he will survive. He has been stopped by the police multiple times and questioned about who he is and where he is going. He now avoids going outside as much as possible.



VII. **Haitian Bridge is harmed by the application of the Title 42 Process and Haitian Deterrence Policy in Del Rio.**

262. The application of the Title 42 Process and Haitian Deterrence Policy to Haitian asylum seekers in the CBP Encampment has impaired Haitian Bridge's normal programming and resulted in a diversion of organizational and programmatic resources.

263. The abuse of Haitians in Del Rio has put severe strain on Haitian Bridge's ability to carry out its work and mission. Haitian Bridge is one of the primary organizations at the center of the massive humanitarian and legal response to the detention, inhumane treatment, and unlawful expulsion of thousands of Haitian and other Black migrants in the CBP Encampment pursuant to the Title 42 Process and Haitian Deterrence Policy. Haitian Bridge diverted six of its nine full-time staff and one full-time contractor to respond to the crisis. A majority of these staff continue to devote significant time to issues flowing from Defendants' application of these policies in Del Rio and have not been able to resume normal work on Haitian Bridge's existing projects.

264. Following media reporting that thousands of Haitians were coming to Del Rio to seek immigration relief, Haitian Bridge's Executive Director Guerline Jozef arrived in Del Rio on September 18, 2021. She was the first responder to the crisis; no other humanitarian organization was present on the ground at that time.

265. As the first responder, and as a Haitian Creole-speaking organization with Haitian staff, Haitian Bridge was compelled to devote substantial resources to provide and coordinate assistance to the thousands of migrants in Del Rio. Haitian Bridge quickly sent staff to Del Rio. Although Defendants did not allow any of these staff to enter the CBP Encampment to directly assist asylum seekers, Haitian Bridge's staff worked quickly to organize an on-the-ground emergency response. Haitian Bridge coordinated culturally sensitive humanitarian services and transportation for individuals permitted to leave Del Rio and arranged support in Haiti to receive the thousands of asylum seekers being expelled there. It also coordinated communications inquiries with the media and received members of Congress, Haitian-American elected officials, and members of Haitian consulates seeking to protect the interests of Haitian nationals. Haitian Bridge staff organized and led advocacy efforts with the federal government in an unsuccessful

attempt to slow or stop expulsion flights and to develop a more humane response that safeguarded the rights of Haitians in the CBP Encampment and in detention facilities.

266. On September 24, 2021, Secretary Mayorkas announced that there were no longer any migrants in the CBP Encampment. But DHS Defendants' mass expulsion of thousands of asylum seekers did not end Haitian Bridge's response work. Even after the camp was cleared, Haitian Bridge staff continued to receive delegations of Haitians and other Black leaders in Del Rio. The numerous human rights violations that Haitian Bridge staff observed at and around the CBP Encampment, including physical assaults and the denial of basic necessities to Haitian asylum seekers, compelled Haitian Bridge staff to travel to Ciudad Acuña and elsewhere in Mexico to interview individuals and gather evidence of these human rights violations.

267. Haitian Bridge continues to divert resources in response to the government's abusive actions. Haitian Bridge continues to provide legal and humanitarian support to affected individuals and respond to media inquiries and speaking requests related to Del Rio.

268. This response effort continues to take a toll on Haitian Bridge, its staff, and their ability to advance Haitian Bridge's mission. Several Haitian Bridge staff members worked in excess of 80-100 hours a week for several weeks, and lost several nights of sleep because of additional work from the crisis in Del Rio. Many of Haitian Bridge's core projects have been delayed since the government began detaining and expelling asylum seekers from the CBP Encampment in mid-September. To date, Haitian Bridge staff members responding to the abuses in Del Rio, particularly Black staff members, have suffered and continue to suffer trauma from the brutal anti-Black racist treatment and injustice they witnessed in Del Rio.

269. The need to respond on an emergency basis to the treatment of Haitian migrants at Del Rio has impaired Haitian Bridge's ability to keep up with existing demands for its services. For example, a key program component of Haitian Bridge's work involves assisting Haitians in the United States with their applications for Temporary Protected Status, which protects individuals from deportation and enables them to receive work authorization and permission to travel. But this work has largely stalled since September 2021. Haitian Bridge has had to postpone

several clinics and has not been able to move forward work in preparing a manual and trainings to enable lawyers and law school clinics to provide this assistance around the country. Haitian Bridge has also not been able to complete dozens of TPS applications, with serious adverse consequences for their clients, who consequently have been unable to receive work authorization.

270. The events at the CBP Encampment and alternath also strained Haitian Bridge's legal support and case management capacity. Haitian Bridge was forced to organize a national hotline to coordinate efforts and respond to hundreds of calls from Haitian asylum seekers in detention centers across the country and who had just been released from the Del Rio Encampment. In order to scale and staff this hotline, Haitian Bridge had to stall several ongoing projects.

### CLASS ALLEGATIONS

271. Individual Plaintiffs bring this action pursuant to Federal Rules of Civil Procedure 23(b)(1) and (b)(2) on behalf of themselves and a class of all other persons similarly situated. The proposed class is defined as all Haitian, or presumed Haitian, individuals who (1) sought access to the U.S. asylum process<sup>45</sup> in or around the CBP Encampment near the Del Rio Port of Entry between September 9 and 24, 2021, and (2) were denied access to the U.S. asylum process.

272. Individual Plaintiffs seek to represent the class for all claims.

273. This action meets all Rule 23(a) prerequisites for maintaining a class action.

274. The class is so numerous that joinder of all members is impracticable. *See* Fed. R. Civ. P. 23(a)(1). Between approximately September 9 to 24, 2021, at least 15,000 migrants, the vast majority of whom were Haitian or Black and seeking asylum in the United States, arrived at the U.S. border and were detained in the CBP Encampment near the Del Rio Port of Entry. DHS Defendants used the Title 42 Process to expel at least 10,000 asylum seekers in the encampment.

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<sup>45</sup> As used in the proposed class definition, "asylum" and "asylum process" are understood to encompass the statutory and regulatory processes by which any non-citizen may seek all relevant forms of non-refoulement relief available under U.S. immigration laws, including asylum, withholding of removal, and relief under the Convention Against Torture. *See* 8 U.S.C. §§ 1158, 1231, 1231 note.

to Haiti or Mexico. Each of these individuals was deprived of access to the U.S. asylum process by Defendants' Title 42 Process and the Haitian Deterrence Policy. Joinder is made further impracticable because class members expelled to Haiti or Mexico generally do not have stable living conditions.

275. There are questions of law and fact that are common to the class. See Fed. R. Civ. P. 23(a)(2). Class members allege common harms resulting from adoption and application of Defendants' Title 42 Process and the Haitian Deterrence Policy: all class members were seeking access to the U.S. asylum process, processed in the field pursuant to the CBP Campo Merito, deprived of basic necessities in the CBP Encampment, expelled to Haiti or Mexico, and denied legal rights, including their right to access the U.S. asylum process.

276. All class members assert the same legal claims. These claims raise numerous questions of fact and law common to all class members, including: whether Defendants are engaged in the conduct alleged herein; whether class members are treated differently from similarly situated asylum seekers based on class members' race or nationality in violation of the Fifth Amendment; whether the application of the Title 42 Process and Haitian Deterrence Policy to class members is motivated by discriminatory intent on the basis of race or national origin, in violation of the Fifth Amendment; whether class members are deprived of their substantive and procedural due process rights under the Fifth Amendment by Defendants' Title 42 Process and Haitian Deterrence Policy; whether Defendants fail to consider important issues, including the right to non-refoulement and the danger to human life and welfare resulting from field processing asylum seekers, when issuing and implementing the Title 42 Process and Haitian Deterrence Policy; whether Defendants fail to consider important issues or consider improper factors when applying the Title 42 Process and Haitian Deterrence Policy to class members; whether 42 U.S.C. § 265 authorizes the summary expulsion of asylum seekers; whether the Title 42 Process applied to class members conflicts with the INA; whether the Title 42 Process applied to class members conflicts with FARRA; whether the summary expulsion of class members pursuant to the Title 42 Process violates the United States' non-refoulement obligations under the INA; whether class

members suffer harm as a result of Defendants' conduct; and whether class members are entitled to equitable and declaratory relief. These shared common facts will ensure that judicial findings regarding the legality of the challenged practices will be the same for all class members.

277. Individual Plaintiffs' claims are typical of the class's claims. See Fed. R. Civ. P. 23(a)(3). Individual Plaintiffs and class members raise common legal claims and are united in their interest and injury. All Individual Plaintiffs, like class members, are Haitians who crossed the U.S. border at Del Rio to seek asylum and were deprived of access to the U.S. asylum process by Defendants' actions. Like class members, Individual Plaintiffs were subjected to Defendants' Title 42 Process and the Haitian Deterrence Policy; they were processed in the field pursuant to the CBP Campo Memo, subjected to dire conditions and abuse in the CBP Encampment, and expelled to Haiti or Mexico without the opportunity to apply for asylum.

278. Individual Plaintiffs are also adequate representatives of the class. See Fed. R. Civ. P. 23(a)(4). Individual Plaintiffs and all class members share a common interest in ensuring that they are permitted to seek asylum under U.S. immigration laws without having their constitutional or statutory rights violated by Defendants. Individual Plaintiffs also seek the same relief as the members of the class they represent. Individual Plaintiffs and class members seek, among other things, an order: (1) declaring that the application of Defendants' Title 42 Process and Haitian Deterrence Policy to detain, process, and expel class members is unlawful and violates class members' constitutional and statutory rights, (2) enjoining the continued application of these policies to class members, and (3) enjoining Defendants to return unlawfully expelled class members to the United States so they can meaningfully access the U.S. asylum process. Individual Plaintiffs have no interest that is now or may be antagonistic to the interests of the class and they will fairly and adequately protect the interests of class members as they defend their own rights.

279. Individual Plaintiffs are represented by attorneys from Justice Action Center, Innovation Law Lab, and Haitian Bridge Alliance. Counsel have demonstrated a commitment to protecting the rights and interests of noncitizens and, together, have considerable experience representing immigrants in complex and class action litigation in federal court aimed at systemic

government misconduct.

280. The class likewise meets the requirements to be certified under Rule 23(b).

281. The class may be certified under Rule 23(b)(1) because prosecution of separate actions by individual class members would create the risk of inconsistent or varying adjudications and would create incompatible standards of conduct for Defendants.

282. The class may also be certified under Rule 23(b)(2). Defendants have acted, have threatened to act, and will act on grounds generally applicable to the class by subjecting them to the unlawful application of the Title 42 Process and the Haitian Deterrence Policy, including field processing under the CBP Capio Memo, expulsion to Haiti and Mexico, and obstruction of access to the U.S. asylum process. Given Defendants' common treatment of class members, final injunctive and declaratory relief is appropriate as to the class as a whole.

#### CAUSES OF ACTION

##### FIRST CLAIM FOR RELIEF

##### **Violation of the Due Process Clause of the Fifth Amendment (Equal Protection)**

##### *All Plaintiffs Against President Biden and DHS Defendants*

283. Plaintiff's reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

284. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from denying to any person equal protection of the laws. U.S. Const. Amend. V.

285. The Due Process Clause applies to all "persons" on United States soil and thus applied to Individual Plaintiffs and similarly situated individuals during the period they were subjected to the Title 42 Process in the United States, including field processing pursuant to the CBP Capio Memo, as well as Defendants' Haitian Deterrence Policy.

286. Defendants' Title 42 Process and Haitian Deterrence Policy were implemented against Individual Plaintiff and similarly situated individuals without regard for their health, welfare, humanitarian needs, or statutory rights. The implementation of these policies resulted in

their deprivation of basic necessities such as food, water, shelter, and medical care; the imposition of physical and psychological abuse; and the use of threats, violence, and racial slurs.

287. The adoption and implementation of the Title 42 Process and Haitian Deterrence Policy against Individual Plaintiffs and similarly situated individuals by President Biden, his staff, DHS Defendants, and DHS personnel departed from standard procedures and was motivated at least in part by discriminatory purpose based on race and presumed national origin.

288. Discrimination on the basis of race or presumed national origin in the treatment of migrants in the United States is not necessary to fulfill a compelling government interest.

289. There is a substantial risk that Individual Plaintiffs will again be subject to discriminatory treatment based on race and presumed national origin as a result of President Biden and DHS Defendants' adoption and implementation of the Title 42 Process and Haitian Deterrence Policy.

290. Defendants' conduct has impaired Haitian Bridge's programming and forced Haitian Bridge to divert resources to assist the thousands of Haitian asylum seekers harmed by Defendants' conduct.

291. Defendants' violations of the Due Process Clause cause ongoing harm to Plaintiffs.

### **SECOND CLAIM FOR RELIEF**

**Violation of the Due Process Clause of the Fifth Amendment (Substantive Due Process)**

***All Plaintiffs Against President Biden and DHS Defendants***

292. Plaintiffs reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

293. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from engaging in conduct that shocks the conscience or interferes with rights implicit in the concept of ordered liberty. See U.S. Const. Amend. V.

294. The Due Process Clause applies to all "persons" on United States soil and thus applied to Individual Plaintiffs during the period in which they were subject to the Title 42 Process in the United States, including field processing pursuant to the CBP Capio Memo, as well as

**Defendants' Haitian Deterrence Policy.**

295. The conduct of President Biden, his staff, DHS Defendants, and DHS personnel staff in adopting and enforcing the Haitian Deterrence Policy against Individual Plaintiffs, including enforcing the Title 42 Process in Del Rio in a manner indifferent to humanitarian concerns, expelling thousands of Haitian asylum seekers as quickly as possible, and taking steps to shield such actions from accountability, was gravely unfair and so egregious and outrageous that it may fairly be said to shock the conscience.

296. DHS Defendants and President Biden therefore have violated Individual Plaintiffs' substantive due process rights.

297. There is a substantial risk that Individual Plaintiffs and similarly situated individuals will again be subject to abusive and unconscionable treatment enabled by DHS Defendants and President Biden, including in connection with Defendants' ongoing Title 42 Process and Haitian Deterrence Policy.

298. Defendants' conduct has impaired Haitian Bridge's programming and forced Haitian Bridge to divert resources to assist the thousands of Haitian asylum seekers harmed by Defendants' conduct.

299. Defendants' violations of the Due Process Clause cause ongoing harm to Plaintiff's.

**THIRD CLAIM FOR RELIEF**

**Violation of the Due Process Clause of the Fifth Amendment (Special Relationship)**

***All Plaintiffs Against DHS Defendants***

300. Plaintiffs reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

301. Under the Fifth Amendment to the U.S. Constitution, Defendants have an affirmative duty to provide for an individual's basic human needs when they "take[] that person into [their] custody and hold[] him there against his will," thereby creating a "special relationship" with that individual. *DeShaney v. Winnebago Cnty. Socy.*, 489 U.S. 189, 199-200 (1989). When



the government “so restrains an individual’s liberty that it renders him unable to care for himself,” it assumes responsibility for that individual’s safety and well-being. *Id.*

302. When the government has a special relationship with an individual, “governmental “deliberate indifference” will shock the conscience sufficiently” to establish a substantive due process violation.” *Harvey v. D.C.*, 798 F.3d 1042, 1050 (D.C. Cir. 2015).

303. Through their processing of Individual Plaintiffs at the CBP Encampment pursuant to the CBP Capio Memo and the Haitian Deterrence Policy, DHS Defendants and DHS personnel created a “special relationship” with Individual Plaintiffs by restraining their liberty, keeping them in DHS Defendants’ custody, and rendering them unable to care for themselves. DHS Defendants therefore owed Individual Plaintiffs a heightened duty of care and protection.

304. By depriving Individual Plaintiffs in their custody of basic human needs such as adequate food, water, shelter, and medical care, as well as of the ability to act on their own behalf to meet these needs themselves, DHS Defendants and DHS personnel have acted with deliberate indifference to Plaintiffs’ basic human needs and engaged in “so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience.” *Sacramento v. Lewis*, 523 U.S. 833, 847 n.8 (1998). The conditions in the CBP Encampment were not reasonably related to a legitimate goal and therefore unconstitutional.

305. DHS Defendants therefore have violated Individual Plaintiffs’ substantive due process rights.

306. There is a substantial risk that Individual Plaintiffs will again be subject to abusive and unconscionable treatment in DHS Defendants’ custody, including in connection with DHS Defendants’ ongoing enforcement of the Title 42 Process and Haitian Deterrence Policy.

307. DHS Defendants’ conduct has impaired Haitian Bridge’s programming and forced Haitian Bridge to divert resources away from its programs to assist the thousands of Haitian asylum seekers harmed by Defendants’ conduct.

308. DHS Defendants’ violations of the Due Process Clause cause ongoing harm to

Plaintiffs.

**FOURTH CLAIM FOR RELIEF**

**Violation of the Due Process Clause of the Fifth Amendment (Procedural Due Process)  
*All Plaintiffs Against All Defendants***

309. Plaintiffs reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

310. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V.

311. Congress has guaranteed asylum seekers, including Individual Plaintiffs, a protected interest in applying for asylum, withholding of removal, and relief under the Convention Against Torture, and in not being removed to countries where they face danger, persecution, and potential loss of life. *See* 8 U.S.C. §§ 1158, 1231.

312. Individual Plaintiffs are thus entitled under the Due Process Clause of the Fifth Amendment to a meaningful opportunity to establish their potential eligibility for asylum and access other forms of relief from removal.

313. By denying Individual Plaintiffs access to the asylum process and access to other relief from removal, Defendants’ conduct violates procedural due process.

314. Further, Defendants have adopted and implemented the Title 42 Process and Haitian Deterrence Policy without adequate safeguards against expulsions of asylum seekers to countries where it is more likely than not that the asylum seeker will face persecution.

315. As a result of Defendants’ conduct, Individual Plaintiffs have been harmed by the denial of their access to the asylum process. Individual Plaintiffs have also been harmed by being expelled to Haiti or Mexico where they face danger.

316. Defendants’ conduct has impaired Haitian Bridge’s programming and forced Haitian Bridge to divert resources away from its programs to assist the thousands of Haitian asylum seekers harmed by Defendants’ conduct.

317. Defendants' violations of the Due Process Clause cause ongoing harm to Plaintiffs.

**FIFTH CLAIM FOR RELIEF**

**Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)  
Not in Accordance with Law and in Excess of Statutory Authority 42 U.S.C. § 265, 8 U.S.C.  
§§ 1158, 1231 (Title 42 Process)  
*All Plaintiffs Against All Defendants Other Than President Biden***

318. Plaintiffs reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

319. Under the APA, a court "shall . . . hold unlawful and set aside agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

320. The Title 42 Process must be set aside because Defendants' issuance, administration, and application of the Title 42 Process is "not in accordance with law," "contrary to constitutional right," "in excess of statutory . . . authority," and "without observance of procedure required by law" in at least the following ways:

**Contrary to the Public Health Service Act, 42 U.S.C. § 265.**

321. Defendants have relied on Title 42 of the U.S. Code, specifically Section 265, for the purported authority to issue, administer, and apply the public health orders, regulations, and memoranda underlying the Title 42 Process.

322. Title 42 of the U.S. Code and Section 265 are public health statutes and do not authorize Defendants to deny asylum seekers an opportunity to access statutory and procedural protections afforded under U.S. law, including the INA. See 8 U.S.C. §§ 1158, 1231.

323. Title 42 of the U.S. Code and Section 265 likewise do not authorize Defendants to expel asylum seekers from the United States or to deny asylum seekers an opportunity to access statutory and procedural protections to non-refoulement under U.S. law, including the INA.

324. Defendants have applied the Title 42 Process to expel Haitian asylum seekers in Del Rio, including Individual Plaintiffs, from the United States without affording them an

opportunity to access statutory and procedural protections under U.S. law.

**Contrary to the Immigration and Nationality Act, 8 U.S.C. § 1158 (Asylum).**

325. The INA provides that any noncitizen “who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival . . .), irrespective of such [noncitizen’s] status, may apply for asylum . . .” 8 U.S.C. § 1158(a)(1).

326. Defendants have applied the Title 42 Process to prevent Haitian asylum seekers in Del Rio, including Individual Plaintiffs, from applying for asylum or otherwise accessing the statutory and procedural protections for asylum seekers under the INA and applicable U.S. law.

**Contrary to the Immigration and Nationality Act, 8 U.S.C. § 1231 (Withholding of Removal).**

327. The international law principle of non-refoulement provides that a country has an obligation to not expel or return an individual to a country where they have a well-founded fear of persecution or serious harm.

328. The INA’s withholding of removal provision codifies the United States’ duty of non-refoulement. Under the INA, the United States may not remove an individual to a country where it is more likely than not that the individual’s “life or freedom would be threatened in that country because of [their] race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A).

329. Defendants have applied the Title 42 Process to prevent Haitian asylum seekers in Del Rio, including Individual Plaintiffs, from accessing their substantive rights and any process for requesting withholding of removal under the INA and applicable U.S. law, and to expel Individual Plaintiffs without access to this mandatory safeguard. Further, Defendants have adopted and implemented the Title 42 Process without adequate safeguards against expulsions of asylum seekers to countries where it is more likely than not that they will face persecution.

**Contrary to the Foreign Affairs Reform and Restructuring Act of 1998, 8 U.S.C. § 1231 Note (Convention Against Torture).**

330. The Foreign Affairs Reform and Restructuring Act of 1998 implements the United States’ non-refoulement duties set forth in Article 3 of the Convention Against Torture. In relevant

part, FARRA prohibits the United States from expelling an individual to a country where it is more likely than not that they will be in danger of being tortured. See 8 U.S.C. § 1231 note.

331. Defendants have applied the Title 42 Process to prevent Haitian asylum seekers in Del Rio, including Individual Plaintiffs, from meaningfully accessing withholding of removal under FARRA. Further, Defendants have adopted and implemented the Title 42 Process without adequate safeguards against expulsions of asylum seekers to countries where it is more likely than not that the asylum seeker will face torture. Defendants have applied the Title 42 Process to expel asylum seekers, including Individual Plaintiffs, without access to this mandatory safeguard.

***Ultra Vires and Contrary to the Immigration and Nationality Act, 8 U.S.C. §§ 1225, 1229a (Removal of Noncitizens).***

332. Congress created the exclusive means for removing a noncitizen from the United States in the INA.

333. As a general matter, removal proceedings before an immigration judge are the “sole and exclusive procedure” for determining whether an individual may be removed from the United States. 8 U.S.C. §§ 1229a(a)(3). These proceedings include mandatory safeguards for noncitizens who fear removal. *Id.*

334. Defendants have implemented the Title 42 Process as a means of removing noncitizens that is not set forth in or subject to the INA. Defendants purport to apply the Title 42 Process outside of U.S. immigration laws and the sole Congressionally authorized procedures for removal set forth in the INA.

335. Defendants have applied the Title 42 Process to expel Haitian asylum seekers in Del Rio, including Individual Plaintiffs, from the United States without allowing them to access the statutory and procedural protections relating to the removal of noncitizens under the INA and applicable U.S. law.

\* \* \*

336. For each of these reasons, Defendants’ application of the Title 42 Process to Individual Plaintiffs is *ultra vires* and contrary to law.

337. Defendants' issuance, administration, and application of the Title 42 Process constitute final agency action within the meaning of the APA.

338. Defendants' actions have caused, and will continue to cause, ongoing harm to Plaintiffs. Among other things, Defendants' application of the Title 42 Process to Individual Plaintiffs has harmed them by denying them a meaningful opportunity to apply for asylum and other relief as required by U.S. law and to access procedural protections to which they and other asylum seekers are entitled under the INA, FARRA, and other applicable U.S. law.

339. Defendants' application of the Title 42 Process to Haitian and presumed Haitian asylum seekers, including Individual Plaintiffs, also harms Haitian Bridge by impairing its programming and forcing it to divert resources away from its programs to assist the thousands of Haitian asylum seekers harmed by Defendants' conduct.

340. Plaintiffs, who have no adequate remedy at law, seek immediate review under the APA and declaratory and injunctive relief restraining Defendants from continuing to implement the Title 42 Process against Individual Plaintiffs and similarly situated Haitian asylum seekers.

#### **SIXTH CLAIM FOR RELIEF**

**Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)**

**Arbitrary and Capricious Agency Action (Title 42 Process)**

***All Plaintiffs Against All Defendants Other than President Biden***

341. Plaintiffs reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

342. Under the APA, a court "shall . . . hold unlawful and set aside agency action" that is "arbitrary [and] capricious." 5 U.S.C. § 706(2)(A).

343. Agency action is arbitrary and capricious where the agency "relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Affrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

344. Defendants' issuance, administration, and application of the Title 42 Process to Individual Plaintiff's and similarly situated asylum seekers is arbitrary and capricious, *see* 5 U.S.C. § 706(2)(A), in at least the following ways.

345. Defendants have not provided a reasoned explanation for their decision to apply the Title 42 Process to Haitian asylum seekers in Del Rio, including Individual Plaintiff's, and to expel such asylum seekers from the United States.

346. Defendants relied on improper considerations and factors Congress did not intend to be considered, including the use of a purported public health measure to deter immigration and restrict access to statutory and procedural protections guaranteed under U.S. immigration laws.

347. Defendants have entirely failed to consider important aspects of the problem when applying the Title 42 Process to Individual Plaintiff's. Among other factors, Defendants have failed to consider asylum seekers' fear of persecution or torture in the country to which they will be expelled; humanitarian exceptions to the Title 42 Process as provided for in the CDC Order; that their implementation of the Title 42 Process continues to place asylum seekers in congregate settings, contradicting its stated purpose; and the opinions of scientific experts that the Title 42 Process does not advance public health and in fact actually undermines public health.

348. Defendants also have failed to consider reasonable, less restrictive alternatives to applying the Title 42 Process to Individual Plaintiff's and Haitian asylum seekers in Del Rio. Among other alternatives, Defendants did not consider providing widely available COVID-19 testing or vaccinations to asylum seekers.

349. Defendants have also offered an explanation public health that runs counter to the evidence before the agency, as Defendants' own experts have warned that the Title 42 Process undermines public health.

350. Defendants' public health rationale is a pretextual means of restricting immigration and therefore is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

351. Defendants' issuance, administration, and application of the Title 42 Process

constitute final agency action within the meaning of the APA.

352. Defendants' actions have caused, and will continue to cause, ongoing harm to Plaintiffs. Among other things, Defendants' application of the Title 42 Process to Individual Plaintiffs has harmed them by denying them a meaningful opportunity to apply for asylum and other relief as required by U.S. law and to access procedural protections to which they and other asylum seekers are entitled under the INA, FARRA, and other applicable U.S. law.

353. Defendants' application of the Title 42 Process to Haitian and presumed Haitian asylum seekers, including Individual Plaintiffs, also harms Haitian Bridge by impairing its programming and forcing it to divert resources away from its programs to assist the thousands of Haitian asylum seekers harmed by Defendants' conduct.

354. Plaintiffs, who have no adequate remedy at law, seek immediate review under the APA and declaratory and injunctive relief restraining Defendants from continuing to implement the Title 42 Process against Individual Plaintiffs and similarly situated Haitian asylum seekers.

#### **SEVENTH CLAIM FOR RELIEF**

##### **Violation of the Administrative Procedure Act, 5 U.S.C. § 706(1) Unlawfully Withheld or Unreasonably Delayed Agency Action *All Plaintiffs Against Defendants CBP and ICE***

355. Plaintiffs reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

356. The APA provides that a court "shall compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).

357. CBP officers have failed to take numerous discrete agency actions in connection with Defendant CBP's issuance, administration, and application of the Title 42 Process and implementation of the Haitian Deterrence Policy. Defendant CBP has unlawfully withheld or unreasonably delayed required agency action in at least the following ways:

##### **Inspection and Asylum Referral Process**

358. CBP officers have a discrete, mandatory duty to inspect all noncitizens and if "the



[noncitizen] indicates either an intention to apply for asylum . . . or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer.” 8 U.S.C. §§ 1225(a)(3), (b)(1)(A)(i)-(ii); 8 C.F.R. § 235.3(b)(4).

359. CBP officers have failed to inspect Individual Plaintiffs and similarly situated Haitian and presumed Haitian asylum seekers in Del Rio. CBP and ICE personnel have also failed to refer Individual Plaintiffs and similarly situated asylum seekers in Del Rio for asylum interviews.

360. By refusing to allow asylum seekers, including Individual Plaintiffs, a meaningful opportunity to apply for asylum or to access any statutory and procedural protections afforded under the INA and applicable U.S. law to which they are entitled, Defendant CBP has unlawfully withheld and unreasonably delayed discrete agency actions mandated by statute.

#### **Withholding of Removal**

361. The INA and FARRA prohibit the United States from removing an individual to a country where it is more likely than not that they will face persecution or torture. *See* 8 U.S.C. § 1231(b)(3), note.

362. CBP officers have a discrete, mandatory duty to follow the procedures required by 8 U.S.C. § 1231(b)(3) and FARRA, *see* 8 U.S.C. § 1231 note, to determine whether a noncitizen faces a risk of persecution or torture and is therefore entitled to withholding of removal after full removal proceedings.

363. By refusing to follow those procedures, and thus refusing to allow asylum seekers, including Individual Plaintiffs, meaningful access to procedural protections mandated under the INA and FARRA withholding of removal provisions to which they are entitled, Defendant CBP has unlawfully withheld and unreasonably delayed discrete agency actions mandated by statute.

#### **Removal under the INA**

364. The INA sets forth the only processes established by Congress to remove noncitizens from the United States. *See* 8 U.S.C. §§ 1225(b)(1), 1229a; *see generally* 8 U.S.C. § 1101, *et seq.*

365. To the extent Defendants seek to remove asylum seekers, including Individual Plaintiffs, from the United States, CBP and ICE officers have a discrete, mandatory obligation to follow the statutory and procedural protections relating to the removal of noncitizens under the INA and applicable U.S. law.

366. By refusing to follow the removal procedures set forth in the INA, *see* 8 U.S.C. §§ 1225(b)(1); 1229, and therefore refusing to allow asylum seekers, including Individual Plaintiffs, meaningful access to statutory and procedural protections relating to the removal of noncitizens mandated by the INA to which they are entitled, Defendants CBP and ICE have unlawfully withheld and unreasonably delayed discrete agency actions mandated by statute.

\* \* \*

367. CBP and ICE's failure to act as required by law, including the INA, FARRA, and other applicable U.S. law, is final agency action within the meaning of the APA.

368. CBP and ICE's failure to act as required by law has caused, and will continue to cause, ongoing harm to Plaintiffs. Among other things, Defendants CBP and ICE's failure to act as required by law has harmed Individual Plaintiffs by denying them a meaningful opportunity to apply for asylum and other relief as required under U.S. law and an opportunity to access procedural protections to which they and other asylum seekers are entitled under the INA, FARRA, and other applicable U.S. law.

369. CBP and ICE's failure to act also harms Haitian Bridge, which must divert resources away from its programs to assist the thousands of Haitian asylum seekers harmed by CBP and ICE's conduct.

370. Plaintiffs have no adequate alternative to review under the APA and thus seek review and an order compelling Defendants to take actions required by the INA, FARRA, and other applicable U.S. law pursuant to 5 U.S.C. § 706(1).

**EIGHTH CLAIM FOR RELIEF**

**Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)  
Arbitrary and Capricious, An Abuse of Discretion, Not in Accordance with Law and In  
Excess of Statutory Authority 8 U.S.C. §§ 1158, 1231 (Haitian Deterrence Policy)  
*All Plaintiffs Against DHS Defendants***

371. Plaintiffs reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

372. DHS Defendants' Haitian Deterrence Policy subjects Individual Plaintiffs and similarly situated individuals to gross abuses, including the denial of basic human needs, dignity in government detention, access to counsel and to the asylum process, and the right to non-refoulement, in an effort to deter Haitian asylum seekers from coming to the United States.

373. DHS Defendants' issuance, administration, and application of the Haitian Deterrence Policy is arbitrary and capricious because DHS Defendants have failed to consider or factor in Plaintiffs' humanitarian needs or right to access the U.S. asylum process and to access counsel when seeking asylum in the United States; failed to articulate a reasoned explanation for the decision to deny Individual Plaintiffs and similarly situated individuals these rights; and provided an explanation so implausible that it could not be ascribed to agency expertise.

374. The Haitian Deterrence Policy is further arbitrary and capricious because in its adoption and implementation, DHS Defendants considered factors that Congress did not intend for them to consider when engaging with and intercepting asylum seekers.

375. Additionally, by adopting and implementing the Haitian Deterrence Policy, DHS Defendants have acted in a manner not in accordance with law, contrary to constitutional right, in excess of their statutorily prescribed authority, and without observance of procedure required by law in violation of section 706(2) of the APA. *See* 5 U.S.C. §§ 706(2)(A)-(D).

376. By adopting and implementing a policy that contravenes the right to apply for asylum and the right to non-refoulement enshrined in the INA, DHS Defendants act not in accordance with law. *See* 8 U.S.C. §§ 1158, 1231.

377. By adopting and implementing a policy that departs from standard procedures and was motivated at least in part by discriminatory purpose based on race and presumed national

origin, DHS Defendants also act contrary to constitutional right. See U.S. Const. Amend. V.

378. DHS Defendants' adoption and implementation of the Haitian Deterrence Policy constitute final agency action within the meaning of the APA.

379. DHS Defendants' actions have caused, and will continue to cause, ongoing harm to Plaintiffs. Among other things, DHS Defendants' application of the Haitian Deterrence Policy to Individual Plaintiffs has harmed them by denying them a meaningful opportunity to apply for asylum and other relief as required by U.S. law and to access procedural protections to which they and other asylum seekers are entitled under the INA, FARRA, and other applicable U.S. law.

380. DHS Defendants' application of the Haitian Deterrence Policy to Haitian and presumed Haitian asylum seekers, including Individual Plaintiffs, also harms Haitian Bridge by impairing its programming and forcing it to divert resources away from its programs to assist the thousands of Haitian asylum seekers harmed by DHS Defendants' conduct.

381. Plaintiffs, who have no adequate remedy at law, seek immediate review under the APA and declaratory and injunctive relief restraining DHS Defendants from continuing to implement the Haitian Deterrence Policy against Individual Plaintiffs and similarly situated Haitian asylum seekers.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for the following relief:

a. An order certifying a class, pursuant to Federal Rules of Civil Procedure 23(b)(1) and (b)(2), of all Haitian, or presumed Haitian, individuals who (1) sought access to the U.S. asylum process in or around the CBP Encampment near the Del Rio Port of Entry between September 9 and 24, 2021 and (2) were denied access to the U.S. asylum process;

b. An order appointing the undersigned as class counsel;

c. An order declaring unlawful the Title 42 Process as applied to Individual Plaintiffs and class members;

d. An order declaring unlawful the Haitian Deterrence Policy as applied to Individual

Plaintiffs and class members;

e. An order declaring that Defendants' application of the Title 42 Process and the Haitian Deterrence Policy alleged herein deprives Plaintiffs and class members of their Fifth Amendment rights;

f. An order enjoining Defendants from applying the Title 42 Process to Individual Plaintiffs and class members;

g. An order enjoining Defendants from applying the Haitian Deterrence Policy to Plaintiffs and class members;

h. An order staying further expulsions of Individual Plaintiffs and class members under the Title 42 Process, removing them from the Title 42 Process, and affording them the statutory and procedural protections to which they are eligible under the U.S. asylum process and applicable laws, including access to asylum and withholding of removal under the INA and CAT withholding of removal under FARRA;

i. An order allowing each of the Individual Plaintiffs and class members to return to the United States and requiring Defendants to facilitate return, with appropriate precautionary health measures, so that Individual Plaintiffs may pursue their asylum claims in the United States;

j. An order awarding Plaintiffs their costs of suit and reasonable attorneys' fees and expenses pursuant to any applicable statute or regulation; and

k. An order granting such further relief as the Court deems just, equitable, and proper.

DATED: December 20, 2021

Respectfully submitted,

*/s/ Karen C. Tunlin*

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**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 9**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 006</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 22, 2021, Special Agents (SA) [REDACTED] and [REDACTED] CBP OPR Del Rio, conducted a witness interview of BPA [REDACTED]</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 27-SEP-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 27-SEP-2021</p>	<p><b>15. TELEPHONE NUMBER</b> No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		



## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

006

**10. NARRATIVE**

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 22, 2021, Special Agents (SA) [REDACTED] and [REDACTED], CBP OPR Del Rio, conducted a witness interview of BPA [REDACTED]. The interview was audio and video recorded using the StarWitness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 1). The time was Coordinated Universal Time, (UTC) 19:32:44 through UTC 19:48:05.

During the interview, BPA [REDACTED] stated he worked on Sunday 19, 2021, from approximately [REDACTED] to [REDACTED]. BPA [REDACTED] stated he and his partner, BPA [REDACTED], Comstock Station, were assigned to work near and around the Del Rio POE and assist with the influx of migrants. BPA [REDACTED] stated he and BPA [REDACTED] arrived at the Del Rio POE at between 7:30 AM and 8:00 AM. BPA [REDACTED] stated they did not receive any type of instructions, any specific missions or task from management or the Incident Command Center. BPA [REDACTED] stated when the crisis began, they were instructed they would be assigned to the Del Rio POE area and to assist where they were needed (timestamp 16:19:47).

BPA [REDACTED] stated Carrizo Springs HPU BPAs arrived to assist them at approximately 9:30 AM. BPA [REDACTED] stated he and BPA [REDACTED] met up with eleven Carrizo Springs HPU BPAs including two Supervisory Border Patrol Agents (SBPAs) near the middle of the camp, where migrants were being held. BPA [REDACTED] identified two of the Carrizo Springs HPU BPAs as BPA [REDACTED] and BPA [REDACTED].

SA [REDACTED] asked BPA [REDACTED] if he was aware of any operation that would be conducted which the HPU would assist with, or if BPA [REDACTED] received any direct instructions from the Command Center or the two HPU SBPAs (timestamp 16:25:12). BPA [REDACTED] stated he did not receive direct guidance or instruction from the Incident Command Center or the two HPU SBPAs. BPA [REDACTED] stated they began working around noon, downriver of the Del Rio POE. BPA [REDACTED] stated everyone was working on [REDACTED] radio frequency as instructed. BPA [REDACTED] state [REDACTED] and not recorded. BPA [REDACTED] stated while working near the Boat Ramp, Texas Department of Public

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
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## 1. CASE NUMBER

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## PREPARED BY

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## 10. NARRATIVE

Safety (TXDPS) Troopers (timestamp 16:28:05) advised BPA [REDACTED] they were going to close or shut down the Boat Ramp on the bank of the Rio Grande River where approximately one hundred and fifty migrants were gathered. BPA [REDACTED] asked DPS if they needed assistance, to which DPS replied yes. BPA [REDACTED] stated he then requested more HPU BPAs near the Boat Ramp via radio. When BPA [REDACTED] stated DPS wanted to close the crossing, SA [REDACTED] asked BPA [REDACTED] what that meant. (timestamp 16:30) BPA [REDACTED] stated he took it to mean that DPS was trying to stop the flow of migrants from crossing from Mexico into the United States. BPA [REDACTED] stated DPS had previously shut down and stopped the flow of migrants upriver of the Del Rio POE near the Weir Dam. BPA [REDACTED] stated he was not there when DPS stopped the flow near the Weir Dam and did not know who instructed them to do so. BPA [REDACTED] stated the entire operation was a multi-agency operation in which different agencies were helping each other, but he was uncertain who was directly giving DPS instructions (timestamp 16:31:08).

BPA [REDACTED] stated more HPU BPAs arrived to assist within ten to fifteen minutes. BPA [REDACTED] stated DPS was trying to address the group of migrants, via vehicle PA system, by telling them they would be closing the area and the group of migrants needed to leave but were having trouble due to a language barrier. BPA [REDACTED] stated he offered to address the group of migrants in the Spanish language and DPS said yes. BPA [REDACTED] proceeded to address the group of migrants via microphone in Spanish by telling them "Attention, attention, we're going to close this boat ramp in ten minutes. You guys need to leave or go back to the bridge, you have ten minutes." BPA [REDACTED] stated some of the migrants began to move away (timestamp 16:33:21).

BPA [REDACTED] stated he then got back on his horse and waited for the other BPAs. BPA [REDACTED] stated when the other BPAs arrived, he informed them that DPS was seeking assistance to move the crowd back closer to the bridge and the additional BPAs said okay. BPA [REDACTED] stated he then proceeded to instruct the migrants to gather their belongings and start walking toward the Del Rio POE. BPA [REDACTED] stated some of the group listened and began heading towards the Del Rio POE. BPA [REDACTED] stated he noticed [REDACTED] people in the water with cameras and BPA [REDACTED] moved away from the Boat Ramp area. BPA [REDACTED] and BPA [REDACTED] got to higher ground away from the Boat Ramp and continued to guide the migrants to the Del Rio POE. BPA [REDACTED] stated he was not sure what the other BPAs were doing and was uncertain of any conversations the BPAs had with management or the Incident Command Center. BPA [REDACTED] stated during the incident near the Boat Ramp, he heard one of the BPAs ask via radio for guidance from the Incident Command Center at least three times to no avail (timestamp 16:36:59). BPA [REDACTED] stated he did not see any BPAs force migrants back into the Rio Grande River, he did not see any migrants being mistreated, and he did not see any BPAs use excessive force.

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## PREPARED BY

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## 10. NARRATIVE

BPA [REDACTED] was shown video 2 of the incident on September 19, 2021, near the Boat Ramp. BPA [REDACTED] stated he could tell the BPAs in the video were from Carrizo Springs Station based on the chaps they were wearing. BPA [REDACTED] was asked what the BPA had in his hands and BPA [REDACTED] stated the BPA was holding the reins which control the horse. BPA [REDACTED] was asked if he saw the BPA twirl his reins and why the BPA would twirl his reins in that manner.

BPA [REDACTED] stated he could see the BPA twirl his reins in the video shown and explained that a BPA would do so to signal the horse to maneuver or to direct a horse. In the video shown, BPA [REDACTED] explained that if a BPA twirled the reins with his right hand, it could queue the horse to move left. When showed the video again, BPA [REDACTED] pointed out that the horse reacted as he would expect (timestamp 16:43:40). BPA [REDACTED] stated he was not an expert, but the action was consistent with his experience. BPA [REDACTED] was asked if BPAs were taught to twirl their reins during the Basic Horse Patrol Training course and BPA [REDACTED] stated he was not taught that during his training but could not speak for others. BPA [REDACTED] stated he recognized BPA [REDACTED] who was riding on a palomino horse.

BPA [REDACTED] was shown video 1 and stated he did not hear any vulgar language or derogatory comments made to any of the migrants while the incident occurred (timestamp 16:45:45). BPA [REDACTED] stated he did not know the name of the BPA using derogatory and vulgar language. BPA [REDACTED] pointed out a large group of migrants and stated that was how the boat ramp area looked when he and the HPU arrived (timestamp 16:48:35). BPA [REDACTED] was shown various open source photos. BPA [REDACTED] identified the Boat Ramp and said it was made of cement. SA [REDACTED] asked BPA [REDACTED] if the edge of the Boat Ramp near the water's edge was slippery, and BPA [REDACTED] responded by saying yes it was slippery for the horses and could be if on foot. BPA [REDACTED] stated he believed several pictures depicted a BPA trying to keep people from crossing into the United States. BPA [REDACTED] was shown photo 3 and stated it was not part of Horse Patrol training to grab a subject by the shirt. BPA [REDACTED] states BPAs are trained to stay on the horse as much as possible for the safety of officers as well as migrants. BPA [REDACTED] was asked what a BPA could do if a migrant got too close to their horse and if there was any circumstance where a BPA would grab a migrant from the horse. BPA [REDACTED] stated they could twirl their reins to keep someone back or use commands. SA [REDACTED] asked BPA [REDACTED] if the twirling of the reins could be used to hit a migrant and BPA [REDACTED] stated no, it was utilized to keep distance from a subject for safety reasons. BPA [REDACTED] stated BPAs used split reins and described that a few extra feet of rein hang to each side and described when a horse was moving fast, those extra feet of rein would be moving and swinging freely (timestamp 17:13:28).

When shown Dossier 6, BPA [REDACTED] identified himself and BPA [REDACTED] and stated they were

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
CONTINUATION

1. CASE NUMBER

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PREPARED BY

[REDACTED]

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006

10. NARRATIVE

directing migrants towards the Del Rio POE (timestamp 17:19:14). BPA [REDACTED] stated he only recognized himself, BPA [REDACTED] BPA [REDACTED] and BPA [REDACTED]

BPA [REDACTED] was shown photo 1 (timestamp 17:30:50). BPA [REDACTED] was able to identify the Del Rio POE bridge, the Rio Grande River, and the Boat Ramp. (timestamp 17:32:13) SA [REDACTED] asked BPA [REDACTED] if there was any circumstance where a BPA could use force to force someone back into the water. BPA [REDACTED] stated "no" and also stated a BPA could not use the threat of force. BPA [REDACTED] stated BPAs could use the show of force to deter migrants from crossing.

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
Exhibit List

1. CASE NUMBER

202112280

PREPARED BY

[REDACTED]

2. REPORT NUMBER

006

None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 10**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 015</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of Border Patrol Agent (BPA) [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp" approximately three to four tenths of a miles east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 22, 2021, OPR Special Agent (SA) [REDACTED] and SA [REDACTED] conducted a witness interview of Border Patrol Agent (BPA) [REDACTED]. The interview was audio and video recorded using Star Witness equipment and uniquely identified using Authentication Code: [REDACTED]</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 28-SEP-2021</p>	<p>14. ORIGIN OFFICE UFITS Region 1</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 28-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

015

## 10. NARRATIVE

BPA [REDACTED] is currently assigned to the Del Rio Station Horse Patrol Unit (HPU) and is supervised by Supervisory Border Patrol Agent (SBPA) [REDACTED]. On September 19, 2021, BPA [REDACTED] and his partner BPA [REDACTED] began their shift at [REDACTED]. They were instructed by SBPA [REDACTED] to assist with the current surge of migrants occurring near the Del Rio Port of Entry (POE) (timestamp 14:16:59). BPA [REDACTED] and BPA [REDACTED] spent the first part of their shift caring for and feeding the horses. BPA [REDACTED] and BPA [REDACTED] arrived at the POE at approximately 8:45 AM, prior to the Carrizo Springs HPU agents arriving. After unloading the horses from the trailer, BPA [REDACTED] and BPA [REDACTED] began their daily run, which included traveling by the migrant feeding area and portable restrooms to check and see if any assistance was needed. After making their daily run, BPA [REDACTED] and BPA [REDACTED] met with the Carrizo Springs HPU agents. BPA [REDACTED] estimated there were approximately seven Carrizo Springs HPU agents, which included two SBPAs. BPA [REDACTED] was unable to recall the names of the Carrizo Springs HPU agents and was not aware of any official planned operation being conducted (timestamp 14:21:18). BPA [REDACTED] reiterated that his instructions from SBPA [REDACTED] was to assist where needed and to make their presence known.

BPA [REDACTED] confirmed he was near the Boat Ramp between 1:00 PM to 2:30 PM, as his shift ended at [REDACTED]. SA [REDACTED] showed BPA [REDACTED] Video 3 of the incident that occurred on September 19, 2021. BPA [REDACTED] was unable to identify the HPU agents in the video by name but confirmed the agents were from Carrizo Springs based on the chaps they were wearing (timestamp 14:24:16). BPA [REDACTED] was asked about the twirling of the reins by the HPU agent depicted in the video. BPA [REDACTED] explained that although twirling of the reins was not taught in training, he had seen this technique used on multiple occasions to control a horse (timestamp 14:25:55). The twirling of the reins can be utilized to whip a horse to ensure it is compliant with the rider's commands, to help accelerate a horse, to assist in navigating the horse in a specific direction and some riders will just twirl the extra slack in the reins with no specific intensions (timestamp 14:26:16). BPA [REDACTED] stated each horse was different and responded differently to different techniques.

BPA [REDACTED] stated Texas Department of Public Safety (DPS) requested their assistance in clearing out migrants because they intended to shut down the Boat Ramp and indicated more DPS personnel were in route to assist (timestamp 14:30:19). BPA [REDACTED] and BPA [REDACTED] informed the Carrizo Springs HPU agents of DPS's request but was unaware if notification of the anticipated action was made to USBP management (timestamp 14:30:44). BPA [REDACTED] assumed DPS had made the necessary notifications as they were the lead in the action being taken and BPAs were assisting (timestamp 14:31:10). BPA [REDACTED] stated the BPAs were communicating on radio frequency [REDACTED] and recalled some Carrizo Springs



## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

[REDACTED]

## 2. REPORT NUMBER

015

**10. NARRATIVE**

HPU agents were communicating via cellphones for guidance on DPS's request for assistance (timestamp 14:33:41).

BPA [REDACTED] was shown Video 1 depicting the incident at the Boat Ramp. BPA [REDACTED] stated he and BPA [REDACTED] were further upriver at the time depicted in the video. BPA [REDACTED] and BPA [REDACTED] were directing migrants to go back and follow the road back to the POE (timestamp 14:40:23). BPA [REDACTED] recalled seeing one Carrizo Springs HPU agent who had a camera in their possession but was not aware if the agent was recording at the time. BPA [REDACTED] did not witness any of the actions depicted in the video (timestamp 14:41:09).

BPA [REDACTED] was presented photographs 1, 2, 3, and 4. Throughout the pictures presented he could only identify himself, BPA [REDACTED] and BPA [REDACTED] by name.

BPA [REDACTED] stated he had not attended or received training specific to crowd control. BPA [REDACTED] stated they are trained to protect themselves and the horse while addressing a subject. While on horseback it was important to remain in control of your horse and the reins (timestamp 14:49:09). While addressing a subject when mounted on a horse, an agent can dismount to address a subject, but it posed a greater risk for all involved. BPAs were trained to address and take control of a subject without leaving their horse. Although the action of grabbing a subject by the shirt was not trained, BPA [REDACTED] believed this action to gain control of a subject was acceptable and ensure the safety of the agent and the horse (timestamp 14:50:45).

DEPARTMENT OF HOMELAND SECURITY

1. CASE NUMBER

202112280

PREPARED BY

[REDACTED]

2. REPORT NUMBER

015



REPORT OF INVESTIGATION  
Exhibit List

None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 11**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 022</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area known as the "Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE) Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On November 17, 2021, Special Agents (SA) [REDACTED] and [REDACTED], CBP OPR Del Rio, conducted a compelled witness interview of BPA [REDACTED].</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 09-DEC-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 09-DEC-2021</p>	<p><b>15. TELEPHONE NUMBER</b> [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

022

## 10. NARRATIVE

On November 17, 2021, SAs [REDACTED] and [REDACTED] conducted a compelled witness interview of BPA [REDACTED]. BPA [REDACTED] was accompanied by National Border Patrol Council (NBPC) Attorney [REDACTED]. The entirety of the interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code:

[REDACTED]. The time was Coordinated Universal Time, UTC 16:12:51 through UTC 20:01:43.

Prior to the interview, BPA [REDACTED] was provided with his Warning and Assurances to Employee Required to Provide Information and Notice to Appear. At the beginning of the interview, BPA [REDACTED] reviewed copies of the Warnings and Assurance to Employee Required to Provide Information and Notice to Appear, which he previously signed. BPA [REDACTED] identified his signature on the documents and he and NBPC Attorney [REDACTED] stated they had no questions regarding the forms. BPA [REDACTED] was placed under oath prior to the interview.

BPA [REDACTED] stated he did not speak with other CBP employees regarding the allegations stemming from the September 19, 2021, incident involving the Carrizo Springs HPU (Timestamp 00:07:17). When asked if he was assigned to the Del Rio POE area on September 19, 2021, BPA [REDACTED] stated he was assigned to the area but did not make it to the boat ramp as he was assigned to prepare for the upcoming shifts and days by preparing water troughs and necessities for the horses (Timestamp 00:08:29).

BPA [REDACTED] entered on duty with USBP on [REDACTED]. BPA [REDACTED] was most recently assigned to the [REDACTED] HPU in Carrizo Springs since [REDACTED]. BPA [REDACTED] initially served on the HPU in [REDACTED] and has been [REDACTED]. BPA [REDACTED] has attended various advanced trainings since [REDACTED]. BPA [REDACTED] current supervisors are Supervisory Border Patrol Agent (SBPA) [REDACTED] and SBPA [REDACTED]. BPA [REDACTED] explained it was a voluntary and competitive selection process to join the HPU. BPA [REDACTED] was required to submit a memorandum of his prior experience and conduct an assessment ride. BPA [REDACTED] had basic experience prior to joining the HPU. In 2013, HPU became a national program and the basic HPU training transitioned from a two- to three-day training to a [REDACTED] week course. All HPU BPAs were required to attend the [REDACTED] week course to be certified under the national program. BPA [REDACTED] attended the [REDACTED] week course and was certified in [REDACTED] and in [REDACTED]. BPA [REDACTED] was [REDACTED].

BPA [REDACTED] stated the primary functions of the HPU, as related to the USBP Mission, was the same as other BPAs and did not change their authority. BPA [REDACTED] added aside from the USBP

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

022

**10. NARRATIVE**

Mission, the HPU is a specialty unit that assists with public relations events. When asked what options a BPA would have when encountering a non-citizen in the United States, BPA [REDACTED] said the non-citizen would be arrested.

BPA [REDACTED] was asked to explain the overall situation at the Del Rio POE which led to the assignment of the HPU to the area. From what BPA [REDACTED] gathered, there were thousands of migrants gathered near the Del Rio POE and the HPU was requested to be deployed to the Del Rio POE area because an announcement was to be made that the Haitians were going to be returned to their country. On September 18, 2021, SBPA [REDACTED] advised BPA [REDACTED] the HPU was being deployed to the Del Rio POE area for safety and crowd control. When asked who deployed the HPU to the Del Rio POE area, BPA [REDACTED] believed that request would have come from the Chief Patrol Agent of Del Rio Sector.

BPA [REDACTED] began his deployment, with the HPU, to the Del Rio POE area on September 18, 2021, and was advised the HPU would be assigned to the area for at least five days. On September 18, 2021, BPA [REDACTED] shift began at [REDACTED] and ended at [REDACTED]. On September 19, 2021, BPA [REDACTED] shift began at [REDACTED] and he arrived at the Del Rio POE area at approximately noon.

On September 18, 2021, once the HPU arrived at the Del Rio POE area, they attended a briefing with Special Operations Supervisor (SOS) [REDACTED]. SOS [REDACTED] oversaw the Del Rio Sector HPU at the time of the incident (Timestamp 00:29:09). During the briefing, SOS [REDACTED] reiterated the HPU was to provide security and crowd control and advised more information would follow.

When asked if there was a directive given by BP Management for the HPU to "help where needed", BPA [REDACTED] recalled hearing SBPA [REDACTED] or SBPA [REDACTED] advise the HPU to provide security and crowd control and to also help where needed on September 19, 2021 (Timestamp 00:30:27). On September 19, 2021, BPA [REDACTED] was advised of an operation the HPU would assist with. BPA [REDACTED] could not recall who advised him of the operation but stated the HPU would assist in moving migrants from the river to a containment area and the operation would commence at 2 P.M. on September 19, 2021 (Timestamp 00:33:13).

BPA [REDACTED] was asked if he was aware of the allegations made against BPAs in the HPU from an incident at the Del Rio Port of Entry Boat Ramp on September 19, 2021 and he stated there were allegations the HPU BPAs were mistreating people by whipping them.

BPA [REDACTED] stated he did not remember any directives given by management regarding the

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non-citizens accumulating at the boat ramp (Timestamp 00:39:04). However, BPA [REDACTED] did hear a radio transmission requesting the HPU at the boat ramp but did not know who made the request or what time the request was made. BPA [REDACTED] said everyone was operating on radio channel [REDACTED] channels BPA [REDACTED] believed are not recorded. BPA [REDACTED] explained no one was using identifiers when communicating over the radio at the Del Rio POE area. BPA [REDACTED] stated during muster on September 19, 2021, someone in the HPU directly asked BP management if they were going to have any identifiers while working at the Del Rio POE area and they were told they would get more information (Timestamp 00:42:37). BPA [REDACTED] was asked if BPAs use identifiers (star numbers) on a normal/daily basis when communicating via radio and BPA [REDACTED] said yes and believed it is in policy for BPAs to identify themselves using star numbers when communicating via radio.

BPA [REDACTED] was not advised by BP management if the migrants under the bridge were in custody. BPA [REDACTED] was told by Del Rio HPU BPAs the migrants were being allowed to travel back and forth from Mexico (Timestamp 00:45:40). BPA [REDACTED] identified one of the Del Rio HPU BPAs as [REDACTED] from the Comstock station. BPA [REDACTED] stated under normal circumstances, migrants who are considered in custody are not allowed to return to Mexico on their own efforts across the Rio Grande River to retrieve food and other items and then return to the US.

BPA [REDACTED] was asked if BP management directed the HPU to stop the non-citizens from entering the US at the boat ramp location and BPA [REDACTED] stated he was unsure who requested the HPU to the boat ramp, via radio. When asked if he heard any other communications via radio around the time of the incident involving the HPU at the boat ramp area, BPA [REDACTED] stated he recalled HPU BPA [REDACTED] asking for guidance on letting non-citizens through (Timestamp 00:48:43). BPA [REDACTED] did not hear a reply to BPA [REDACTED] request for guidance.

BPA [REDACTED] was advised by HPU BPA [REDACTED] that TXDPS was at the boat ramp and believed TXDPS arrived first. When asked if TXDPS requested HPU assistance at the boat ramp, BPA [REDACTED] said he did not know.

When asked what occurred and what he witnessed at the boat ramp on September 19, 2021, BPA [REDACTED] stated "I wasn't there" (Timestamp 00:54:36).

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview. The PowerPoint contains videos and photographs of the area near the Del Rio Port of Entry and boat ramp, as well as video and photos of Carrizo Springs HPU BPAs. During the interview, BPA [REDACTED] was shown

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the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2, and Video 3. The photos are labeled Photo 1, Photo 2, Photo 3, Photo 4, and Photo 5.

BPA [REDACTED] was shown Photo 1 and was asked to identify the Del Rio POE, the Rio Grande River, and the boat ramp (Timestamp 00:55:40). When asked where the international border between Mexico and United States is, BPA [REDACTED] said it is in the center of the river.

BPA [REDACTED] was asked if he was present during the incident involving the HPU at the boat ramp on September 19, 2021 and BPA [REDACTED] stated he was not present during the incident and never went to the boat ramp on September 19, 2021 (Timestamp 00:58:26).

When asked if he hit any non-citizen with a whip or witness anyone do so, BPA [REDACTED] denied hitting or witnessing anyone hit a non-citizen with a whip (Timestamp 01:08:06).

BPA [REDACTED] denied making any unprofessional comments towards any non-citizens or hearing anyone do so, BPA [REDACTED] also denied witnessing anyone else do so (Timestamp 01:08:18).

BPA [REDACTED] was asked if he ordered any non-citizens to return to Mexico or witness anyone do so, and BPA [REDACTED] denied ordering any non-citizens to return to Mexico or witnessing anyone do so (Timestamp 01:08:32). BPA [REDACTED] said BPAs do not have the authority to order a non-citizen to return to Mexico once they have made landfall in the United States.

BPA [REDACTED] denied maneuvering his horse in an aggressive way toward non-citizens (Timestamp 01:09:26). BPA [REDACTED] also denied witnessing anyone maneuver their horse in an aggressive way toward non-citizens.

BPA [REDACTED] denied using force against any non-citizen on September 19, 2021 and denied witnessing anyone else do so (Timestamp 01:09:43).

BPA [REDACTED] denied grabbing a non-citizen by the shirt while on his horse on September 19, 2021. BPA [REDACTED] also denied witnessing anyone grab a non-citizen by the shirt while on their horse (Timestamp 01:09:56).

When asked if HPU BPAs are allowed by policy to apprehend non-citizens while on horseback, BPA [REDACTED] stated HPU BPAs are allowed to apprehend while on horseback (Timestamp 01:10:06). When asked to elaborate, BPA [REDACTED] said it was part of the basic HPU training and



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addressed as a part of their authority as BPAs. BPA [REDACTED] added it is part of their defensive tactics. BPA [REDACTED] was asked if it is specified in HPU policy to apprehend while on horseback and BPR [REDACTED] said it is not.

BPA [REDACTED] denied nearly trampling a young child with his horse on September 19, 2021 (Timestamp 01:12:38). BPA [REDACTED] also denied witnessing any such act.

BPA [REDACTED] denied hitting the water with a lariat or with reins, when near a non-citizen on September 19, 2021 (Timestamp 01:12:46). BPA [REDACTED] also denied witnessing anyone do so.

BPA [REDACTED] denied using his horse to push or force any non-citizens back into the Rio Grande River. BPA [REDACTED] denied witnessing anyone else use their horse to push or force anyone back into the Rio Grande River (Timestamp 01:12:57). BPA [REDACTED] denied hitting anyone with his horse (Timestamp 1:13:08).

BPA [REDACTED] denied witnessing any non-citizen come in contact with the horse and get knocked into the water (Timestamp 1:13:12).

BPA [REDACTED] was asked if he believed the actions of the HPU on September 19, 2021, was a "reasonable amount of force" and within policy from what he witnessed that day and BPA [REDACTED] stated he did not witness any uses of force on September 19, 2021 (Timestamp 01:13:22). BPA [REDACTED] was then asked if he believed the HPU applied use of force, based off what he saw in the media and BPA [REDACTED] said yes. When asked to elaborate, BPA [REDACTED] explained he had seen videos in the media where "people were actively resisting, there was active-resistance to avoid apprehension" (Timestamp 01:14:38). BPA [REDACTED] further added "being on Horse Patrol is use of force itself, it's a force multiplier." BPA [REDACTED] agreed the presence of a horse, under the use of force continuum, would be considered officer presence and is the only amount of force he witnessed.

From what he saw on the videos in the media, BPA [REDACTED] believed there was an imminent threat at the boat ramp on September 19, 2021 (Timestamp 1:25:49). BPA [REDACTED] was asked to describe his understanding of imminent threat and BPA [REDACTED] described it as serious physical injury or death. When asked to explain why he believed there was an imminent threat, BPA [REDACTED] said the large number of people carrying bags and items could spook a horse and cause physical injury to the agent or another person. BPA [REDACTED] referenced a video he saw prior, which showed an individual trying to grab BPA [REDACTED] reins and explained the danger and deadly force situation that could cause (Timestamp 01:29:06). BPA [REDACTED] was asked if it amplified the risk to a HPU

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BPA and the horse if they decided to go down to the boat ramp to interact with non-citizens and BPA ██████ stated it did amplify the risk (Timestamp 01:35:31).

BPA ██████ stated that HPU BPAs would be at a higher risk if they were asked to stop and arrest the non-citizens at the boat ramp (Timestamp 01:37:54). BPA ██████ explained there was a higher risk because the horses being ridden on September 19, 2021 had been in stalls for months and had not been used or ridden. BPA ██████ stated the horses had not been ridden because BPAs on the HPU had been assigned other duties due to the influx of migrants in their area of responsibility. BPA ██████ stated sending the horses to the Del Rio POE where thousands of migrants were crossing was not a good environment for the horses or riders to be in. BPA ██████ stated BP management directed the HPU be assigned at the Del Rio POE (timestamp 01:41:21).

BPA ██████ stated he made both SBPA ██████ and SBPA ██████ aware of his concerns of using these horses that had not been ridden. BPA ██████ stated he spoke with SBPA ██████ on September 18, 2021, and SBPA ██████ commented "what we didn't want, is about to happen" (timestamp 01:42:42). BPA ██████ stated SBPA ██████ was speaking about the deployment of the HPU to the Del Rio POE for crowd control. BPA ██████ stated the HPU horses were not ready for the stressors at the Del Rio POE due to the lack of riding and desensitizing and training. BPA ██████ advised the stressors include thousands of migrants, noises, splashing of water, plastic bags, barriers and fences. BPA ██████ explained these stressors can spook a horse and put the horse, rider, and migrants at risk.

BPA ██████ agreed he would still go down the boat ramp and interact with non-citizens on his own accord, even though he previously stated it was not the environment for the horses and the HPU to be in (Timestamp 01:45:45). BPA ██████ stated if he was the SBPA over the HPU and it was his decision, he would not have sent the HPU down to the Del Rio POE area due to the inactivity of the horses, lack of training and desensitizing of the horse and the HPU BPAs.

BPA ██████ was shown Photo 2 and identified the HPU BPAs as BPA ██████, BPA ██████, BPA ██████, and BPA ██████ (Timestamp 01:52:17). BPA ██████ was shown Video 1 and identified the HPU BPA that can be heard making unprofessional comments as BPA ██████ (Timestamp 01:53:19). BPA ██████ was able to identify BPA ██████ by the horse he was riding and by his voice. On September 19, 2021, BPA ██████ did not hear BPA ██████ make unprofessional comments and did not hear anyone else do so. When asked if he heard any other comments not caught on camera, BPA ██████ said he did not. BPA ██████ denied hearing any other HPU BPAs make derogatory comments prior to the incident and advised it was not common HPU behavior to make comments such as those. BPA ██████ acknowledged the

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comments made by BPA [REDACTED] were not professional (Timestamp 01:55:58). When asked why he believed the comments were not professional, BPA [REDACTED] stated law enforcement officers are held to a higher standard and should not speak to people that way. BPA [REDACTED] stated he believed the comments made by BPA [REDACTED] were discriminatory because he mentions the individual's country of origin but couldn't explain further.

BPA [REDACTED] was shown Video 2 and identified the HPU BPA as BPA [REDACTED] who seemed to be allowing the women and children to continue up the boat ramp while stopping the male individual (Timestamp 01:59:45). BPA [REDACTED] was not aware of any directive from DHS and/or BP management that allow some non-citizens to enter versus others, such as females, family units, males, children (02:03:01). BPA [REDACTED] denied seeing BPA [REDACTED] or any other HPU BPA allow certain people to enter the US while denying others prior to the incident on September 19, 2021. When asked if BPAs have the authority to decide who comes into the US, BPA [REDACTED] stated everyone that is found and has made illegal entry are apprehended and arrested (Timestamp 02:04:50).

BPA [REDACTED] was shown Video 1 again and identified the HPU BPA who is swinging his reins as BPA [REDACTED] (Timestamp 02:05:19). When asked if BPA [REDACTED] always swings his reins in that manner, BPA [REDACTED] said he did not know. BPA [REDACTED] stated the swinging of the reins in that manner is taught to move the horse laterally, forward, and back. BPA [REDACTED] further explained it is a riding aid that puts pressure on the horse to move in the opposite direction and is a tactic taught during HPU training. BPA [REDACTED] described the difference between a rein and a whip by saying the reins are used to control a horse and a whip is not attached to a horse but instead is used to train a horse. BPA [REDACTED] stated the HPU is not assigned whips and he has never seen a whip taken to the field by any HPU BPA (Timestamp 02:10:20). BPA [REDACTED] believed BPA [REDACTED] was spinning his reins on the right side of the horse to create pressure and force the horse to move left. When shown Video 1 again, BPA [REDACTED] confirmed the horse reacted and moved in the direction he would expect. When asked if spinning the reins is taught and utilized for any other reasons other than putting pressure on the horse, BPA [REDACTED] responded by saying HPU BPAs can use their reins and their horse in a use of force situation. BPA [REDACTED] was asked to elaborate and stated if an HPU BPA feels a threat of physical injury or death, that HPU BPA can use any tool necessary to hit the individual, including the reins (Timestamp 02:18:32).

BPA [REDACTED] was asked if it would be a reportable use of force incident if an HPU BPA hit someone with the reins intentionally or unintentionally, and BPA [REDACTED] said it would be a reportable use of force incident. BPA [REDACTED] stated it would still be a reportable incident if an HPU BPA swung his reins at someone and missed (Timestamp 02:20:28). BPA [REDACTED] agreed the average person

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would move back and could perceive an HPU BPA was trying to utilize force if they were swinging their reins near them. HPU BPAs are taught the first tool at their disposal is their reins since they already have them in hand. BPA [REDACTED] explained the HPU BPAs are issued split reins to avoid having the reins caught in the brush and causing injury. BPA [REDACTED] was asked if an HPU BPA is specifically taught to twirl their reins to keep people away during training and BPA [REDACTED] stated it is not taught or discussed in training (Timestamp 2:27:10).

Based on his training and experience, BPA [REDACTED] believed twirling of the reins to be intermediate force if the HPU BPA was utilizing the reins to keep distance away from individuals. BPA [REDACTED] believed it would not be intermediate force if the HPU BPA was spinning their reins as an aid to move a horse in a certain direction. BPA [REDACTED] stated intermediate force is permissible when an individual is being actively resistant.

BPA [REDACTED] denied observing any non-citizens displaying assaultive resistance behavior on September 19, 2021 (Timestamp 02:32:25). BPA [REDACTED] was again shown Video 1 and Video 2 and stated he did not observe any non-citizens displaying assaultive resistance behavior.

BPA [REDACTED] was shown Video 2 and was asked to identify the HPU BPA on the video who moved his horse in a direction of a non-citizen that caused the non-citizen to fall into the water. BPA [REDACTED] identified the HPU BPA as BPA [REDACTED] BPA [REDACTED] said prior to the incident, he never witnessed BPA [REDACTED] or anyone from the HPU use their horse in that manner.

When asked if he has attended crowd control training, BPA [REDACTED] explained crowd control training was a part of the instructor course he attended with an outside agency. BPA [REDACTED] further added USBP has its own crowd control training that he has yet to attend (Timestamp 01:22:05). BPA [REDACTED] was unsure if anyone in the HPU, who was assigned to the Del Rio POE, have received crowd control training. BPA [REDACTED] explained horses are used as barriers to move or stop crowds utilizing different formations such as [REDACTED] (Timestamp 02:42:16).

BPA [REDACTED] was asked if HPU BPAs must worry about the horse running someone over, and he responded by saying yes and it could cause serious injury. When asked how HPU BPAs are trained to prevent injuries, BPA [REDACTED] said during the basic HPU training, they are taught how to approach groups of non-citizens in a safe way to prevent injuries. HPU BPAs are also trained how to approach a group of migrants who may be in need of medical assistance. In that scenario, HPU BPAs are trained what to do with their horses depending on how many riders are on the ground at the time. The HPU is allowed to conduct quarterly training on different topics but have not been allowed to since before the COVID pandemic began. When asked why the HPU has not been

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allowed to conduct quarterly training, BPA [REDACTED] said BP management historically stated it was due to [REDACTED] (Timestamp 02:48:16). BPA [REDACTED] stated the HPU was allowed to conduct a new [REDACTED] week basic HPU training course during the COVID pandemic, but still did not allow quarterly training. BPA [REDACTED] could not recall when the last quarterly training was conducted and has verbally mentioned the importance of quarterly training to BP Management. BPA [REDACTED] believed it is a violation of policy that the HPU was not allowed to conduct quarterly training (Timestamp 02:52:04). BPA [REDACTED] was asked if HPU BPAs have continued to ride horses even though they have not attended quarterly training, and BPA [REDACTED] said HPU BPAs did continue to ride horses.

When operating around children on horseback, BPA [REDACTED] said he is always extra cautious because children are very curious. BPA [REDACTED] stated it is not mentioned during HPU training.

When asked under what circumstance a HPU BPA could use their horse to hit someone, BPA [REDACTED] stated during a deadly force situation (Timestamp 2:55:51). BPA [REDACTED] explained under the use of force continuum, a BPA can use any tool available in a deadly force situation. BPA [REDACTED] said if someone was hit with a horse intentionally or unintentionally, it would be considered a reportable use of force incident. BPA [REDACTED] was asked if a HPU BPA could charge at someone with a horse and he said if an individual was absconding a HPU BPA would charge at him, while on horseback, to apprehend the individual. BPA [REDACTED] advised HPU BPAs are not trained to charge at someone while on horseback to cause them to fall into the water and cause injuries (Timestamp 02:59:09).

BPA [REDACTED] stated it is not a reportable use of force incident if a HPU BPA charged at someone with a horse and the individual does not sustain injuries. BPA [REDACTED] further added, if a HPU BPA charged at someone with a horse and did cause injuries, it would be a reportable use of force incident (Timestamp 03:01:34).

BPA [REDACTED] was asked under what circumstance a BPA could use a horse to force a non-citizen to return to Mexico, BPA [REDACTED] said under no circumstance.

BPA [REDACTED] was shown Video 2 again and identified the HPU BPA who could be heard telling people to go back to Mexico as BPA [REDACTED] (Timestamp 3:21:49). BPA [REDACTED] stated he could not tell exactly what BPA [REDACTED] was saying in the Spanish language in the video. BPA [REDACTED] was asked if he could tell who BPA [REDACTED] was speaking to and BPA [REDACTED] said it seemed as if BPA [REDACTED] was speaking to the migrants in the river. BPA [REDACTED] denied hearing BPA [REDACTED] or anyone from the HPU telling people to go back to Mexico prior to the incident on September 19,

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2021 (Timestamp 03:26:04). BPA [REDACTED] also stated he did not order anyone back to Mexico. BPA was asked if BPAs can legally tell someone to return to Mexico once they enter the United States, BPA [REDACTED] stated they cannot. BPA [REDACTED] clarified by stating, once a non-citizen is processed, BPAs can legally order them back through the POE.

BPA [REDACTED] was asked if he could describe his understanding of Credible Fear and BPA [REDACTED] said it is when someone fled their country for fear from their government (Timestamp 03:27:54). BPA [REDACTED] was asked if he could describe his understanding of Asylum and BPA [REDACTED] explained it is the process for a non-immigrant to remain in another country. BPA [REDACTED] stated he was unaware the migrants at the Del Rio POE area were claiming credible Fear and seeking asylum.

BPA [REDACTED] was shown Photo 4 and identified the HPU BPA as BPA [REDACTED] (Timestamp 03:29:53). BPA [REDACTED] stated it seemed to him the migrant was trying to grab BPA [REDACTED] reins, however he was not certain. BPA [REDACTED] was shown Photo 3 and identified the HPU BPA as BPA [REDACTED]. BPA [REDACTED] denied ever seeing BPA [REDACTED] grab someone by the shirt to prevent them from entering the US prior to the incident on September 19, 2021 (Timestamp 03:32:01). BPA [REDACTED] also denied witnessing anyone else on the HPU do so. BPA [REDACTED] was asked if HPU receives training on how to apprehend while mounted on the horse and BPA [REDACTED] said it is covered in training. When asked to explain, BPA [REDACTED] said the HPU training typically trains how to apprehend compliant subjects while mounted. BPA [REDACTED] advised it is also covered in training how to chase after individuals who have absconded (Timestamp 03:32:52).

BPA [REDACTED] was not aware of any media personnel at the boat ramp area on September 19, 2021.

BPA [REDACTED] was asked to clarify his statement regarding the imminent threat to the HPU BPAs and the horses at the boat ramp on September 19, 2021 (Timestamp 03:35:42). BPA [REDACTED] was shown Video 2 again and agreed he previously stated he believed there was an imminent threat, and it was the wrong environment for the HPU BPAs and horses to be in. BPA [REDACTED] said he could tell the horses were on high alert by describing the horses ear position in the video. BPA [REDACTED] explained if a horse is nervous, as he felt they were in the video, it could lead to aggression. BPA [REDACTED] agreed the HPU BPAs moving their horses further into the crowd could cause more of a risk (Timestamp 03:38:54).

BPA [REDACTED] was asked if he believed the HPU BPAs placed themselves and their horses at a higher risk by getting on the boat ramp and interacting with people and BPA [REDACTED] stated he did

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believe they placed themselves at a higher risk (Timestamp 03:39:49). BPA [REDACTED] explained he would still attempt to take his horse down to the boat ramp even though it was the wrong environment due to the fact the horses had not been ridden in months or been desensitized to such an environment. BPA [REDACTED] added the HPU could use it as a desensitizing training for the horses to be around the migrants. BPA [REDACTED] was asked if that would put the migrants at a risk and BPA [REDACTED] agreed it would and could possibly cause physical harm. When asked if the government should be placing migrants at risk by desensitizing horses by being near migrants, BPA [REDACTED] said no (Timestamp 03:47:12).

BPA [REDACTED] was asked if he ever heard a request for HPU to "shut down the boat ramp" via radio and BPA [REDACTED] denied hearing that request via radio. BPA [REDACTED] was asked of any other radio transmission he heard during the time of the incident on September 19, 2021 and BPA [REDACTED] reiterated hearing BPA [REDACTED] requesting guidance on letting the migrants through. BPA [REDACTED] further added hearing another radio transmission via radio of someone advising to let the migrants through (Timestamp 03:49:27). BPA [REDACTED] could not recall or give a timeframe for the radio communication.

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None


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U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

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**EXHIBIT - 12**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 024</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp," approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p> <p>On November 09, 2021, Special Agent (SA) [REDACTED], CBP OPR RO/Bangor, Maine, and [REDACTED] CBP OPR, Del Rio, Texas, conducted a compelled interview of BPA [REDACTED] concerning the September 19, 2021, incident involving the Carrizo Springs HPU.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-DEC-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 09-DEC-2021</p>	<p>15. TELEPHONE NUMBER [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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202112280

## PREPARED BY

## 2. REPORT NUMBER

024

**10. NARRATIVE**

On November 09, 2021, Special Agent (SA) [REDACTED], CBP OPR RO/Bangor, Maine, and Special Agent (SA) [REDACTED], CBP OPR, Del Rio, Texas, conducted a compelled interview of BPA [REDACTED] concerning the September 19, 2021, incident involving the Carrizo Springs HPU. The interview was video and audio recorded with StarWitness equipment and is uniquely identified by Authentication Code: [REDACTED].

BPA [REDACTED] was advised he was being interviewed as a witness to allegations made against the Carrizo Springs HPU on September 19, 2021, in Del Rio, Texas.

BPA [REDACTED] stated he did not speak with any other BPAs to prepare for this interview and was unsure what the allegations were.

BPA [REDACTED] stated he did not have any text messages or emails relating to the allegations made against the Carrizo Springs HPU (Timestamp 06:00).

BPA [REDACTED] was asked if he was aware of what happened at the boat ramp in Del Rio, Texas, on September 19, 2021. BPA [REDACTED] stated he was unsure what the entire situation entailed.

BPA [REDACTED] is currently a Carrizo Springs HPU agent and stated on September 19, 2021, he was assigned to the Del Rio POE (Timestamp 6:20).

BPA [REDACTED] stated he was not directed to prepare a memorandum regarding the HPU activity on September 19, 2021.

BPA [REDACTED] stated he has been a BPA for approximately [REDACTED] and part of the Carrizo Springs HPU for [REDACTED]. BPA [REDACTED] further explained that prior to this rotation with the Carrizo Springs HPU, he was detailed to the Carrizo Springs HPU for [REDACTED] but could not remember the timeframe.

BPA [REDACTED] said when Carrizo Springs Station solicited BPAs who were interested in a position with the HPU, he submitted his memorandum for consideration. BPA [REDACTED] stated that since he was previously certified, once selected, he was only required to complete a "check" ride with an HPU instructor (Timestamp 7:55).

When asked if being in the HPU changed his responsibilities or authority as a BPA, BPA [REDACTED] said no and agreed he still has the same legal responsibilities.

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BPA [REDACTED] stated that, since joining the HPU, he has completed the initial two-week HPU certification course, on the job training, and a few quarterly trainings (Timestamp 9:15). BPA [REDACTED] added that, after being selected for a second rotation with the HPU, he completed a "check" ride with a HPU instructor and was not required to complete the initial HPU academy a second time. BPA [REDACTED] explained that during a "check" ride, an agent will demonstrate their proficiency on horseback to a HPU instructor.

BPA [REDACTED] stated the HPU certification does not expire (Timestamp 10:06).

BPA [REDACTED] stated, during his first rotation with the HPU, they had quarterly trainings which included desensitizing the horses to certain objects or situations they may encounter while working. BPA [REDACTED] stated Carrizo Springs HPU had not conducted quarterly trainings since he had been on his second rotation with the HPU.

BPA [REDACTED] explained that the purpose of the quarterly training was to desensitize the horse in a training environment, which allowed the horse to become familiar with certain objects or situations it may encounter while being ridden. BPA [REDACTED] further explained that once a horse was familiar with an object or situation, the horse was less likely to react negatively to it, which provided safety for both the horse and rider (10:30).

BPA [REDACTED] did not have any prior experience with horses prior to joining the Carrizo Springs HPU.

BPA [REDACTED] stated that the HPU supported the overall USBP mission as a force multiplier defined as a factor or a combination of factors that gave personnel the ability to accomplish greater feats than without it. BPA [REDACTED] added that being on horseback allowed BPAs to traverse difficult terrain and get to remote locations that were otherwise inaccessible to agents in a vehicle (Timestamp 11:55).

BPA [REDACTED] stated that after training and completing basic horsemanship at the Horse Patrol academy, all additional training was strictly on the job training (Timestamp 13:15).

BPA [REDACTED] stated that the only prior knowledge he had of the situation evolving in Del Rio, Texas, was that there was a very large group of people there. BPA [REDACTED] added that he heard there were approximately ten thousand people in the group.

BPA [REDACTED] stated that, on September 19, 2021, upon arriving for work in Carrizo Springs,

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Texas, he was told by his HPU Supervisory Border Patrol Agents (SBPAs) [REDACTED] and SBPA [REDACTED] that the HPU's assignment that day would be to report to Del Rio, Texas (Timestamp 14:15).

BPA [REDACTED] stated he was unsure who instructed SBPA [REDACTED] and SBPA [REDACTED] to send the Carrizo Springs HPU to Del Rio, Texas (Timestamp 15:15).

BPA [REDACTED] was asked how he learned the HPU would be sent to the Del Rio POE and stated he was told verbally. BPA [REDACTED] further added he was unsure if he received an email referencing the Carrizo Springs HPU assisting in Del Rio, Texas but said he would search his email and provide it to SA [REDACTED] if found.

BPA [REDACTED] stated that SBPA [REDACTED] and SBPA [REDACTED] told him that the role/purpose of the Carrizo Springs HPU that day was to assist where needed (Timestamp 16:15). BPA [REDACTED] stated that SBPA [REDACTED] and SBPA [REDACTED] told him that once the Carrizo Springs HPU arrived in Del Rio, Texas, they were to report to the Incident Commander (IC) for further instructions. BPA [REDACTED] stated he did not remember the name of the IC.

BPA [REDACTED] stated that the Carrizo Springs HPU reported to the IC, and they were told that everyone underneath the bridge was accounted for and anyone else walking around was unknown (Timestamp 17:05).

BPA [REDACTED] stated he was not provided with any Operational Plans. BPA [REDACTED] stated the Carrizo Springs HPU was directed by the IC to assist where needed.

BPA [REDACTED] stated he was unaware of the allegations made against the HPU agents on September 19, 2021. BPA [REDACTED] stated he had seen the media coverage of the events that occurred on September 19, 2021 and was also aware of the allegations being made by the media. BPA [REDACTED] explained that the media was alleging that the HPU agents were whipping people (Timestamp 18:50).

BPA [REDACTED] stated his orders on September 19, 2021, were to listen to the service radio and assist where help was needed (Timestamp 19:50).

BPA [REDACTED] stated he did not receive any directive from management regarding the non-citizens who were crossing and accumulating on the boat ramp (Timestamp 21:25). BPA [REDACTED] also stated he was not advised by USBP management that the non-citizens under the bridge were in

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USBP custody (Timestamp 22:18).

When BPA [REDACTED] was asked if there was any advisement provided regarding the status of the non-citizens walking back and forth across the river from Mexico, BPA [REDACTED] recalled that someone had asked over the radio for guidance on what they should do with all the non-citizens crossing the river. BPA [REDACTED] stated someone responded on the service radio and told them to let them in (Timestamp 22:30). BPA [REDACTED] stated the agent requesting guidance via the service radio was BPA [REDACTED]. BPA [REDACTED] added the request for guidance from BPA [REDACTED] came after the HPU arrived at the boat ramp at approximately 1:30 p.m. (Timestamp 23:08). BPA [REDACTED] stated he could not remember how many times BPA [REDACTED] requested guidance via the service radio.

BPA [REDACTED] explained whoever responded via the service radio did not identify themselves but gave the directive to allow the non-citizens into the U.S. BPA [REDACTED] added they were operating their service radios on a [REDACTED] channel which was not recorded.

BPA [REDACTED] was asked if, under normal circumstances, once a non-citizen was in custody, would they be allowed to cross the Rio Grande River by themselves, return to Mexico, and bring back food. BPA [REDACTED] stated under normal circumstances, once a non-citizen was in custody, they should never leave BPA control (Timestamp 24:40). BPA [REDACTED] was then asked if it was a normal situation in which he replied it was not. BPA [REDACTED] was asked again if BPAs normally allow people to freely walk back and forth across the Rio Grande River and BPA [REDACTED] said no.

BPA [REDACTED] stated he received a request for assistance to help clear the boat ramp via his service radio, but the requestor did not identify themselves (Timestamp 25:24).

BPA [REDACTED] added the Texas Department of Public Safety (TXDPS) was also utilizing the same [REDACTED] channel as the Incident Command.

BPA [REDACTED] stated once he arrived at the boat ramp, there was a Del Rio HPU BPA there who told him that TXDPS wanted to clear the boat ramp and needed assistance. BPA [REDACTED] could not recall the BPA's name (Timestamp 26:48).

BPA [REDACTED] stated TXDPS arrived at the boat ramp first, and that he did not see any other agencies present.

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Once at the boat ramp, BPA [REDACTED] stated he did not receive any directive from USBP management to direct the crossing non-citizens towards the Del Rio POE and away from private property (Timestamp 28:00). BPA [REDACTED] stated non-citizens were walking wherever they wanted to.

BPA [REDACTED] stated TXDPS did not give a reason why they wanted the boat ramp cleared, they only asked for assistance to clear it. BPA [REDACTED] stated DPS wanted to clear the boat ramp the way they cleared the Weir dam (Timestamp 29:57). BPA [REDACTED] said it was his perception that TXDPS wanted to post TXDPS officers there once it was cleared to deter non-citizens from crossing there.

BPA [REDACTED] stated when he first arrived at the boat ramp, TXDPS was already there asking people to move off the ramp. BPA [REDACTED] stated he saw hundreds of people in the area. BPA [REDACTED] explained some of the people were bathing, so he went down to try and move people from the ramp. BPA [REDACTED] stated they were attempting to move them towards an open area called a firebreak and towards the Del Rio POE. BPA [REDACTED] stated he was on top of the hill making sure the non-citizens did not come back to the ramp.

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview. The PowerPoint contains videos and photographs of the area near the Del Rio Port of Entry and boat ramp, as well as video and photos of HPU BPAs. During the interview, BPA [REDACTED] was shown the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2, and Video 3. The photos are labeled Photo 1, Photo 2, Photo 3, Photo 4, and Photo 5.

BPA [REDACTED] was shown Photo 1, an aerial photo containing a partial image of the Del Rio POE, the boat ramp and part of the [REDACTED]. BPA [REDACTED] described where the following were located on the photo: Mexico, the Rio Grande River, the Del Rio POE, and the boat ramp. BPA [REDACTED] was provided a copy of the aerial photo described above, marked these locations, and initialed them.

BPA [REDACTED] stated the geographical boundary between the U.S. and Mexico would be the middle of the river, or the deepest part of the river. BPA [REDACTED] said he did not remember where he learned that information.

BPA [REDACTED] stated he did not hit any non-citizen with reins or a whip (Timestamp 35:25).



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BPA [REDACTED] said he did not see any non-citizen being hit with reins or a whip (Timestamp 35:30).

BPA [REDACTED] said he did not make any unprofessional comments towards any non-citizens, and he did not hear anyone else make unprofessional comments (Timestamp 35:35).

BPA [REDACTED] stated he did not order any of the non-citizens to return to Mexico (Timestamp 35:49).

BPA [REDACTED] stated he heard someone yelling something but couldn't not be sure what was said or who said it.

BPA [REDACTED] stated he did not maneuver his horse in an aggressive manner towards any non-citizens and did not see anyone else maneuver their horse in an aggressive manner either (Timestamp 37:00).

BPA [REDACTED] stated he did not grab any non-citizen by their shirt, and he did not see anyone else grab a non-citizen by the shirt (Timestamp 38:05).

BPA [REDACTED] stated he did not see any other HPU BPAs use their horse in an aggressive manner.

BPA [REDACTED] stated he did not use force against any non-citizen, and he did not see anyone else use force against any non-citizen (Timestamp 38:00).

BPA [REDACTED] stated he did not receive any formal training on how to apprehend someone while on horseback.

BPA [REDACTED] stated he did not almost trample a young child with his horse and did not see anyone else almost trample a young child with their horse (Timestamp 39:20).

BPA [REDACTED] said he did not hit the water with a lariat or reins while near a non-citizen and did not see anyone do so (Timestamp 39:23). BPA [REDACTED] explained a lariat is a form of rope which can be used as a lasso or for tethering.

BPA [REDACTED] stated he did not use his horse to force any non-citizen back into the water. BPA [REDACTED] said he also did not see anyone else use their horse in this manner (Timestamp 39:37).

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BPA [REDACTED] stated he did not intentionally or unintentionally hit anyone with his horse (Timestamp 39:48).

BPA [REDACTED] stated he did not witness any non-citizens come into contact with a horse or getting knocked down into the water (Timestamp 39:37).

When asked if he believed the actions of the HPU on September 19, 2021, was a reasonable amount of force and within policy, BPA [REDACTED] said "yes sir" (Timestamp 40:14).

BPA [REDACTED] stated he perceived the amount of people coming across the river as an imminent threat. BPA [REDACTED] said the sheer amount of people around the BPAs while mounted on their horses could have caused a horse to get spooked. BPA [REDACTED] stated he did not see anyone exhibiting threatening behavior towards the HPU.

BPA [REDACTED] was shown Photo 2 of four Carrizo Springs HPU BPAs, who he identified from left to right as BPA [REDACTED] whose horse was named [REDACTED], BPA [REDACTED] whose horse was named [REDACTED] BPA [REDACTED], and BPA [REDACTED]. BPA [REDACTED] did not know the names of either BPA [REDACTED] horse, or that of BPA [REDACTED] horse (Timestamp 42:57).

BPA [REDACTED] was shown Video 1 and was asked to identify the first two HPU BPAs first seen in the video. BPA [REDACTED] stated the first HPU was BPA [REDACTED] and that he believed the second HPU BPA in the background was BPA [REDACTED]. BPA [REDACTED] identified BPA [REDACTED] by the horse he was riding. BPA [REDACTED] stated he was not sure which horse was assigned to BPA [REDACTED] because they all rode different horses, but BPA [REDACTED] explained that he recognized the horse BPA [REDACTED] was riding on September 19, 2021.

When BPA [REDACTED] was asked what color horse he was riding on September 19, 2021, BPA [REDACTED] stated he was riding a "paint."

When shown a section of Video 1, where an HPU BPA was allegedly yelling, "This is why your country is shit, because you use your women for this," BPA [REDACTED] identified BPA [REDACTED] horse and recognized BPA [REDACTED] voice (Timestamp 45:00). BPA [REDACTED] stated he did not hear BPA [REDACTED] make this comment on September 19, 2021. BPA [REDACTED] stated he had not heard BPA [REDACTED] make any other comments like this before and had not heard anyone on the HPU make these types of comments (Timestamp 46:30). BPA [REDACTED] was asked if this was common behavior for the HPU agents and he replied by stating it was not.

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BPA [REDACTED] was asked if the CBP Standards of Conduct addressed professionalism and stated he believed so and had received training on this matter. BPA [REDACTED] stated that when BPA [REDACTED] used the word "shit," it became unprofessional. BPA [REDACTED] stated he would not make those comments. BPA [REDACTED] said he believed the comment was unprofessional because of the vulgar language (Timestamp 47:13).

BPA [REDACTED] believed it was unprofessional for BPA [REDACTED] to make this comment and did not know why he made the comment.

[REDACTED] stated that CBP provided training to BPAs that prohibited discrimination based on sex, race, and national origin (Timestamp 48:24). BPA [REDACTED] said he could see how the comments made by BPA [REDACTED] could be discriminatory but could not explain why he felt the comments were discriminatory.

BPA [REDACTED] continued to review Video 1, which showed what appeared to be BPA [REDACTED] singling out a male non-citizen, and BPA [REDACTED] stated he did not know why BPA [REDACTED] focused on that male non-citizen and not the women and children.

BPS [REDACTED] stated he was not aware of any directive from CBP or USBP management that instructed BPAs to focus on allowing the women and children into the U.S. and not the males.

BPA [REDACTED] was asked if BPAs have the authority to choose who is allowed to enter the U.S. and he said no (Timestamp 52:13).

BPA [REDACTED] continued viewing Video 1 and identified BPA [REDACTED] as the HPU BPA swinging his reins. BPA [REDACTED] advised he worked with BPA [REDACTED] but was unsure if BPA [REDACTED] always swung his reins in that manner. BPA [REDACTED] explained that he and other HPU BPAs swing their reins in this manner, depending on the horse they are riding (Timestamp 53:15).

BPA [REDACTED] stated the purpose of swinging the reins was to apply pressure to a horse to elicit a reaction from the horse. BPA [REDACTED] further explained that if you apply leg pressure, or any form of pressure to one side of the horse, it should move away from that pressure. BPA [REDACTED] explained that if you wanted the horse to move to the left you would twirl the reins on the right side of the horse. BPA [REDACTED] stated he learned the twirling of the reins technique during his time with the HPU. BPA [REDACTED] stated they learn different techniques to help control their horse because some horses react differently to certain techniques.

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BPA [REDACTED] stated he was not aware of anything in CBP policy that refers to the use of reins or how to properly use them (Timestamp 57:28). BPA [REDACTED] stated he did not swing his reins in that manner with the horse that he was riding that day.

BPA [REDACTED] explained the difference between the split reins, lariats, and whips. BPA [REDACTED] stated split reins were reins that were not joined together, BPA [REDACTED] stated he was not sure what a lariat was, and that he considered a whip to be a long rope attached to a handle.

BPA [REDACTED] stated the split reins were issued to HPU BPAs by the USBP.

BPA [REDACTED] stated that HPU BPAs were not issued whips, and he did not own a whip, nor was he carrying a whip on September 19, 2021 (Timestamp 1:00:05).

BPA [REDACTED] stated he was familiar with horses and explained reins were used by a rider to maneuver a horse in a particular direction. BPA [REDACTED] stated reins can be used to turn a horse left or right, stop a horse, or make a horse move faster. BPA [REDACTED] stated the reins he saw in the video were split reins. BPA [REDACTED] described the reins as being in two pieces and that they do not make a loop around the horse's neck.

BPA [REDACTED] described a training tool used during round pin training by HPU BPAs and described that tool as a pole with a rope attached to the end of that pole. BPA [REDACTED] stated while training horses in the round pin, that training tool can be used to encourage a horse to move in the correct direction.

BPA [REDACTED] said the training tool he described is referred to as a lunge whip. BPA [REDACTED] said the only time he had seen these lunge whips used was in training the horse, and never in the field. BPA [REDACTED] stated he did not own a whip and was not issued a whip by the USBP (Timestamp 1:02:00).

BPA [REDACTED] continued viewing Video 1 and was asked how BPA [REDACTED] horse responded when BPA [REDACTED] twirled his reins. BPA [REDACTED] stated the horse responded by going the opposite direction. BPA [REDACTED] stated he has never ridden this horse and was unfamiliar with how much pressure this horse may require.

BPA [REDACTED] stated HPU BPAs were trained to use either one hand or two hands while using split reins.

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BPA [REDACTED] stated if he hit someone unintentionally with reins, it would not be a use of force based on his use of force training. BPA [REDACTED] stated he did not see how you could unintentionally hit someone with reins. BPA [REDACTED] stated that if a person was intentionally hit with reins, it would be a use of force incident (Timestamp 1:03:45).

BPA [REDACTED] stated he would not consider it a use of force if he swung his reins at someone and missed. BPA [REDACTED] gave an example that if he displayed his baton but did not have to use it, then no use of force occurred (Timestamp 1:05:25).

BPA [REDACTED] said if he was swinging his reins near someone, the average person would move away to avoid being hit. BPA [REDACTED] stated someone may perceive this as a use of force against them (Timestamp 1:05:42).

BPA [REDACTED] stated based on his training and experience, if he hit a person with his reins, it would be considered an intermediate use of force.

BPA [REDACTED] stated based on his training and experience, it was permissible to use intermediate force on an actively resistant person (Timestamp 1:06:45).

BPA [REDACTED] said he did not observe any non-citizens displaying assaultive resistant behavior (Timestamp 1:07:25).

BPA [REDACTED] stated the non-citizens that were running away from him were exhibiting resistant behavior. BPA [REDACTED] was then asked if he knew the reason for the resistant behavior and BPA [REDACTED] stated he did not know. BPA [REDACTED] stated he spoke both English and Spanish, and he used Spanish with several of the non-citizens. BPA [REDACTED] said some of the non-citizens also spoke English (Timestamp 1:07:34). BPA [REDACTED] said he did not hear any other languages being spoken.

BPA [REDACTED] was shown Video 2 and was asked to identify the HPU BPAs in the video. BPA [REDACTED] identified BPA [REDACTED], BPA [REDACTED], and himself and the horse he was riding, which was a brown and white paint (Timestamp 1:08:39).

BPA [REDACTED] stated he did not use his horse to force anyone back into the river (Timestamp 1:10:32).

When asked if he ever observed BPA [REDACTED] or anyone else in the HPU use their horse to push

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people back into the river prior to this incident on September 19, 2021, BPA [REDACTED] stated he had never witnessed BPA [REDACTED] or anyone on the HPU do so.

BPA [REDACTED] was shown Video 2 and asked to explain BPA [REDACTED] actions at the bottom of the boat ramp. BPA [REDACTED] stated it appeared that BPA [REDACTED] was attempting to deter non-citizens from entering further up the riverbank and into the US. BPA [REDACTED] said it was possible these actions may have been to keep the boat ramp clear, but he was unsure of what BPA [REDACTED] was attempting to accomplish (Timestamp 1:11:33).

BPA [REDACTED] stated he recalled the events that happened on September 19, 2021, but he did not recall seeing the non-citizen fall back into the river (Timestamp 1:12:25).

BPA [REDACTED] viewed Video 2 and agreed the non-citizen in the video who is standing at the water line made entry into the U.S. When asked if BPA [REDACTED] believed the video depicted the horse pushing the non-citizen back into the water, BPA [REDACTED] said he thought it was just the horse reacting to everything going on around him. BPA [REDACTED] said it appeared to him that BPA [REDACTED] was attempting to use his horse to deter the non-citizen from coming up the boat ramp (Timestamp 1:13:01).

When asked if BPAs have the authority to deter people and push them back once they have entered the U.S., BPA [REDACTED] said, "I guess not."

BPA [REDACTED] was asked if there was a safety aspect for people to be sitting in the Rio Grande River and if people have drowned in the past and he stated yes. BPA [REDACTED] was then asked if he thought it was a good idea for BPA [REDACTED] to be doing such an act while on horseback with people standing in the water and BPA [REDACTED] said, "I guess looking back now, no" (Timestamp 1:14:40).

BPA [REDACTED] stated there were no directives given by USBP management on September 19, 2021 (Timestamp 1:15:02).

BPA [REDACTED] was asked if Horse Patrol receives training on crowd control, and he stated there is a training for crowd control, but he had not received the training.

BPA [REDACTED] stated he did not know if BPA [REDACTED] previously identified in (video 2), had attended crowd control training (Timestamp 1:15:30).

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BPA [REDACTED] stated he never received any formal training on how to prevent injuries to other people while on horseback. BPA [REDACTED] explained that the best way to prevent injuries to others was good horsemanship skills and maintaining control of the horse.

BPA [REDACTED] advised he did not receive any additional training related to when children were present.

When asked if he could use his horse to run over a person in a deadly force situation, BPA [REDACTED] said, "No." When BPA [REDACTED] was asked to explain why not, BPA [REDACTED] said that a horse will attempt to avoid running over something in front of it. BPA [REDACTED] was asked if a rider, with the use of spurs or whip, could make the horse push someone, and BPA [REDACTED] said he would find that difficult to do (Timestamp 1:18:56).

BPA [REDACTED] stated he was unsure if it would be considered a use of force if he intentionally or unintentionally hit someone with his horse while they were fleeing. BPA [REDACTED] explained if a horse stepped on someone or was hurt, he would report it to his supervisor.

BPA [REDACTED] stated using a horse to force someone into the water could cause that person to be injured (Timestamp 1:21:45).

BPA [REDACTED] said it would not be a use of force to charge at someone with a horse (Timestamp 1:22:05).

BPA [REDACTED] was asked in what circumstances could a horse be used to force a non-citizen to return to Mexico, to which BPA [REDACTED] replied there were no circumstances (Timestamp 1:22:15).

BPA [REDACTED] viewed part of Video 2 where HPU BPAs appeared to attempt to deter a few non-citizens from heading in the direction of the POE. BPA [REDACTED] stated the Del Rio POE was about half a mile upriver from the boat ramp in the direction the non-citizens were attempting to go but were initially stopped by the HPU BPAs. BPA [REDACTED] stated during that time, he was on top of the hill and could not see the water's edge.

BPA [REDACTED] was asked if he could understand comments being made on the video but stated he could only make out the word "Mexico" (Timestamp 1:26:32).

After BPA [REDACTED] identified BPA [REDACTED] voice in Video 2, BPA [REDACTED] explained that, in the

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024

**10. NARRATIVE**

video, he heard [REDACTED] say, "Hasta para alla", which BPA [REDACTED] translated to English as, "scoot over there. BPA [REDACTED] said he was not sure if BPA [REDACTED] meant to go back or just scoot back (Timestamp 1:29:45). BPA [REDACTED] said if BPA [REDACTED] was telling them to go back to Mexico, he would have used different words in the Spanish language, such as "vete para alla or vete para Mexico", which BPA [REDACTED] explained translates in English to "go over there or go to Mexico". BPA [REDACTED] agreed there is a safety concern with telling non-citizens to move further back into the water. BPA [REDACTED] said he would not tell non-citizens to move further back into the water.

BPA [REDACTED] never heard BPA [REDACTED] tell anyone to go back to Mexico. BPA [REDACTED] did not hear any other HPU BPAs tell people to return to Mexico (Timestamp 1:30:04).

BPA [REDACTED] was shown Photo 5 and asked to identify the HPU agent in the photo. BPA [REDACTED] identified the agent as BPA [REDACTED]. BPA advised BPA [REDACTED] was facing towards the river and pointing towards Mexico (Timestamp 1:30:34).

BPA [REDACTED] stated he did not order anyone to go back to Mexico. BPA [REDACTED] further added that he could not legally tell someone to return to Mexico. BPA [REDACTED] was unsure if there were special rules for treatment in processing of non-citizens (Timestamp 1:31:25). BPA [REDACTED] described credible fear, as someone being afraid of returning to their country and requesting asylum. BPA [REDACTED] described asylum as there being an application process.

BPA [REDACTED] was unaware if the non-citizens present at the boat ramp on September 19, 2021, were claiming credible fear and or requesting asylum (Timestamp 1:32:38)

BPA [REDACTED] was shown Photo 3 and was asked to identify the BPA in the photo. BPA [REDACTED] identified the agent in the photo as BPA [REDACTED]. BPA [REDACTED] was shown Photo 4 and asked to identify the BPA in the photo. BPA [REDACTED] identified the agent as BPA [REDACTED]. BPA [REDACTED] stated that prior to this incident, he never saw BPA [REDACTED] grab anyone by their shirt to prevent them from entering the U.S. or effect an arrest. BPA [REDACTED] did not see any other HPU BPA apprehend a person by grabbing their shirt. BPA [REDACTED] said he did not grab anyone as shown in the photo. BPA [REDACTED] stated that the Horse Patrol academy did not train the agents on how to apprehend a subject on horseback.

BPA [REDACTED] did not consider grabbing a subject by the shirt as a use of force. BPA [REDACTED] did not witness BPA [REDACTED] grabbing this non-citizen by the shirt.



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**10. NARRATIVE**

BPA [REDACTED] stated there was media presence near the Rio Grande River on September 19, 2021 (Timestamp 1:38:10). BPA [REDACTED] was not aware if the media spoke to any of the non-citizens. BPA [REDACTED] was unsure if any of the media crossed into the U.S., in violation of U.S. law. BPA [REDACTED] said he did not ask or tell the media to return to Mexico or to enter through a designated POE. BPA [REDACTED] said he did not speak with any members of the media that day.

BPA [REDACTED] stated that this was the first time he had worked in the Del Rio area. BPA [REDACTED] said he heard over the service radio that assistance was needed at the boat ramp, so he responded to the area. BPA [REDACTED] said there were no SBPAs at the boat ramp. BPA [REDACTED] stated that once he arrived at the boat ramp, he did not receive any further instructions from USBP management.

BPA [REDACTED] was shown Video 3 and asked to identify the HPU BPAs he recognized. BPA [REDACTED] identified BPA [REDACTED], BPA [REDACTED] and BPA [REDACTED]. After viewing Video 3, BPA [REDACTED] said he was unsure why BPA [REDACTED] stopped chasing the non-citizen.

BPA [REDACTED] stated the HPU was riding back from a prior incident at the porta pots, when an agent saw a non-citizen cutting cane with a knife. When an HPU BPA told the non-citizen to give him the knife, BPA [REDACTED] said the non-citizen tossed the knife in the direction of the BPA. BPA [REDACTED] did not see the knife, but said it was described as a steak knife. BPA [REDACTED] did not recall this BPA's name and was unsure what the BPA did with the knife. BPA [REDACTED] stated he was basing his information off what the BPA told him since BPA [REDACTED] did not see it happen (Timestamp 1:48:00).

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PREPARED BY

[REDACTED]

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None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 13**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 018</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp," approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p> <p>On November 9, 2021, Special Agent in Charge (ASAC) [REDACTED] and Special Agent (SA) [REDACTED], CBP OPR Del Rio, conducted a compelled witness interview of BPA [REDACTED]</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-DEC-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 09-DEC-2021</p>	<p>15. TELEPHONE NUMBER [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

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018

**10. NARRATIVE**

On November 9, 2021, OPR Assistant Special Agent in Charge (ASAC) [REDACTED] and Special Agent (SA) [REDACTED] conducted a compelled witness interview of Border Patrol Agent (BPA) [REDACTED] at the CBP OPR Del Rio Office. The interview was audio and video recorded using StarWitness equipment and uniquely identified using Authentication Code: [REDACTED]

Prior to the interview, BPA [REDACTED] was provided with his Warning and Assurances to Employee Required to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation. On November 4, 2021, BPA [REDACTED] was provided with and signed the Warning and Assurances to Employee Requested to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation when he was served with the form titled Your Required Appearance and Sworn Testimony. The form titled Your Required Appearance and Sworn Testimony signed by BPA [REDACTED] is attached. At the beginning of the interview, BPA [REDACTED] reviewed copies of the Warnings and Assurance to Employee Required to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation, which he previously signed. After reviewing these forms, BPA [REDACTED] identified his signature on the documents and again signed and dated the forms indicating he understood them. BPA [REDACTED] was placed under oath prior to the interview.

BPA [REDACTED] entered on duty with the USBP on [REDACTED]. He is currently assigned to the Carrizo Springs HPU that is supervised by SBPA [REDACTED] and SBPA [REDACTED]. BPA [REDACTED] began his assignment with the Carrizo Springs HPU in [REDACTED], approximately [REDACTED] ago. BPA [REDACTED] stated being on the HPU did not change his authorities as a BPA (Timestamp 0:12:36). BPA [REDACTED] experience with horses before joining the HPU was limited to riding horses when he was young.

BPA [REDACTED] was asked if he possessed any text messages or emails related to the incident that occurred on September 19, 2021, and stated he had group chat messages with his HPU co-workers where they communicated back and forth. BPA [REDACTED] explained radio communication was not always possible and some of the communication he had with his co-workers was made via text messages and voice calls (Timestamp 0:16:42). BPA [REDACTED] stated there was a lack of radio communication that day and there were little to no direction from management regarding a clear assignment for the HPU. Most of the information HPU received was secondhand information from their wranglers, BPA [REDACTED] and BPA [REDACTED] (Timestamp 0:17:19). BPA [REDACTED] stated he captured two videos on September 19, 2021, one before and one after the incident. Neither video captured the incident. BPA [REDACTED] agreed to provide CBP OPR Del Rio with all text messages and videos.

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## 10. NARRATIVE

BPA [REDACTED] stated there was an influx of migrants crossing in Del Rio, Texas, and Del Rio Station needed help, so he volunteered to assist. His assignment began on September 18, 2021. BPA [REDACTED] arrived at [REDACTED] on the 18th and did not return to Carrizo Springs until [REDACTED] that same day. BPA [REDACTED] assumed the order to mobilize HPU came from the Chief (Del Rio Sector Chief Patrol Agent) but was unsure. BPA [REDACTED] got the order to travel to Del Rio from his HPU supervisors SBPA [REDACTED] and SBPA [REDACTED]. BPA [REDACTED] stated he returned to Del Rio the following day on the 19th of September.

BPA [REDACTED] was asked what the purpose and role of HPU was in Del Rio and stated he assumed it was crowd control. He further explained they were not given direct guidance on what to do, other than to be seen. They were told not to make any arrests by their supervisors and upper management (Timestamp 0:22:53). BPA [REDACTED] could not provide specific names of the personnel that gave that order. BPA [REDACTED] stated no operational plans were provided to HPU.

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview. The PowerPoint contains videos and photographs of the area near the Del Rio Port of Entry and boat ramp, as well as video and photos of Carrizo Springs HPU BPAs. During the interview, BPA [REDACTED] was shown the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2, and Video 3. The photos are labeled Photo 1, Photo 2, Photo 3, Photo 4, and Photo 5.

BPA [REDACTED] was shown Video 3 and properly identified the United States and Mexican sides of the Rio Grande River, and the boundary or international border, which BPA [REDACTED] later indicated was in the middle of the Rio Grande River. BPA [REDACTED] also identified the [REDACTED], and the direction of the Del Rio POE. Additionally, [REDACTED] identified himself in the video, the location of the boat ramp, and identified two Del Rio HPU agents.

BPA [REDACTED] stated he was aware there were allegations made of unprofessional language and the whipping of migrants.

BPA [REDACTED] stated there was very little guidance from management on what their orders were for September 19, 2021. He only remembered receiving a radio transmission asking HPU to assist Texas Department of Public Safety (TXDPS) with closing the boat ramp (Timestamp 0:34:24). An hour or two before that, BPA [REDACTED] was with his supervisors, SBPA [REDACTED] and SBPA [REDACTED] when they were approached by a BPA that seemed to be in command. BPA [REDACTED] overheard them talk about an upcoming operation to regain control of the boat ramp (Timestamp;

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**10. NARRATIVE**

0:35:24). Clear instructions or operational plans were never provided. BPA [REDACTED] could not recall the name of the person his supervisors were speaking with, but he remembered the BPA was wearing a tactical uniform. BPA [REDACTED] reiterated there was little to no direction. A radio transmission asking HPU to assist TXDPS at the boat ramp was the only direction HPU received. BPA [REDACTED] was unaware who transmitted over the radio or gave the command. The radio transmission was broadcast over [REDACTED] which he believed was not recorded (Timestamp 0:37:11).

USBP management never gave guidance as to whether or not the migrants under the bridge were in custody (Timestamp 0:37:59). BPA [REDACTED] stated migrants who crossed into the United States illegally are not allowed to cross back into Mexico. BPA [REDACTED] stated HPU received an order over the radio to stop migrants from crossing into the United States (Timestamp 0:38:46). BPA [REDACTED] further explained BPA [REDACTED] asked for guidance over the radio, and he was told to allow approximately thirty migrants that were crossing the river into the United States, but to stop anyone else that attempted to cross (Timestamp 0:39:44). The order came over the radio and BPA [REDACTED] was unsure who gave the order. BPA [REDACTED] assumed it was a USBP manager since BPA [REDACTED] asked for management over the radio. Once HPU allowed the approximately thirty migrants to cross, additional migrants began crossing the river. BPA [REDACTED] asked for guidance two more times, but BPA [REDACTED] and HPU received no response (Timestamp 0:40:30). BPA [REDACTED] stated Carrizo Springs HPU, Del Rio HPU, and TXDPS were the only agencies present at the boat ramp on September 19, 2021. TXDPS and Del Rio HPU were already at the boat ramp when Carrizo Springs HPU arrived.

BPA [REDACTED] stated when they arrived at the boat ramp there were several hundred migrants (Timestamp 0:45:13). BPA [REDACTED] stated he approached the boat ramp, but he felt uncomfortable with the wet concrete, so he decided to stay back. Instead, BPA [REDACTED] directed migrants towards the Del Rio POE.

BPA [REDACTED] was shown Photo 1 and identified the Del Rio POE, Rio Grande River, the boat ramp, and the boundary between the United States and Mexico (Timestamp 0:49:18).

BPA [REDACTED] was shown Video 1 and stated he never witnessed any HPU BPA whip a migrant (Timestamp 0:48:49). BPA [REDACTED] identified BPA [REDACTED] riding the white horse and making derogatory comments (Timestamp 0:54:43). BPA [REDACTED] stated the comments made by BPA [REDACTED] were unprofessional and xenophobic (Timestamp 0:55:14). BPA [REDACTED] was asked if he saw any HPU BPA maneuver their horse in a menacing/threatening way and stated he saw HPU BPAs use their horses to control a crowd that was out of control (Timestamp 0:56:56). The crowd

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## 10. NARRATIVE

was unruly, and a few migrants were not obeying the commands that were being given by HPU.

BPA [REDACTED] stated he never saw any HPU BPA grab a migrant by the shirt, but explained he later saw a video in which a HPU BPA grabs a migrant by the shirt while on horseback. BPA [REDACTED] stated it was common practice to apprehend migrants while on horseback and they receive training on how to properly apprehend migrants in such a manner (Timestamp; 0:59:59). BPA [REDACTED] explained the technique only worked on compliant people.

BPA [REDACTED] stated he did not witness any HPU BPA push a migrant with their horse into the water but saw it in a video (Timestamp 1:03:18). BPA [REDACTED] believed the use of force used by Carrizo Springs HPU on September 19, 2021, was reasonable and within policy (Timestamp 1:03:53). BPA [REDACTED] stated the whole situation was out of control. There were thousands of migrants, and he witnessed some migrants threaten other migrants. BPA [REDACTED] explained in a separate incident he witnessed, there was a female migrant attempting to sell popsicles and she was physically assaulted by male migrants (Timestamp 1:05:35). HPU intervened in the situation (Timestamp 1:05:54). BPA [REDACTED] stated several similar situations occurred during their assignment to Del Rio.

On September 18, 2021, USBP called HPU to assist with a migrant that had been stabbed under the Del Rio POE. BPA [REDACTED] stated they responded and cleared the area. The victim and perpetrator were located. A migrant had used a fork to stab another migrant (Timestamp 1:08:48). BPA [REDACTED] stated BPA [REDACTED] witnessed a migrant cutting cane with a knife. When BPA [REDACTED] asked for the knife, the migrant threw it at him (Timestamp 1:10:19). BPA [REDACTED] did not think the migrant did it intentionally or tried to hurt BPA [REDACTED]

BPA [REDACTED] was shown Photo 2 and identified the HPU BPAs as, BPA [REDACTED], BPA [REDACTED] BPA [REDACTED], and BPA [REDACTED], from left to right (Timestamp 1:12:09).

BPA [REDACTED] stated he witnessed BPA [REDACTED] BPA [REDACTED], and BPA [REDACTED] controlling their horses by spinning their reins (Timestamp 1:13:20). BPA [REDACTED] stated he spun his reins as well to distract and control his horse. BPA [REDACTED] stated it was not a method shown in training, but it was common practice with experienced riders. BPA [REDACTED] stated HPU used split reins (Timestamp 1:16:01), but he was unsure why they used them instead of a closed loop rein. BPA [REDACTED] stated HPU was not issued whips or lariats (Timestamp 1:17:11). Additionally, no one in HPU carried whips or lariats. BPA [REDACTED] agreed that intentionally striking someone with the reins would be considered an intermediate use of force (Timestamp 1:19:02) and while the average person would consider the spinning of the reins a use of force, he did not (Timestamp



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## 10. NARRATIVE

1:22:22).

BPA [REDACTED] stated he witnessed some migrants that were being resistant and had stances that could be interpreted as assaultive, he witnessed gatherings that looked aggressive, and some individuals that were frustrated due to the lack of water or food (Timestamp 1:26:11). BPA [REDACTED] referred to a picture of BPA [REDACTED] grabbing a migrant by the shirt that he saw on social media and stated the migrant appeared to be attempting to grab the horse's bit. BPA [REDACTED] stated that could be considered deadly force (Timestamp 1:26:46). BPA [REDACTED] stated he was not sure if he still had the picture, but he would look for it and provide it to CBP OPR if he found it.

BPA [REDACTED] was shown Video 2 and was asked if he saw a HPU BPA use his horse to push a migrant back into the water, to which he said "Yes." BPA [REDACTED] stated he witnessed BPA [REDACTED] use his horse to push a migrant back into the water (Timestamp 1:30:45). BPA [REDACTED] stated some HPU BPAs had training with crowd control, but he had not attended that training.

BPA [REDACTED] stated if a horse were to step on an individual it would most likely cause serious injury. BPA [REDACTED] stated he paid close attention when he was around children so to not step on them with the horse. BPA [REDACTED] stated he and several members of the HPU would wave at the children to keep everyone calm because they were outnumbered (Timestamp; 1:33:54).

BPA [REDACTED] stated using a horse to purposely charge someone would be considered intermediate force and could be used against someone who was being assaultive. BPA [REDACTED] was unsure if it was acceptable to use a horse to force a migrant to go back to Mexico (Timestamp 1:37:28). BPA [REDACTED] was under the impression that management wanted HPU to allow migrants to cross the Rio Grande River at their leisure, but then stated, "That is not policy, and that's not what Border Patrol Agents do" (Timestamp 1:37:45). BPA [REDACTED] was asked again if it was permissible to use a horse to send a migrant back to Mexico and stated, "We were giving the direction not to let them enter the United States, so yes".

BPA [REDACTED] was shown Video 2 once again and identified BPA [REDACTED] as the BPA yelling in the video. BPA [REDACTED] stated his knowledge of Spanish was limited, and he was unsure what BPA [REDACTED] was telling the migrants.

BPA [REDACTED] stated he did not know why women and children were being allowed to enter the United States and men were being held back. BPA [REDACTED] further explained that was not the intention, but simply the way it happened (Timestamp 1:43:11). It was hard to control a crowd and HPU focused on the perceived threat. When HPU attempted to control the crowd, the migrants

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**10. NARRATIVE**

went in different directions and HPU felt the males were a bigger threat as opposed to women and children (Timestamp 1:42:25).

BPA [REDACTED] stated migrants were not being told to return to Mexico (Timestamp 1:44:21). BPA [REDACTED] stated he did not have the authority to tell someone to go back to Mexico after they have illegally entered the United States. The proper procedure would be to apprehend the migrants and process them for removal. BPA [REDACTED] stated he was aware the migrants that day were claiming credible fear and seeking asylum (Timestamp 1:47:06). He became aware of this because he spoke with some of the migrants that spoke English.

BPA [REDACTED] identified BPA [REDACTED] as the BPA who used derogatory language at the migrants. He clarified he did not witness BPA [REDACTED] using the derogatory language but saw it on a video (Timestamp 1:49:03). He reaffirmed the language used by BPA [REDACTED] was unprofessional and discriminatory (Timestamp 1:49:27). BPA [REDACTED] stated he had never heard BPA [REDACTED] use discriminatory comments prior to September 19, 2021.

BPA [REDACTED] shown Photos three and four and identified the BPA in both photos as BPA [REDACTED]. BPA [REDACTED] stated BPA [REDACTED] grabbing of the migrant by the shirt was a use of force, but BPA [REDACTED] disengaged at a proper time (Timestamp 1:54:59)

BPA [REDACTED] stated media was present on September 19, 2021, and he was aware they were taking photos and video. BPA [REDACTED] stated the media crossed the Rio Grande River in violation of United States law (Timestamp 1:56:06).

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**PREPARED BY**

[REDACTED]

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**DEPARTMENT OF HOMELAND SECURITY  
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OFFICE OF PROFESSIONAL RESPONSIBILITY**

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**EXHIBIT - 14**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 023</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Horse Patrol Unit (HPU), Carrizo Springs Texas. The incident occurred at an area known as the "Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE) Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p> <p>On November 10, 2021, Special Agent (SA) [REDACTED] and Assistant Special Agent in Charge (ASAC) [REDACTED], CBP OPR Del Rio, conducted a compelled witness interview of BPA [REDACTED]</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-DEC-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 09-DEC-2021</p>	<p>15. TELEPHONE NUMBER [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

023

**10. NARRATIVE**

On November 10, 2021, SA [REDACTED] and ASAC [REDACTED] conducted a compelled witness interview of BPA [REDACTED]. The entirety of the interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code: [REDACTED].

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview. The PowerPoint contains videos and photographs of the area near the Del Rio POE and boat ramp, as well as video and photos of Carrizo Springs HPU BPAs. During the interview, BPA [REDACTED] was shown the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2, and Video 3. The photos are labeled Photo 1, Photo 2, Photo 3, Photo 4, and Photo 5.

BPA [REDACTED] stated he has been on the Carrizo Springs Horse Patrol Unit (HPU) for approximately [REDACTED]. BPA [REDACTED] volunteered for HPU and went through a selection process. After being accepted to the HPU, BPA [REDACTED] attended a [REDACTED] week training, including [REDACTED] weeks of training in the barn area and [REDACTED] weeks of on-the-job training. BPA [REDACTED] stated being on the HPU did not change his responsibilities or authority as a Border Patrol Agent. BPA [REDACTED] stated his prior experience with horses included trail riding in high school.

BPA [REDACTED] was asked to explain the overall situation at the Del Rio POE which led to the assignment of the HPU at the Del Rio POE. BPA [REDACTED] stated there were a lot of people from different countries under the bridge in Del Rio and Del Rio Sector requested HPU to assist. BPA [REDACTED] stated when they arrived, there were approximately 8,000-11,000 people there.

BPA [REDACTED] stated he attended an operational briefing on the morning of September 19, 2021, at the Incident Command Center and could not recall who conducted the briefing. During the briefing, the only instruction provided to HPU was to provide security (Timestamp 16:41). BPA [REDACTED] stated the migrants were not detained so they understood their role as to provide security and keep it safe, referring to the safety of the migrants and agents.

BPA [REDACTED] stated there was no real direction given by USBP management regarding the non-citizens accumulating at the boat ramp. BPA [REDACTED] stated under normal circumstances, migrants would not be allowed to walk back and forth from Mexico. When asked if USBP management asked HPU to stop the flow of migrants from crossing at the boat ramp, BPA [REDACTED] stated someone came over the radio and stated that Texas Department of Public Safety (TXDPS) was requesting assistance to shut down the "Boat Ramp" (Timestamp 20:18). BPA [REDACTED]

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explained that the HPU understood this to mean to not allow any additional crossing at the boat ramp. BPA [REDACTED] stated he believed TXDPS was going to place vehicles across the boat ramp to block access. BPA [REDACTED] stated the radio transmission came over [REDACTED] but the person did not use a call sign. BPA [REDACTED] stated he did not know who made this request. BPA [REDACTED] stated when he arrived at the boat ramp, TXDPS and two Del Rio HPU agents were already there. BPA [REDACTED] stated he did not know the names of the TXDPS Troopers or the 2 Del Rio HPU agents. BPA [REDACTED] stated he did not know if TXDPS or USBP management requested the HPU assistance. BPA [REDACTED] stated the Del Rio HPU informed him that TXDPS wanted to shut down the boat ramp and get people back to the POE.

BPA [REDACTED] stated there were a few hundred people at the boat ramp at the time. BPA [REDACTED] stated for approximately 15 minutes, HPU politely requested the migrants exit the water and begin returning to the POE. BPA [REDACTED] stated he followed a large crowd that was moving towards the POE when he heard commotion back at the boat ramp. BPA [REDACTED] stated he was a good distance away when this occurred, but he could see HPU and TXDPS trying to stop people from crossing. BPA [REDACTED] stated he could see people running past the HPU BPAs. BPA [REDACTED] identified BPA [REDACTED], BPA [REDACTED], BPA [REDACTED], and BPA [REDACTED], and unknown TXDPS Troopers as being involved in the incident (Timestamp 31:36). BPA [REDACTED] was shown Photo 1 and asked to identify the U.S., Mexico, the bridge, the boat ramp, firebreak, and the POE. When asked to identify the U.S. and Mexico boundary line, BPA [REDACTED] initially stated in the Rio Grande River or on the U.S. bank. BPA [REDACTED] stated he did not know where the U.S. boundary was.

BPA [REDACTED] was shown Photo 2 and asked to identify the HPU BPAs in the picture. BPA [REDACTED] identified from right to left, BPA [REDACTED], BPA [REDACTED], BPA [REDACTED], and BPA [REDACTED] (Timestamp 36:42).

BPA [REDACTED] stated he did not hit anyone with a whip or see any other BPA do so. BPA [REDACTED] stated he did not make any unprofessional comments and did not hear any BPA do so. BPA [REDACTED] stated he did not order anyone to return to Mexico and did not hear any BPA do so. BPA [REDACTED] stated he did not maneuver his horse in an aggressive way towards any migrants and did not see any BPA do so. BPA [REDACTED] stated he did not use force against any migrants and did not see any BPA do so. BPA [REDACTED] stated he did not grab any migrants by their shirt while on horseback and did not see any BPA do so.

When asked if a HPU BPA was allowed and trained to apprehend while on horseback, BPA [REDACTED] stated yes. BPA [REDACTED] described a horseback apprehension as using the horse to cut off

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the person and then dismounting the horse. BPA [REDACTED] stated they would not normally grab someone while on horseback. BPA [REDACTED] stated this was how they were taught in training and what occurred during their normal duties. BPA [REDACTED] stated he was trained by BPA [REDACTED] and BPA [REDACTED]. BPA [REDACTED] stated he attended one or two quarterly trainings, but the trainings had been stopped due to COVID. BPA [REDACTED] stated the last training he attended was in January 2020. BPA [REDACTED] described the training as desensitizing, where they exposed the horses to noises and objects they might encounter during normal duties (Timestamp 43:19).

BPA [REDACTED] stated he did not come close to trampling a child and did not see any BPA do so. BPA [REDACTED] stated he did not hit his reins on the water and did not see any BPA do so. BPA [REDACTED] stated he did not use his horse to push any migrants into the water and did not see any other BPA do so. BPA [REDACTED] stated he did not hit anyone with his horse and did not see any other BPA do so.

BPA [REDACTED] stated from what he saw and heard, the actions of the HPU on September 19, 2021, were reasonable. BPA [REDACTED] stated after seeing a video in the media, he did not believe the unprofessional comments were reasonable. BPA [REDACTED] stated to his knowledge, there was no imminent threat posed by the migrants at the boat ramp on September 19, 2021. BPA [REDACTED] stated he and other HPU BPAs were concerned that the HPU horses would spook due the items being carried by the migrants (Timestamp 48:10).

BPA [REDACTED] was shown Video 1 and asked to identify the HPU BPA making comments to a migrant. BPA [REDACTED] identified the agent as BPA [REDACTED]. BPA [REDACTED] stated he did not hear the comments on the date of the incident. BPA [REDACTED] described the comments as unprofessional. BPA [REDACTED] stated he has never heard BPA [REDACTED] makes comments like that before and says the comments were not common in the HPU. BPA [REDACTED] stated he received training on PALMS for discrimination but did not believe the comments were discriminatory (Timestamp 53:09).

BPA [REDACTED] was shown Video 2 and asked to identify the HPU BPA allowing women and children to pass while stopping men. BPA [REDACTED] identified the agent as BPA [REDACTED]. BPA [REDACTED] stated he did not know why BPA [REDACTED] was trying to stop the male subject. BPA [REDACTED] stated they had not received any direction from management to stop men only. BPA [REDACTED] stated prior to watching the video, he had never seen BPA [REDACTED] stop some people while allowing others to make entry. BPA [REDACTED] stated that a BPA did not have the authority to decide who could make entry into the U.S. (Timestamp 1:00:30).

BPA [REDACTED] was shown Video 1 and asked to identify the HPU BPA swinging the reins. BPA [REDACTED]



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██████████ identified the agent as BPA ██████████. BPA ██████████ described swinging of the reins as a maneuver to pressure the horse into turning away. BPA ██████████ stated swinging of the reins was taught in his training class and other HPU agents used this maneuver. BPA ██████████ stated he did not recall if he swung his reins on that date. BPA ██████████ identified the reins as split reins which are used to control the horse. BPA ██████████ stated split reins were utilized to prevent the reins from getting caught while walking through brush. BPA ██████████ stated HPU did not carry or use whips and lariats. BPA ██████████ stated he did not remember ever seeing any HPU with whips or lariats. BPA ██████████ stated if he intentionally or unintentionally hit someone with the reins, he would report it to his supervisor. BPA ██████████ stated the average person would move if reins were being swung near them, to prevent them from being hit. When asked when he could hit someone with the reins, BPA ██████████ stated if someone was trying to grab the reins and get control of his horse. BPA ██████████ stated that swinging the reins could be used to deter people from getting close to the horse (Timestamp 1:03:44).

When asked to describe what level of force it would be to intentionally hit someone with the reins, BPA ██████████ stated it would be considered intermediate force. BPA ██████████ stated that intermediate force was only permissible against an assaultive resistant offender. When asked if he observed any assaultive resistant behavior at the boat ramp on September 19, 2021, BPA ██████████ stated no. BPA ██████████ earlier in the day, there was a report of a female in the crowd with a knife and BORTAC had responded and seized it. BPA ██████████ stated shortly after, he observed a male subject cutting cane with a steak knife and he (BPA ██████████) told the subject that he couldn't have the knife and asked the subject to bring it to him. BPA ██████████ stated the subject tossed the knife towards him and BPA ██████████ got off the horse and retrieved it. BPA ██████████ stated the subject was approximately 25 to 30 yards away and was not aggressive. BPA ██████████ stated he did not report the seizure. BPA ██████████ stated BPA ██████████ and BPA ██████████ were present when this happened. BPA ██████████ stated there were also males in the river who were surrounding women, stealing food, and having verbal arguments. BPA ██████████ stated when this occurred, HPU would ride over and break it up. BPA ██████████ stated he did not recall any agitators at the boat ramp. BPA ██████████ stated some people were upset and tried to get others more upset but could not recall any specific examples. BPA ██████████ believed these people were upset because of the lack of food and due to them being told they weren't going to be allowed to cross back to Mexico. BPA ██████████ stated he did not see any aggressive behavior at the boat ramp, but later stated he did see some pushing amongst the migrants (Timestamp 1:15:29).

BPA ██████████ was shown Video 2 and asked to identify the agents using his horse to force a subject back into the river. BPA ██████████ identified the agent as ██████████. BPA ██████████ stated he (BPA ██████████) never forced anyone into the river. BPA ██████████ stated he had never seen BPA ██████████ or

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any other BPA force anyone into the river (Timestamp 1:30:05).

BPA [REDACTED] stated he never received crowd control training, but he believed some Carrizo Springs HPU agents received it. BPA [REDACTED] stated crowd control is not covered during the basic HPU training. BPA [REDACTED] stated, during his training, they did practice positioning the horses to make a wall, that could be used to push a crowd back.

BPA [REDACTED] stated HPU BPAs should be concerned about the possibility of the horse running over someone. BPA [REDACTED] stated if a horse did run over someone it could cause serious injuries. BPA [REDACTED] stated HPU BPAs were trained to maneuver their horses away from people to prevent injuries. BPA [REDACTED] stated if children were present, senses were heightened, but HPU BPAs were not trained to do anything different. When asked when a HPU BPA would be allowed to hit someone with their horse, BPA [REDACTED] stated they were not allowed to do that. BPA [REDACTED] stated if he intentionally or unintentionally hit someone with his horse, he would report it to his supervisor because it could cause injuries.

When asked if HPU agents were allowed to charge at someone with their horse, BPA [REDACTED] stated no. BPA [REDACTED] stated that charging at someone and forcing them into a body of water could cause injuries. BPA [REDACTED] stated he did not charge at anyone on September 19, 2021 and did not see any other BPA do so. When asked if charging at someone with a horse was a use of force, BPA [REDACTED] stated if he charged at someone with his horse, he would report it to his supervisor. BPA [REDACTED] stated he could not think of a circumstance where a horse could be used to force someone back to Mexico (Timestamp 1:36:33).

BPA [REDACTED] was shown Video 2 and asked to identify the HPU agent using the horse to force a subject back into the river. BPA [REDACTED] identified the agent as BPA [REDACTED]. BPA [REDACTED] stated he did not believe BPA [REDACTED] charged towards the subject. BPA [REDACTED] stated he did not witness anyone charging towards subjects. BPA [REDACTED] stated he could not understand what BPA [REDACTED] was saying to the subject. BPA [REDACTED] stated he never heard BPA [REDACTED] or any other BPA tell someone to go back to Mexico. BPA [REDACTED] stated it would not be legal to tell someone to go back to Mexico. When asked if migrants from countries other than Mexico were processed the same, BPA [REDACTED] stated yes. BPA [REDACTED] stated there may be some differences because some migrants receive an expedited removal under Title 42. BPA [REDACTED] described credible fear as a person fearing to return to his or her country due to persecution or harassment. BPA [REDACTED] stated if a credible fear was determined, the migrants would be provided documentation to remain in the U.S. When asked if he was aware that the migrants were claiming credible fear and applying for asylum, BPA [REDACTED] stated he wasn't specifically told that, but he was aware that

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**10. NARRATIVE**

previous crossers in Del Rio were claiming credible fear (Timestamp 1:53:07).

BPA [REDACTED] was shown Photo 4 and asked to identify the HPU BPA on the horse. BPA [REDACTED] identified the agent as BPA [REDACTED] (Timestamp 2:00:21).

BPA [REDACTED] was shown Photo 3 and asked to identify the HPU BPA grabbing a migrant by the shirt. BPA [REDACTED] identified the agent as BPA [REDACTED]. BPA [REDACTED] stated he has never seen BPA [REDACTED] or any other HPU BPA grab someone by the shirt to prevent them from making entry into the U.S. BPA [REDACTED] stated he did not grab anyone by the shirt. BPA [REDACTED] stated HPU training taught to hold the person until someone dismounted and took them into custody. BPA [REDACTED] did not believe grabbing someone by the shirt constitutes a use of force (Timestamp 2:00:32).

BPA [REDACTED] stated he did observe media at the boat ramp on September 19, 2021. BPA [REDACTED] stated he did not hear what the media was telling the migrants. BPA [REDACTED] stated the media crossed from Mexico, but he didn't see them cross. BPA [REDACTED] stated he did not hear anyone tell the media to return to Mexico. BPA [REDACTED] stated he did not see anyone return to Mexico due to the actions of the HPU or any other BPA.

BPA [REDACTED] stated he was not aware of anyone recording at the boat ramp other than the media.

BPA [REDACTED] stated before and during the incident, BPA [REDACTED] made multiple requests over the radio for a decision if they were shutting down the boat ramp. BPA [REDACTED] stated BPA [REDACTED] did not receive a response.

BPA [REDACTED] stated after the incident occurred, Carrizo Springs HPU decided to move away from the boat ramp. BPA [REDACTED] stated the decision was not made by anyone. BPA [REDACTED] stated someone called SBPA [REDACTED] after the incident, but he did not know who it was. BPA [REDACTED] stated the Carrizo Springs HPU debriefed under the bridge with SBPA [REDACTED] and expressed their concerns about not having backup or supervision (Timestamp 2:19:25).

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REPORT OF INVESTIGATION  
Exhibit List

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None

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 15**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 038</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED] - [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp," approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On February 9, 2022, Special Agent (SA) [REDACTED] and SA [REDACTED] conducted a compelled interview with Border Patrol Agent (BPA) [REDACTED]. The interview was video and audio recorded with StarWitness equipment and uniquely identified by Authentication Code [REDACTED].</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-APR-2022</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>13. APPROVED DATE 09-APR-2022</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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**10. NARRATIVE**

On February 9, 2022, SA [REDACTED] and SA [REDACTED] conducted a compelled interview with BPA [REDACTED]. The interview was video and audio recorded with StarWitness equipment and uniquely identified by Authentication Code [REDACTED] (Attachment 1).

BPA [REDACTED] was advised to only answer the questions in the interview based on his personal knowledge, not what he may have seen on television or social media, unless he was specifically asked what he had seen on television or social media.

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview (Attachment 2). The PowerPoint contains videos and photographs of the area near the Del Rio POE and boat ramp, as well as video and photos of Carrizo Springs HPU BPAs. During the interview, BPA [REDACTED] was shown the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2 and Video 3. The photographs are labeled Photo 1, Photo 2, Photo 3, Photo 4 and Photo 5.

BPA [REDACTED] stated to prepare for this interview he had spoken to his union representative attorney, [REDACTED]. BPA [REDACTED] stated he has not spoken with any other CBP employees regarding this incident.

BPA [REDACTED] stated there is a HPU text message group but does not remember if there are any text messages related to this incident. BPA [REDACTED] stated the text messages he has with the HPU group is on his personal phone, but he would not be willing to look through those messages to see if there are any text related to this incident. SA [REDACTED] advised BPA [REDACTED] to preserve any of the text messages he may find on his phone (Timestamp 4:44).

BPA [REDACTED] stated he was not asked to prepare a memorandum related to the HPU activities at the Del Rio POE on September 19, 2021.

BPA [REDACTED] stated he did not record anything on his cellular phone on the day of the incident.

BPA [REDACTED] stated he has been employed with the USBP since [REDACTED] and is currently a BPA assigned to the HPU. BPA [REDACTED] stated his first rotation with the HPU started in [REDACTED] and lasted [REDACTED]. BPA [REDACTED] stated after six months he started his second rotation on the HPU. BPA [REDACTED] stated he volunteered for the HPU.

BPA [REDACTED] advised for his first rotation on the HPU, the selection process included riding a horse

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under the instruction of a wrangler who assessed the BPA on his riding skills. BPA [REDACTED] stated the selection process also included an interview and memorandum requesting to join the HPU. BPA [REDACTED] advised on his second rotation he was already nationally certified for the HPU, therefore he only had to write a memorandum requesting selection to the HPU and conduct another riding assessment under the instruction of a wrangler.

BPA [REDACTED] stated being assigned to the HPU adds responsibilities to a BPA but does not change a BPAs authority.

BPA [REDACTED] stated when he was initially selected to the HPU he attended a two-week training where he learned about horses, the equipment and how to guide a horse by using reins. BPA [REDACTED] stated there is also quarterly training that is supposed to be conducted. BPA [REDACTED] stated the quarterly training covers desensitizing a horse. BPA [REDACTED] advised the quarterly training is an eight-hour block of training. BPA [REDACTED] stated he could not recall the last time he attended quarterly training. BPA [REDACTED] stated the training has not taken place because the Carrizo Springs Station [REDACTED] and HPU BPAs are assigned other responsibilities such as processing migrants. BPA [REDACTED] stated he attended quarterly training last year, but not all of them. BPA [REDACTED] stated the quarterly training is mandated by policy (Timestamp 9:30).

BPA [REDACTED] stated in [REDACTED], he attended a one-day crowd control training at the Carrizo Springs Station, given by Supervisory BPA (SBPA) [REDACTED] BPA [REDACTED] stated the training included learning formations and how to engage crowds. BPA [REDACTED] stated he did not remember getting a certificate indicating he was certified in crowd control on horseback (Timestamp 12:35).

BPA [REDACTED] stated prior to September 19, 2021, the HPU was not active in the field because the HPU had been tasked with processing migrants. BPA [REDACTED] stated HPU BPAs were assigned to processing in early June of 2021. (Timestamp 15:30)

BPA [REDACTED] stated he believed when a horse was not ridden for a couple of months their attitude and personality can change. BPA [REDACTED] stated he felt like a horse became stressed more easily and spooked easier after not being ridden. BPA [REDACTED] stated when he started riding his HPU horse, he noticed the horse was more "skittish" (Timestamp 18:33).

BPA [REDACTED] stated during the time HPU BPAs were assigned to processing migrants he had contact with his horse mainly when feeding it.

BPA [REDACTED] stated the HPU was a force multiplier by assisting BPAs with tracking migrants. BPA



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## 10. NARRATIVE

█████ stated the HPU worked as a unit when tracking versus one or two BPAs tracking. BPA █████ stated horses can track longer distances and work harder and longer in adverse conditions (Timestamp 21:15).

BPA █████ stated he knew there was an influx of migrants and thousands of migrants at the Del Rio POE, but because he was from a different station, he did not know much about what was transpiring at the Del Rio POE. BPA █████ stated social media was showing and stating it was "out of control" at the Del Rio POE. BPA █████ stated he was unaware of what USBP was doing operationally at the Del Rio POE during this migrant influx (Timestamp 24:24).

BPA █████ stated he was assigned to the Del Rio POE starting, September 19, 2021. BPA █████ stated he did not know how long the HPU was going to be assigned to the Del Rio POE. Additionally, the HPU BPAs was not given any details about going to the Del Rio POE. BPA █████ believed he arrived at the Del Rio POE between 9:30 am and 10:00 am on September 19, 2021 (Timestamp 25:45).

BPA █████ advised SBPA █████ and SBPA █████ ordered the HPU to the Del Rio POE. BPA █████ stated SBPA █████ advised him the HPU's purpose at the Del Rio POE was to create a presence and assist if the HPU was called upon. BPA █████ stated there was nothing specific the HPU was tasked to do. BPA █████ stated he was not provided with an operations plan related to the HPU at the Del Rio POE. BPA █████ stated these were the only directives given to the HPU (Timestamp 27:58)

BPA █████ stated he knew there were allegations made about BPAs whipping migrants with a whip.

BPA █████ stated on September 19, 2021, SBPA █████ was his supervisor and SBPA █████ was at the Del Rio POE (Timestamp 30:58).

BPA █████ stated he was not provided any instructions by USBP management regarding the migrants who were crossing and accumulating at the boat ramp. BPA █████ stated USBP management did not speak about the boat ramp (Timestamp 31:08).

BPA █████ stated he went to the boat ramp but did not make it to the water's edge. BPA █████ stated when he tried to go down the boat ramp, his horse was not comfortable stepping on the boat ramp surface and backed up quickly. BPA █████ stated as a safety precaution and since he had not ridden the horse in weeks, he did not try to force his horse down the boat ramp. BPA

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[REDACTED]

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## 10. NARRATIVE

[REDACTED] stated prior to September 19, 2021, he did not believe he had ridden his horse since June of 2021. BPA [REDACTED] described the boat ramp surface as uneven tiles or pavers made of concrete (Timestamp 32:22).

BPA [REDACTED] stated he did not remember any conversation with USBP management regarding whether the migrants under the Del Rio POE were in custody. BPA [REDACTED] stated he assumed they were in custody because the migrants were not free to continue toward Del Rio. BPA [REDACTED] described the area under the Del Rio POE was the size of a football field and a half, with concrete barriers and some fencing. BPA [REDACTED] stated migrants were located between these barriers but were free to move around inside of the barriers. BPA [REDACTED] stated there were BPAs all around this area and that was why the migrants were not free to leave (Timestamp 34:37).

BPA [REDACTED] stated between the Del Rio POE and the Rio Grande River there were migrants walking everywhere. BPA [REDACTED] stated migrants were walking back and forth between the U.S. and Mexico. BPA [REDACTED] stated the migrants at the boat ramp were walking and moving freely. BPA [REDACTED] stated he had never seen migrants, who were in custody, travel back and forth between the U.S. and Mexico (Timestamp 36:56).

BPA [REDACTED] stated he did not recall USBP management asking the HPU to stop the migrants from entering the U.S. at the boat ramp (Timestamp 41:35).

BPA [REDACTED] stated he did not recall USBP management asking the HPU to make sure the migrants crossing at the boat ramp continued walking toward the Del Rio POE and in other directions (Timestamp 42:00).

BPA [REDACTED] recalled seeing Texas Department of Public Safety (TXDPS) troopers and sheriff deputies at the boat ramp but did not know what agency arrived first.

BPA [REDACTED] stated he did not remember TXDPS troopers asking for assistance at the boat ramp (Timestamp 43:08).

BPA [REDACTED] recalled there was going to be an operation with USBP and TXDPS at the boat ramp at 2:00 pm on September 19, 2021. BPA [REDACTED] recalled there was a weir dam upriver from the boat ramp [REDACTED] it had been "shut down". BPA [REDACTED] stated what was circulating amongst the BPAs was they (TXDPS) wanted to shut down the boat ramp. BPA [REDACTED] continued, saying he believed it was a directive given by SBPA [REDACTED] to "be on standby at 2:00". BPA [REDACTED] stated there was not a muster or operations plan related to the

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operation at the boat ramp (Timestamp 43:25).

BPA [REDACTED] stated he was eating lunch, prior to 2:00 pm, when a there was a request for the HPU to respond to the boat ramp. BPA [REDACTED] stated he believed the operation was commencing so he mounted his horse and headed to the boat ramp area. BPA [REDACTED] stated he was unaware who requested the HPU to respond to the boat ramp. BPA [REDACTED] stated he did not recognize the voice and the person did not use a call sign to identify themself. BPA [REDACTED] advised the call was on a " [REDACTED] channel, and therefore the call [REDACTED] and was not recorded. BPA [REDACTED] stated he was unaware if TXDPS was able to communicate on USBP radio channels. BPA [REDACTED] stated BPAs use a call sign when transmitting on a radio and it would be abnormal for a BPA not to use one (Timestamp 45:10).

BPA [REDACTED] stated he did not have direct communication with SBPA [REDACTED] ut other BPAs did and in passing the other BPAs would mention an operation at 2:00 pm. BPA [REDACTED] stated this was not how operations were generally organized but assumed before the operation there would have been a muster. BPA [REDACTED] stated he did not recall any discussion amongst HPU BPAs about the operation (Timestamp 48:39).

BPA [REDACTED] recalled that when he responded to the call for assistance, migrants were walking away from the boat ramp and HPU BPAs were directing migrants toward the Del Rio POE. BPA [REDACTED] stated he did not go to the boat ramp but stopped and assisted in directing migrants toward the Del Rio POE. BPA [REDACTED] stated he assumed there was not an emergency when the call came out. (Timestamp 50:25)

BPA [REDACTED] was shown Photo 1 from the PowerPoint and provided a copy of Photo 1, an aerial photograph of the Del Rio POE area. BPA [REDACTED] identified the Del Rio POE, the Rio Grande River, and the boat ramp.

BPA [REDACTED] stated he understood the international boundary between the U.S. and Mexico to be the middle of the Rio Grande River. BPA [REDACTED] stated he had never had any training related to where the international boundary was located. BPA [REDACTED] agreed a migrant had made entry into the U.S. once they had crossed the international boundary, even if standing in the Rio Grande River (Timestamp 56:04).

BPA [REDACTED] stated he did not hit any migrants with reins or a whip, nor did he witness any HPU BPA do so. (Timestamp 59:07)

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BPA [REDACTED] stated he did not make any unprofessional comments toward migrants, nor did he hear any HPU BPA do so. (Timestamp 59:17)

BPA [REDACTED] stated he did not order any migrants to return to Mexico, nor did he witness any HPU BPA doing so. (Timestamp 59:27)

BPA [REDACTED] stated he did not maneuver his horse in an aggressive manner toward any migrants, nor did he witness any HPU BPA do so. (Timestamp 59:36)

BPA [REDACTED] stated he did not use force against any migrants, nor did he witness any HPU BPA do so. (Timestamp 59:46)

BPA [REDACTED] stated he did not grab any migrants by the shirt, nor did he witness any HPU BPA do so. BPA [REDACTED] stated he did not recall if there was a policy regarding HPU BPAs making arrest while on horseback. BPA [REDACTED] stated it was common for HPU BPAs to give verbal commands to migrants then dismount from their horse before making an arrest. (Timestamp 59:54)

BPA [REDACTED] stated he did not come close to trampling a child with his horse, nor did he witness any HPU BPA do so. (Timestamp 1:01:03)

BPA [REDACTED] stated he did not hit the water with his reins or a lariat, nor did he witness any HPU BPA do so. (Timestamp 1:01:20)

BPA [REDACTED] stated he did not use his horse to push any migrants back into the water, nor did he witness any HPU BPA do so. (Timestamp 1:01:31)

BPA [REDACTED] stated he did not hit any migrants, intentionally or unintentionally, with his horse. BPA [REDACTED] stated he did not witness any horse contact any migrants. (Timestamp 1:01:38)

BPA [REDACTED] stated what he witnessed on September 19, 2021, the HPU BPAs used a reasonable amount of force. (Timestamp 1:01:51)

BPA [REDACTED] stated the migrants were not an imminent threat. (Timestamp 1:02:24)

BPA [REDACTED] advised he did not witness the incident that took place at the boat ramp but had seen videos and images in the media. BPA [REDACTED] stated he was directing migrants in the firebreak area above the boat ramp and could not see the bottom of the boat ramp area (Timestamp 1:02:50).

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## 10. NARRATIVE

BPA [REDACTED] was shown Photo 2 on the PowerPoint which contained four HPU BPAs on horseback at the boat ramp on September 19, 2021. BPA [REDACTED] identified the HPU BPAs from left to right as; BPA [REDACTED] riding [REDACTED] (far left), BPA [REDACTED] riding [REDACTED] (second from left), BPA [REDACTED] (third from left) unknown horse, and BPA [REDACTED] unknown horse (far right) (Timestamp 1:03:56).

BPA [REDACTED] was shown Video 1 from the PowerPoint. BPA [REDACTED] stated he had not seen this video prior to the interview. BPA [REDACTED] identified BPA [REDACTED] on the video, riding a white horse and yelling at migrants. BPA [REDACTED] stated he did not hear BPA [REDACTED] yelling at migrants on September 19, 2021. BPA [REDACTED] stated on Video 1, he could hear BPA [REDACTED] say, "this is why your country is shit because you use your women". BPA [REDACTED] advised he recognized BPA [REDACTED] voice on Video 1 (Timestamp 1:11:00).

BPA [REDACTED] stated prior to this incident he had not heard BPA [REDACTED] make any derogatory comments, nor any HPU BPAs make derogatory comments. BPA [REDACTED] stated this behavior was not common for HPU BPAs and should not be common for any BPA. BPA [REDACTED] stated CBP had a standard of conduct that addressed professionalism and did not believe the comments made by BPA [REDACTED] were professional. BPA [REDACTED] stated BPAs were held at a higher standard and believed the comments were unprofessional because of cursing and referring to the migrant's country as a "shithole" (Timestamp 1:12:39).

BPA [REDACTED] stated CBP provided training related to prohibiting discrimination against people based on sex, race and national origin. BPA [REDACTED] stated the comment made by BPA [REDACTED] could be seen as discriminatory, noting BPA [REDACTED] did not say anything about race but spoke his "opinion" about a country. BPA [REDACTED] agreed he can see how the comment could be viewed as discriminatory (Timestamp 1:13:35).

BPA [REDACTED] was shown Video 1 from the PowerPoint. BPA [REDACTED] agreed the video showed a group of migrants consisting of women, children and one male on the boat ramp. BPA [REDACTED] agreed the video showed that the women and children were allowed to walk up the boat ramp while HPU BPAs concentrated on the male migrant to divert him back to the water. BPA [REDACTED] stated he did not know why BPAs would try to stop a male migrant while letting women and child migrants pass by (Timestamp 1:16:55).

BPA [REDACTED] stated there was no directive from Department of Homeland Security (DHS) or USBP management regarding allowing some migrants to enter the U.S. versus others (Timestamp 1:19:03).

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BPA [REDACTED] stated as a BPA, he did not have the authority to decide who could come into the U.S. (Timestamp 1:19:30).

BPA [REDACTED] was shown Video 1 from the PowerPoint. BPA [REDACTED] identified BPA [REDACTED] in the video as the BPA riding a brown horse and twirling his reins. BPA [REDACTED] stated the HPU only used split reins. BPA [REDACTED] stated he was unaware if BPA [REDACTED] twirled his reins in this manner normally. BPA [REDACTED] stated he had seen other HPU BPAs twirl their reins to deter their horse from eating. BPA [REDACTED] stated these BPAs advised him twirling the reins was a type of pressure. BPA [REDACTED] stated horses work off pressure, therefore if you wanted a horse to do something you had to apply a type of pressure. BPA [REDACTED] advised he personally used his reins or legs as pressure. BPA [REDACTED] stated to turn a horse left, you would pull the reins to the left and apply leg pressure on the horse's left side (Timestamp 1:20:10).

BPA [REDACTED] stated in Video 1 when BPA [REDACTED] twirled his reins on the right side of the horse's head, the horse moved to the left. BPA [REDACTED] stated he did not know if BPA [REDACTED] was using the reins as a type of pressure (Timestamp 1:23:05).

BPA [REDACTED] believed split reins were used for safety because split reins were made of two leather straps that were not connected; therefore, a horse will not get the reins hung on obstacles. BPA [REDACTED] could not recall if there was a policy that only split reins would be utilized by the HPU but stated only split reins were issued to HPU BPAs. BPA [REDACTED] stated all reins lengths were different and believed there was approximately three to four feet of extra leather on his split reins. BPA [REDACTED] stated all the HPU horse tac was issued to the BPA, and HPU BPAs were not allowed to use any other horse tac (Timestamp 1:24:17).

BPA [REDACTED] stated he did not twirl his reins in the same manner as BPA [REDACTED] on September 19, 2021 (Timestamp 1:26:21).

BPA [REDACTED] advised reins were used to control a horse. BPA [REDACTED] stated he did not know what a lariat was. BPA [REDACTED] stated the HPU BPAs did not have whips nor were the BPAs issued whips. BPA [REDACTED] stated there was a whip that was used during training. BPA [REDACTED] described this whip as being as long as a broom, made of braided nylon with a loose leather end that is about a foot long. BPA [REDACTED] stated this whip was stiff but bendable. BPA [REDACTED] stated this whip was not carried by HPU BPAs in the field. BPA [REDACTED] stated he had never seen a HPU BPA carry a whip in the field, nor had he seen an HPU BPA carry a whip on September 19, 2021 (Timestamp 1:26:28).

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SA [REDACTED] advised BPA [REDACTED] that a lariat was the same as a roping rope. BPA [REDACTED] stated HPU BPAs did not carry nor were they issued lariats. BPA [REDACTED] stated he had never seen a HPU BPA carry a lariat in the field, nor had he seen any HPU BPA carrying a lariat on September 19, 2021 (Timestamp 1:29:02).

BPA [REDACTED] stated BPA [REDACTED] was not the HPU BPA he recalled using split reins to deter his horse from eating. BPA [REDACTED] stated he did not recall ever seeing BPA [REDACTED] twirl his reins like in Video 1 (Timestamp 1:29:40).

BPA [REDACTED] could not recall any HPU training that covers twirling split reins. BPA [REDACTED] stated HPU BPAs were trained to use the split reins a certain way. BPA [REDACTED] described using the reins to give the horse enough slack so it can move its head, holding the reins low, and how to pull back on the split reins to stop a horse. BPA [REDACTED] agreed the training gave a general overview of how to hold the split reins, how much tension to apply, and how much slack to have on the split reins to the bit (in the horse's mouth) (Timestamp 1:31:15).

BPA [REDACTED] stated he was unsure if hitting someone intentionally or unintentionally with reins would be considered a use of force but advised it would be reportable. BPA [REDACTED] stated if deadly force was used with the reins, it would be considered a use of force and reportable (Timestamp 1:33:52).

When SA [REDACTED] asked, "if you swing the reins at someone and miss, would it be a use of force?", BPA [REDACTED] replied, "again we are not supposed to do that with the reins". BPA [REDACTED] agreed if a HPU BPA intended to use reins to hit someone it would be a use of force (Timestamp 1:36:21).

BPA [REDACTED] believed if reins were being swung at someone their reaction would be to move back. BPA [REDACTED] stated if reins were used to hit someone it would be an intermediate use of force. BPA [REDACTED] stated to distinguish between what level of force using reins to hit someone was hard because it was not something they would do. BPA [REDACTED] stated the use of intermediate force is permissible if a migrant is being assaultive toward someone. BPA [REDACTED] stated he did not witness any migrants displaying assaultive resistant behavior on September 19, 2021. BPA [REDACTED] stated he did not see any migrants being resistant toward BPAs on September 1, 2021 (Timestamp 1:36:53).

In Video 1, BPA [REDACTED] stated he believed BPA [REDACTED] was using his horse to deter migrants from making landfall. BPA [REDACTED] stated he did not use his horse to force any migrants into the river.

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[REDACTED]

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BPA [REDACTED] stated prior to this incident he had never seen BPA [REDACTED] use his horse to force a migrant back to the river. BPA [REDACTED] stated being assigned to the Carrizo Springs Station they do not work any part of the Rio Grande River. BPA [REDACTED] stated he has never seen a HPU BPA use their horse to force a migrant into the river (Timestamp 1:41:16).

BPA [REDACTED] stated he has only attended one crowd control training while assigned to the HPU. BPA [REDACTED] advised there is not a standard for HPU BPAs to attend crowd control training and does not recall if any of the other HPU BPAs have attended crowd control training (Timestamp 1:45:24).

BPA [REDACTED] stated a HPU BPA needs to be cognizant not to run over people with their horse. BPA [REDACTED] agreed that due to the pavers on the boat ramp, the area being wet, and the horses having metal shoes, the boat ramp could be slippery for a horse. BPA [REDACTED] stated personally he would not be comfortable getting too close to the water or maneuvering his horse like BPA [REDACTED] did on the boat ramp. BPA [REDACTED] further explained each HPU BPA had a different level of experience and comfort with his horse. BPA [REDACTED] was unaware what horse BPA [REDACTED] was riding in Video 1 and unaware if BPA [REDACTED] had been riding the horse prior to September 19, 2021 (Timestamp 1:45:58).

BPA [REDACTED] stated if someone was trampled or run over by a horse it could result in serious bodily injury. BPA [REDACTED] could not recall if he has received any training to prevent injuries to people while on horseback. BPA [REDACTED] stated he is very safe when he is riding and therefore, he would not ride any different if there were children present. BPA [REDACTED] stated he does not know if he would be using his horse as BPA [REDACTED] did because he does not know how "they even got into that situation". BPA [REDACTED] stated regardless of being around men, women or children he tries to be as safe as possible (Timestamp 1:48:00).

BPA [REDACTED] stated when riding horses all factors need to be considered, including environmental factors, such as in this case, the wet slippery surface of the boat ramp. BPA [REDACTED] stated taking the boat ramp situation, he would not be comfortable maneuvering his horse the way BPA [REDACTED] did, but he cannot say how comfortable BPA [REDACTED] was (Timestamp 1:52:00).

BPA [REDACTED] stated in a deadly force situation a horse could be used to run over someone. BPA [REDACTED] stated there was no specific training or policy related to using a horse in deadly for situation, but in a deadly force situation a BPA could use whatever means, including a horse. BPA [REDACTED] stated if a BPA intentionally used a horse to hit someone it would be a use of force and reportable. BPA [REDACTED] stated HPU BPAs could not use their horses to charge at someone and there is no training related to charging someone. BPA [REDACTED] stated charging someone and forcing them into a



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body of water could cause injury. BPA [REDACTED] stated charging someone on a horse would be considered a use of force. BPA [REDACTED] stated "chasing" or "cutting" might be perceived as charging but was not the same (Timestamp 1:53:14).

BPA [REDACTED] stated, as viewed in Video 1, the maneuvers looked like the HPU BPAs were cutting but not charging. BPA [REDACTED] stated it looked like BPA [REDACTED] was using "cutting tactics," to deter migrants at the boat ramp. BPA [REDACTED] stated the HPU BPAs were trained to cut off, or get ahead of, someone who absconded from them in the field, but he did not recall training using cutting movements (Timestamp 2:00:51).

When asked under what circumstances a horse could be used to force a migrant to return to Mexico, BPA [REDACTED] replied he has never covered anything "of that sort" (Timestamp 2:03:50).

BPA [REDACTED] was then asked, as a BPA and with his knowledge of immigration law, under what circumstances can anything be used to return a migrant to Mexico. BPA [REDACTED] stated when he worked at a river station, USBP management advised that deterring was part of the USBP mission. BPA [REDACTED] further advised, when he was stationed in Eagle Pass, TX, USBP management would say "a turn back is as good as an ap (apprehension)". BPA [REDACTED] advised deterrence was encouraged. BPA [REDACTED] stated deterrence included sitting at the river with lights and sirens running so migrants would go back and not make entry (Timestamp 2:04:05).

BPA [REDACTED] stated a horse could be used to show presence to encourage migrants to return to Mexico. BPA [REDACTED] was asked about the migrant in Video 1 who was in the U.S. and was walking up the boat ramp. BPA [REDACTED] stated he would have dismounted his horse and arrested the migrant. BPA [REDACTED] stated he was unaware of any policy addressing the use of a horse to return migrants to Mexico (Timestamp 2:05:23).

BPA [REDACTED] was shown Video 2 from the PowerPoint.

BPA [REDACTED] stated at the end of the video BPA [REDACTED] says "Mexico". BPA [REDACTED] stated BPA [REDACTED] points to Mexico. BPA [REDACTED] stated he has never heard BPA [REDACTED] tell a migrant to return to Mexico. BPA [REDACTED] stated he had never told a migrant to return to Mexico nor had he heard a HPU BPA tell a migrant to return to Mexico (Timestamp 2:07:50).

BPA [REDACTED] stated he did not know if it was legal for a BPA to return a migrant to Mexico immediately after entering the U.S. at the Rio Grande River. BPA [REDACTED] stated in this situation he would arrest a migrant and the migrant would be processed. BPA [REDACTED] stated he had never been

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directed to return migrants to Mexico once they have entered the U.S. (Timestamp 2:10:39).

BPA [REDACTED] stated migrants from countries other than Mexico cannot be returned to Mexico, but the prior administration (Presidential) did return migrants to Mexico, who were not citizens of Mexico (Timestamp 2:13:08).

BPA [REDACTED] stated credible fear was when a migrant fear returning to their country due to fearing for their life, political issues in their country, lack of employment and gangs. BPA [REDACTED] stated "asylum" was political asylum, meaning the migrant feared returning to their country due to reprisal from their government. BPA [REDACTED] stated to his knowledge migrants at the Del Rio POE on September 19, 2021, were not claiming to have a credible fear or seeking asylum (Timestamp 2:13:56).

BPA [REDACTED] was shown Photo 5 from the PowerPoint.

BPA [REDACTED] identified the HPU BPA in the photo as BPA [REDACTED] BPA [REDACTED] stated it appeared BPA [REDACTED] was pointing toward Mexico. BPA [REDACTED] assumed BPA [REDACTED] could only be pointing to tell the migrants to go back to Mexico like BPA [REDACTED] (Timestamp 2:15:45).

BPA [REDACTED] advised he remembered two TXDPS troopers being present at the boat ramp on September 19, 2021 (Timestamp 2:16:31).

BPA [REDACTED] was shown Photo 3 and Photo 4 from the PowerPoint.

BPA [REDACTED] identified the HPU BPA in the photos as BPA [REDACTED] BPA [REDACTED] stated prior to this photo he had never seen BPA [REDACTED] grab a migrant by the shirt while on horseback. BPA [REDACTED] stated he had never seen a HPU BPA grab a migrant by the shirt. BPA [REDACTED] stated he did not grab anyone by the shirt while on horseback (Timestamp 2:16:59).

BPA [REDACTED] stated the HPU BPAs were trained to apprehend while on horseback, stating the training advised to refer to the use of force procedures. BPA [REDACTED] stated HPU BPAs did not practice apprehending from horseback. BPA [REDACTED] stated he was unaware if there was a policy regarding dismounting a horse prior to making an arrest (Timestamp 2:18:41).

BPA [REDACTED] stated he would not consider grabbing someone by the shirt as a use of force (Timestamp 2:20:49).

BPA [REDACTED] was shown Video 3 from the PowerPoint.

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[REDACTED]

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**10. NARRATIVE**

BPA [REDACTED] recalled there were more migrants on the road that lead from the Del Rio POE to the boat ramp than what can be seen in Video 3. BPA [REDACTED] stated there were more migrants walking in the firebreak area and between the road and firebreak. BPA [REDACTED] stated the migrants in Video 3 were walking toward the Del Rio POE (Timestamp 2:21:46).

BPA [REDACTED] stated there were migrants "camping" down river of the boat ramp in the opposite direction of the Del Rio POE. BPA [REDACTED] stated on September 19, 2021, or September 20, 2021, SBPAs [REDACTED] and [REDACTED] advised the HPU BPAs to move those migrants closer to the Del Rio POE. BPA [REDACTED] stated BPAs asked those migrants to move closer to the Del Rio POE, and they complied. BPA [REDACTED] stated he was unaware if the movement of these migrants was part of the operation that was supposed to take place on September 19, 2021 (Timestamp 2:23:11).

BPA [REDACTED] stated when he arrived at the boat ramp area, BPA [REDACTED] was requesting, via radio, whether to let the migrants make entry or to stop them at the boat ramp. BPA [REDACTED] stated there was a long pause on the radio until someone responded to let the migrants enter. BPA [REDACTED] stated he did not recognize the voice of the person who responded to let the migrants in nor was there a call sign give on the radio. BPA [REDACTED] assumed the response to let the migrants make entry ended the incident at the boat ramp (Timestamp 2:26:41).

BPA [REDACTED] stated he was unaware why this incident began or why the HPU BPAs were at the bottom of the boat ramp. BPA [REDACTED] assumed this incident started when he was eating lunch on the opposite side of the Del Rio POE from the boat ramp (Timestamp 2:30:05).

BPA [REDACTED] did not know how BPA [REDACTED] carried his hand-held radio (Timestamp 2:33:23).

BPA [REDACTED] stated he was unaware why HPU BPAs started to clear the boat ramp. BPA [REDACTED] stated he was unaware how long the incident lasted (Timestamp 2:35:28).

BPA [REDACTED] stated he saw media standing in the Rio Grande River when he was heading toward the boat ramp area after the call for assistance was made. BPA [REDACTED] assumed the media was taking video and photos. BPA [REDACTED] did not see the media speaking to the migrants (Timestamp 2:37:13).

BPA [REDACTED] stated if the international boundary between the U.S. and Mexico was the middle of the Rio Grande River then the media made an illegal entry into the U.S. BPA [REDACTED] stated he did not speak to the media, nor did he advise them to return to Mexico and make entry at a designated port of entry (Timestamp 2:38:08).

**DEPARTMENT OF HOMELAND SECURITY**



**REPORT OF INVESTIGATION  
Exhibit List**

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202112280

**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

038

None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 16**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 019</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of Horse Patrol Unit Border Patrol Agent [REDACTED], Carrizo Springs, Texas</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station, Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p> <p>On November 9, 2021, ASAC [REDACTED], CBP OPR Houston, and SA [REDACTED], CBP OPR Del Rio, conducted a compelled interview of Carrizo Spring HPU BPA [REDACTED]. Union Representative [REDACTED], San Diego, California, was present during the interview.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-DEC-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 09-DEC-2021</p>	<p>15. TELEPHONE NUMBER [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

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## 10. NARRATIVE

On November 9, 2021, ASAC [REDACTED], CBP OPR Houston, and SA [REDACTED], CBP OPR Del Rio, conducted a compelled interview of Carrizo Spring HPU BPA [REDACTED]. The interview was audio and video recorded using the StarWitness and uniquely identified by Authentication Code: [REDACTED]. At the request of BPA [REDACTED], Union Representative [REDACTED], San Diego, California, was present during the interview.

Prior to the interview, BPA [REDACTED] was provided with his Warning and Assurances to Employee Required to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation. On November 4, 2021, BPA [REDACTED] was provided with and signed the Warning and Assurances to Employee Requested to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation when he was served with the form titled Your Required Appearance and Sworn Testimony. The form titled Your Required Appearance and Sworn Testimony signed by BPA [REDACTED] is attached. At the beginning of the interview, BPA [REDACTED] reviewed copies of the Warnings and Assurance to Employee Required to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation, which he previously signed. After reviewing these forms, BPA [REDACTED] identified his signature on the documents and again signed and dated the forms indicating he understood them. BPA [REDACTED] was placed under oath prior to the interview.

On [REDACTED], BPA [REDACTED] entered on duty with the USBP and is currently assigned to the [REDACTED] HPU in Carrizo Springs based out of the Carrizo Springs Border Patrol Station. BPA [REDACTED] clarified that the HPU in Carrizo Springs used to be a specialized unit run by Station management. However, Del Rio Sector absorbed all HPUs within the Sector, making them Sector Units [REDACTED]. This did not change the makeup or function of the HPU, it simply added a layer of Sector level management. [REDACTED]

[REDACTED] BPA [REDACTED] most recent assignment to the Carrizo Springs HPU began in approximately [REDACTED]. BPA [REDACTED] was previously assigned to the Carrizo Springs HPU between approximately [REDACTED] and [REDACTED] and again between approximately [REDACTED] and [REDACTED]. BPA [REDACTED] current supervisors are Carrizo Springs HPU Supervisory Border Patrol Agents (SBPAs) [REDACTED] and [REDACTED] (timestamp 00:12:00).

The Carrizo Springs HPU is a voluntary position and during his most recent selection for the HPU, BPA [REDACTED] submitted a memorandum expressing interest in an HPU position, completed a questionnaire related to requirements of the HPU position and completed a panel interview.

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During his details to the Carrizo Springs HPU, BPA [REDACTED] received both classroom and practical instruction. However, during the most recent HPU training, BPA [REDACTED] was only required to complete practical exercises since he was previously a HPU BPA and had completed [REDACTED] weeks of training including a two-week period of on-the-job training.

BPA [REDACTED] explained that HPU BPAs have many of the same duties as other BPAs, but additionally are required to care for horses and maintain equipment and vehicles used by the HPU. HPU agents are responsible for patrolling, processing, and transporting detained migrants; however, unlike other BPAs, HPU BPAs do not do rotational assignments at USBP Checkpoints. BPA [REDACTED] stated being a member of the HPU does not change his responsibility or authority as a BPA (Timestamp 00:21:00).

HPU BPAs receive both initial and periodic training and are required to receive quarterly training. The quarterly training is instruction in advanced techniques such as riding in formation or desensitization training for the horse. Desensitization training for horses involves exposing the horses to stimuli such as tarps, balls or flags that could cause a horse to "spook" and the horses are trained not to respond to the stimuli.

BPA [REDACTED] last received quarterly training in October 2021, however he stated this was the only instance in 2021 that he received quarterly training (Timestamp 00:23:41). BPA [REDACTED] stated the HPU supervisors have asked for the required time to conduct the quarterly trainings but have been denied. BPA [REDACTED] could not provide information on who was responsible for denying the requests to conduct quarterly training. BPA [REDACTED] explained that in 2021, HPU BPAs were reassigned to transporting and processing duties. BPA [REDACTED] also said he could not recall participating in any quarterly trainings in 2020.

BPA [REDACTED] had extensive experience with horses prior to his assignment with HPU and began working with horses at approximately eight years old.

BPA [REDACTED] did not speak with any CBP employee concerning his interview but did speak with Union Representative [REDACTED]. Following the September 19, 2021, incidents, BPA [REDACTED] spoke with other Carrizo Springs HPU BPAs about the incident at the boat ramp. Additionally, BPA [REDACTED] stated he has had general conversations with family and others about the media coverage of the September 19, 2021, incidents.

BPA [REDACTED] did not send or receive any emails via government email regarding the September 19, 2021, incidents involving the Carrizo Springs HPU. BPA [REDACTED] did not prepare a memorandum



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concerning the September 19, 2021, incidents involving the Carrizo Springs HPU.

BPA [REDACTED] did not believe he sent or received any text messages concerning the September 19, 2021, incidents at the boat ramp, but agreed to review his text messages and provide any he located concerning the September 19, 2021 incidents involving the Carrizo Springs HPU.

BPA [REDACTED] said that he had a GoPro camera while in Del Rio and used it to capture video of Carrizo Springs HPU BPAs activities on September 19, 2021, but he did not capture video of the incidents involving Carrizo Spring HPU BPAs, which occurred at the boat ramp. BPA [REDACTED] estimated he had two or three videos, which he made on September 19, 2021, and one or two videos, which he made on September 20, 2021 (timestamp 00:32:20).

BPA [REDACTED] and Union Representative [REDACTED] agreed to provide OPR with copies of the videos made by BPA [REDACTED] depicting HPU Carrizo Springs BPAs. On November 10, 2021, Union Representative [REDACTED], Del Rio Sector, provided SA [REDACTED], CBP OPR Del Rio, a disk containing four recordings made by BPA [REDACTED] (Exhibit 5). The disk received from Union Representative [REDACTED] contains four video files, a document listing the file directory of the GoPro, as well as a text document stating, "For the files in this folder, the date modified and date created might show today, 11/9/2021, because that is when the videos were copied from the GoPro to a PC. The metadata within the files, however, shows the creation date as recorded by the GoPro. In the screenshot in this folder, the date created is as it appears in the directory listing on the GoPro itself. Although [REDACTED] shows a creation date of 1/1/2016, it was indeed recorded on 9/19/2021 just before the video footage in [REDACTED] -- the camera settings were somehow reset."

BPA [REDACTED] was asked to describe the overall situation in Del Rio, Texas leading up to and including the incident on September 19, 2021 (Timestamp 00:39:01). On September 18, 2021, BPA [REDACTED] was off duty but learned that Carrizo Springs HPU BPAs were being sent to Del Rio. On September 19, 2021, BPA [REDACTED] was sent to Del Rio. BPA [REDACTED] was uncertain what the HPU's responsibilities in Del Rio would be when he departed Carrizo Springs but understood he would receive instruction when he arrived in Del Rio (timestamp 00:40:35). Carrizo Springs HPU BPAs, who were sent to Del Rio, returned to Carrizo Springs at the end of their shift each day and, if needed, returned to Del Rio the following day (timestamp 01:53:55). BPA [REDACTED] believed the Carrizo Springs HPU BPAs did not return to Del Rio after September 20, 2021 (timestamp 01:55:42). BPA [REDACTED] believed the Del Rio Sector Chief Patrol Agent ordered the Carrizo Springs HPU to Del Rio. BPA [REDACTED] immediate supervisors, SBPA [REDACTED] and [REDACTED], directed him to report to Del Rio (timestamp 00:40:46).

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Prior to departing Carrizo Springs, BPA [REDACTED] was not provided any instruction or direction concerning the HPU's responsibilities or mission in Del Rio. While traveling to Del Rio, the Carrizo Springs HPU was directed to report to the Del Rio Incident Commander to receive direction concerning their responsibilities. BPA [REDACTED] did not know the name of the Del Rio Incident Commander (timestamp 00:41:30).

During their meeting with the Incident Commander, the Carrizo Springs HPU BPAs were instructed to patrol the area near the Del Rio POE bridge to provide a presence ensuring everything stayed calm and "make sure nobody was doing things they should not have been doing". BPA [REDACTED] stated the Carrizo Springs HPU was responsible for providing security and responding to emergencies (timestamp 00:43:19)

BPA [REDACTED] said that the only operation he recalled on September 19, 2021, involved stopping migrants from entering the United States at the boat ramp. BPA [REDACTED] explained that during the afternoon of September 19, 2021, but prior to the incident at the boat ramp, he was under the bridge and a fellow Carrizo Springs HPU BPA told him that there was an operation planned in the coming hours to "shut down" the boat ramp, meaning they were to clear people off the boat ramp and stop migrants from entering the United States at the boat ramp (timestamp 00:44:20). BPA [REDACTED] did not remember which BPA told him about the operation to stop migrants from crossing at the boat ramp but believed it could have been HPU BPA [REDACTED]. BPA [REDACTED] did not know if any HPU BPA or HPU SBPA attended a meeting concerning the operation to stop migrants crossing at the boat ramp (timestamp 01:09:18).

BPA [REDACTED] recalled that someone on the radio stated that Texas Department of Public Safety (TXDPS) requested assistance at the boat ramp (timestamp 00:47:00). When TXDPS requested assistance at the boat ramp, BPA [REDACTED] and approximately six or seven other Carrizo Spring HPU BPAs responded to the boat ramp. When BPA [REDACTED] arrived at the boat ramp, he saw a couple of TXDPS Troopers and two Del Rio HPU BPAs at the boat ramp, but BPA [REDACTED] could not recall the names of the Del Rio HPU BPAs (timestamp 00:52:00). BPA [REDACTED] believed there was to be an operation stopping migrants from entering the United States at the boat ramp, but he noticed there was not a lot of law enforcement personnel at the boat ramp for the operation (Timestamp 00:48:30).

BPA [REDACTED] was not provided any directives or strategy concerning activity at the boat ramp. BPA [REDACTED] explained that the plan was to relocate the large group of migrants congregated at the boat ramp and area around the boat ramp back to the Del Rio POE bridge. BPA [REDACTED] said the HPU was able to accomplish this first task (Timestamp 00:52:45). BPA [REDACTED] stated the problem with

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this situation was the migrants at the boat ramp had family members that had crossed the Rio Grande River into Mexico to obtain food, since there was not enough food at the area under the POE bridge. BPA [REDACTED] did not know who decided to allow migrants to travel into Mexico to retrieve food and return to the United States.

While the Carrizo Springs HPU BPAs were at the boat ramp, BPA [REDACTED] radioed the Incident Command Center requesting instruction stating that approximately 30 migrants were in the river moving towards the United States BPA [REDACTED] asked if the migrants should be allowed to continue, stopped, or returned to Mexico. BPA [REDACTED] said there was a delay or "a minute or two" and then the response he heard over the radio to BPA [REDACTED] request was to allow migrants in the river to continue and then not to allow any additional migrants to enter the United States (timestamp 00:54:39 ). BPA [REDACTED] did not know who provided this instruction, but he believed it was from the Incident Command Center (timestamp 00:56:30).

BPA [REDACTED] said the approximately 30 migrants in the river were allowed to continue and then for a period migrants stopped entering the river. Once the migrants in the river were allowed to continue towards the POE, additional migrants entered the water from Mexico and moved towards the United States (timestamp 00:55:40). BPA [REDACTED] radioed for guidance two additional times but did not receive a response (timestamp 00:56:05). BPA [REDACTED] explained that migrants attempted to maneuver around HPU BPAs and "that is when the chaos started" (timestamp 00:56:55). BPA [REDACTED] explained that migrants began to run around and between HPU BPAs and their horses.

HPU BPAs maneuvered their horses attempting to keep migrants in the river and cause them to return to Mexico. When the migrants would not return to Mexico, BPA [REDACTED] became concerned that a HPU BPA or migrant would be injured (timestamp 00:58:28). At this point, migrants began moving back towards the boat ramp from the direction of the Del Rio POE. BPA [REDACTED] explained those returning from the POE were coming back to the boat ramp because migrants continuing to cross the river were their family members bringing food from Mexico (Timestamp 00:59:10).

BPA [REDACTED] said TXDPS moved out of the area at this point, even though he understood this operation to be a TXDPS initiative.

BPA [REDACTED] was asked if he understood the instruction to close the boat ramp to mean the HPU BPAs should attempt to get migrants in the river to return to Mexico (timestamp 01:00:20). BPA [REDACTED] understood the radio communication in response to BPA [REDACTED] request to mean HPU BPAs were to attempt to have migrants in the river to return to Mexico. BPA [REDACTED] explained the

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HPU BPAs were there as a deterrent to migrants crossing into the United States at the boat ramp, but it did not work. BPA [REDACTED] said migrants continued to cross into the United States at the boat ramp. HPU BPA [REDACTED] then got on the radio and told BPA [REDACTED] to leave the area near the boat ramp and BPA [REDACTED] told HPU BPAs [REDACTED] and [REDACTED] to leave the area immediately near the boat ramp (Timestamp 01:05:30) HPU BPAs, including BPA [REDACTED], then left the area immediately near the boat ramp and positioned themselves a distance from the boat ramp.

At the time, BPA [REDACTED] believed BPA [REDACTED] had received instruction from management, but later learned that BPA [REDACTED] independently decided the HPU needed to leave. BPA [REDACTED] stated that BPA [REDACTED] made a good decision to leave the boat ramp because BPA [REDACTED] believed someone could have been injured (timestamp 01:06:00).

During follow up questioning (timestamp 01:25:09), BPA [REDACTED] stated after HPU had pulled back from the boat ramp, TXDPS moved several of their vehicles onto the end of the boat ramp at the river's edge and cordoned off the area with caution tape. BPA [REDACTED] said TXDPS had the flow of migrants stopped for a time, but they ultimately abandoned this posture and pulled out of the boat ramp.

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview. The PowerPoint contains videos and photographs of the area near the Del Rio Port of Entry and boat ramp, as well as video and photos of Carrizo Springs HPU BPAs. During the interview, BPA [REDACTED] was shown the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2, and Video 3. The photos are labeled Photo 1, Photo 2, Photo 3, Photo 4, and Photo 5.

BPA [REDACTED] was shown the video labeled as Video 1. BPA [REDACTED] said that he has spun his reins to direct his horse, and it was a common practice among HPU BPAs to spin the reins to direct the horse. BPA [REDACTED] explained that a lariat was used in roping cattle and whips come in various lengths. BPA [REDACTED] said he was not issued a lariat or whip (timestamp 02:35:57).

BPA [REDACTED] was shown the photo labeled as Photo 2 and asked to identify those in the photo. BPA [REDACTED] identified himself, BPA [REDACTED], BPA [REDACTED] and BPA [REDACTED] (timestamp 02:29:45).

BPA [REDACTED] was shown the video labeled Video 3, and he identified both the United States and

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Mexico sides of the Rio Grande River, as well as the direction to the Del Rio POE and the boat ramp (timestamp 01:09:25). BPA [REDACTED] identified himself, as well as BPA [REDACTED], BPA [REDACTED], and BPA [REDACTED]. BPA [REDACTED] explained that he was unable to recognize the BPAs from this video but recalled their locations and recognized their horses. BPA [REDACTED] recognized BPA [REDACTED] in the video because BPA [REDACTED] horse was standing in the river.


BPA [REDACTED] said that on September 19, 2021, a little before 2:00 PM, a TXDPS Trooper approached the river and instructed migrants to return to the bridge near the Del Rio POE, but BPA [REDACTED] did not know the name of the Trooper (timestamp 01:18:15). After the Trooper began telling migrants to move to the bridge, BPA [REDACTED] and a Del Rio HPU BPA along with Carrizo Springs HPU BPA [REDACTED] approached the river. BPA [REDACTED] explained that at one point there were four HPU BPAs positioned near the riverbank to deter migrants from attempting to enter the United States at the boat ramp.

BPA [REDACTED] said he heard allegations were made that HPU BPAs whipped migrants and used unprofessional language, and someone alleged HPU BPAs were weaponizing horses (timestamp 01:26:50). BPA [REDACTED] explained that the HPU BPAs were attempting crowd control like what was done by police departments (timestamp 01:28:50).

BPA [REDACTED] did not receive any direction from USBP management concerning the migrants entering the United States at the boat ramp on September 19, 2021, with the exception of the radio communication instructing HPU BPAs to allow the group of approximately 30 migrants in the river to continue and then not to allow other migrants to cross into the United States (timestamp 01:31:40 ).

BPA [REDACTED] was not advised by USBP management that the migrants near the Del Rio POE bridge were in custody (timestamp 01:32:38). BPA [REDACTED] explained that the migrants were not in custody and were waiting to be transported for processing. BPA [REDACTED] said the migrants were being allowed to travel back and forth between the United States and Mexico, since there was not enough food under the POE bridge to feed the group that had gathered. BPA [REDACTED] did not know who made the decision to allow migrants to travel into Mexico and return to the United States.

When asked if, under normal circumstances, migrants who were in custody were allowed to travel into Mexico to retrieve food or other items and return to the United States by crossing the Rio Grande River, BPA [REDACTED] replied he had never heard of it before it occurred in Del Rio (timestamp 01:34:07 ).

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<p><b>10. NARRATIVE</b></p> <p>When asked about USBP management instructing HPU BPAs to stop migrants from entering the United States at the boat ramp, BPA [REDACTED] responded that he did not know if USBP management requested HPU management stop migrants from entering the United States at the boat ramp. BPA [REDACTED] continued explaining that he received "secondhand" instruction and not any from HPU management. BPA [REDACTED] believed he received direction from BPA [REDACTED], but he was uncertain.</p> <p>BPA [REDACTED] recalled that while "...down there", meaning at the boat ramp, he heard radio traffic from an individual he believed to be from the Incident Command Center instructing that the approximately 30 migrants in the river be allowed to enter the United States and then not to allow additional migrants to enter the United States.</p> <p>BPA [REDACTED] said that BPA [REDACTED] radioed requesting guidance concerning the approximately 30 migrants in the river. When asked if BPA [REDACTED] requested guidance from the Incident Command Center, BPA [REDACTED] could not recall specifically. However, BPA [REDACTED] was certain that BPA [REDACTED] requested guidance from management (timestamp 01:34:28)</p> <p>BPA [REDACTED] explained that radio communications were on a [REDACTED] channel, so the radio transmissions were [REDACTED]. [REDACTED] radio communications were not recorded [REDACTED] (timestamp 01:35:52).</p> <p>On September 19, 2021, the Carrizo Springs HPU BPAs attempted to stop migrants from crossing at the boat ramp but were unsuccessful (timestamp 01:48:13). When the HPU first arrived, there were more than 100 migrants near the boat ramp on the United States side of the Rio Grande River. BPA [REDACTED] explained that after the group of approximately 30 migrants crossed into the United States at the boat ramp on the Rio Grande River, the HPU attempted to stop a group of approximately 20 migrants from entering the United States, but they were unsuccessful, and this group of migrants entered the United States(timestamp 01:49:20).</p> <p>On September 19, 2021, after TXDPS Troopers left the boat ramp, migrants continued to enter the United States at the boat ramp. Additionally, when BPA [REDACTED] returned to the boat ramp on September 20, 2021, he saw migrants crossing the Rio Grande River and entering the United States (timestamp 01:50:02). On September 19, 2021, the Carrizo Springs HPU departed Del Rio at approximately 3:00 PM or 3:30 PM.</p> <p>BPA [REDACTED] was shown an aerial map of the Del Rio POE and surrounding area and asked to identify the POE, Rio Grande River, boat ramp, and international boundary. BPA [REDACTED] identified,</p>	

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labeled, and initialed each of these on the map. BPA [REDACTED] identified the international boundary between the United States and Mexico as the Rio Grande River. BPA [REDACTED] was uncertain if there was a particular point in the Rio Grande River that is the international boundary but believed the center of the Rio Grande River is the international boundary (timestamp 01:56:10). The map, reviewed, labeled, and initialed by BPA [REDACTED], is attached to this Report of Investigation.

BPA [REDACTED] did not see any BPA strike a migrant with reins or a whip (timestamp 01:58:38). Additionally, BPA [REDACTED] denied striking anyone with reins or a whip on September 19, 2021 (timestamp 01:58:40). BPA [REDACTED] said that directing profane language at a migrant or making derogatory comments about a migrant's home county was unprofessional (Timestamp 02:00:55). BPA [REDACTED] denied making any unprofessional comments on September 19, 2021, and denied that he was aware of any other unprofessional comments beside the ones made by HPU BPA [REDACTED].

When asked if he considered the statements made by BPA [REDACTED] to be xenophobic, BPA [REDACTED] responded that in this situation he did not because BPA [REDACTED] knew the context of the statements. BPA [REDACTED] explained that things were heated and what one of the migrant's did caused BPA [REDACTED] to make the statements (timestamp 02:02:40).

BPA [REDACTED] does not believe BPA [REDACTED] intended his statements to be xenophobic. BPA [REDACTED] did not personally witness the incident involving BPA [REDACTED] but viewed video of the incident. BPA [REDACTED] believed that the male migrant was trying to use a female and child as a barrier between him and BPA [REDACTED]. BPA [REDACTED] said that he does not believe BPA [REDACTED] was prejudiced against Haiti or Haitians and had not heard BPA [REDACTED] make prejudged or racial comments (timestamp 02:05:26).

When asked if, on September 19, 2021, he directed migrants to return to Mexico, BPA [REDACTED] responded that he tried (timestamp 02:06:14). BPA [REDACTED] explained that he told migrants to turn round and go back to Mexico, but they did not stop and continued in the river towards the United States and approached HPU BPAs on the riverbank. When asked BPA [REDACTED] clarified that he was telling migrants in the Rio Grande River to return to Mexico.

BPA [REDACTED] explained that to him maneuvering a horse in a menacing way meant to maneuver the horse without regard to an individual's safety (timestamp 02:07:56). When asked if he witnessed any HPU BPA maneuver a horse in a menacing way on September 19, 2021, BPA [REDACTED] replied that he did not see it happen but did view the video a young child who was near a HPU horse as it was being maneuvered.

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BPA [REDACTED] denied using force against any migrant on September 19, 2021, and denied witnessing any HPU BPA use force on September 19, 2021. However, BPA [REDACTED] said he had viewed the video of BPA [REDACTED] grabbing a migrant by his shirt while on horseback (timestamp 02:09:10).

BPA [REDACTED] explained that during HPU training BPAs receive training on making apprehensions from horseback. During the training, instructors flee from HPU BPAs who apprehend the instructor by grabbing him or her. BPA [REDACTED] clarified that in the training once the instructor was grabbed by the HPU BPA he or she stopped fleeing and the training scenario ended (timestamp 02:10:35).

BPA [REDACTED] explained that grabbing someone from horseback to make an apprehension posed a risk of injury to both the rider and person being apprehended. The person being apprehended could be stepped on by the horse or the person being apprehended could take control of the horse by grabbing the reins or bridle (timestamp 02:13:10).

BPA [REDACTED] denied grabbing any migrant by clothing or attempting to apprehend any migrant while on horseback on September 19, 2021 (timestamp 02:15:30). BPA [REDACTED] said that HPU BPAs are permitted by policy to apprehend migrants while on horseback (timestamp 12:15:40).

BPA [REDACTED] denied seeing any HPU BPA using reins or a lariat to strike the water on September 19, 2021. BPA [REDACTED] said HPU members are not issued lariats, nor do they use them during the course of their duties. BPA [REDACTED] said the HPU uses split reins as directed by national policy, which enable the rider to get the horse's attention, by spinning or flipping the reins. BPA [REDACTED] further explained that spinning the reins can be used to steer the horse. Spinning the reins on one side of the horse applies "pressure", to which the horse responds by moving to the side opposite of where the reins are being spun (Timestamp 02:19:40)

BPA [REDACTED] said there is no specific training provided from USBP to teach this technique, however he said it is a fairly common practice amongst members of the HPU.

On September 19, 2021, BPA [REDACTED] witnessed HPU BPAs using their horses in a manner to cause migrants to retreat into the water. BPA [REDACTED] explained that this occurred because of the radio communication instructing HPU BPAs to stop migrants from crossing at the boat ramp (timestamp 02:21:30).

BPA [REDACTED] denied seeing any HPU BPA hit a migrant with a horse and denied that he hit a migrant with his horse (timestamp 02:24:00). BPA [REDACTED] denied seeing any migrant make contact with an



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HPU horse and being knocked into the water. BPA [REDACTED] believed the actions by HPU BPA on September 19, 2021, amounted to reasonable force and were within policy (timestamp 02:26:30).

BPA [REDACTED] was asked if he perceived any actions by the migrants at the boat ramp that could be classified as an imminent threat (Timestamp 02:24:40). BPA [REDACTED] said the general uncertainty about what the migrants were bringing back from Mexico was a cause for concern, however he said he never perceived any direct threat. HPU BPA [REDACTED] told BPA [REDACTED] that on September 19, 2021, or September 20, 2021, he took a steak knife from a migrant, who was using the knife to cut cane. BPA [REDACTED] said that after BPA [REDACTED] asked the migrant for the knife, the migrant threw the knife toward BPA [REDACTED]. BPA [REDACTED] retrieved the knife and left the area (timestamp 02:25:40).

BPA [REDACTED] believed either intentionally or unintentionally striking someone with the reins would be a use of force, but he was uncertain if it would be a reportable use of force (timestamp 02:37:27). BPA [REDACTED] did not believe that if he swung his horse reins at someone and missed that it would be a use of force or reportable.

BPA [REDACTED] believed that if an HPU BPA was swinging his horse reins an average person would move away so as not to be struck with the reins. BPA [REDACTED] said that deliberately striking someone with the horse reins would be an intermediate use of force (timestamp 02:39:30). BPA [REDACTED] was asked if unintentionally striking someone with the reins would be deadly or intermediate force and BPA [REDACTED] responded that it would have to be intermediate force (timestamp 02:39:40). BPA [REDACTED] said that it is permissible to use intermediate force when someone is being actively resistant or assaultive (timestamp 02:39:50). BPA [REDACTED] did not see any migrants displaying assaultive resistance on September 19, 2021.

BPA [REDACTED] was again shown the video labeled at Video 1. BPA [REDACTED] identified BPA [REDACTED] in the video as the HPU BPA who was swinging his reins (timestamp 02:44:11).

BPA [REDACTED] was shown the video, which was labeled at Video 2. BPA [REDACTED] identified BPA [REDACTED] as the HPU BPA in the video using his horse to cause a migrant to retreat into the river (timestamp 02:51:00). BPA [REDACTED] stated he used his horse as deterrent on September 19, 2021, to prevent migrants from "making landfall" (timestamp 02:51:30).

BPA [REDACTED] stated he had not received training on using his horse for crowd control but believed some Carrizo Springs HPU BPAs received some crowd control training in preparation for a

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deployment to an area where a large influx of migrants was anticipated (timestamp 02:54:40).

BPA [REDACTED] said that while working on horseback he was concerned about his horse causing injuries to others and that HPU BPAs received training to prevent injuries (timestamp 02:56:00). BPA [REDACTED] explained that it was his responsibility to maintain control of the horse and that if needed a rider could pull the rein on one side and cause the horse to turn in a circle. BPA [REDACTED] said that if he were chasing someone who fell he could pull the rein on one side causing the horse to turn in a circle to prevent the individual who fell from being injured by the horse (timestamp 02:56:31).

When children are near his horse, BPA [REDACTED] is aware of where the children are located and is more alert. BPA [REDACTED] said that if a child were to walk behind and startle the horse the child could be kicked and injured (timestamp 02:58:30).

BPA [REDACTED] did not know if HPU BPAs were permitted use a horse to run into someone. However, BPA [REDACTED] opined that if there were a threat of serious injury or death it would be permissible to use the horse to charge and strike the individual posing the threat. BPA [REDACTED] opined that using the horse to run into someone would be a significant use of force and be considered deadly force (timestamp 02:59:20). BPA [REDACTED] said that HPU policy did not address using the horse to charge at someone and he had not received any training in using a horse to charge at someone (timestamp 03:00:30).

BPA [REDACTED] agreed that using a horse to strike someone would be a reportable use of force (timestamp 03:00:35). BPA [REDACTED] was asked if he maneuvered his horse toward someone without intending to cause the horse to strike the individual, but the horse did strike the individual would it be a use of force. BPA [REDACTED] replied that he did not know if the circumstances would be a use of force, but he would report the incident to an SBPA (timestamp 03:01:30).

BPA [REDACTED] opined that charging a horse at someone and causing the individual to retreat into water could cause injuries such as an ankle sprain because it was not known what was under the surface of the water (timestamp 03:02:02). When asked if there was a circumstance when using a horse to cause someone to retreat into the water could cause serious injury, BPA [REDACTED] said that if the individual could not swim and retreated into deep water, serious injury could result.

BPA [REDACTED] was asked under what circumstances a horse could be used to cause a migrant to return to Mexico, and BPA [REDACTED] responded that he never used a horse in that manner until his temporary assignment to Del Rio at the boat ramp on September 19, 2021. BPA [REDACTED] said that

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the role of HPU horses is not to cause migrants to return to Mexico, but to apprehend migrants who have illegally entered the United States BPA [REDACTED] elaborated that on September 19, 2021, the migrants had illegally entered the United States but were not being arrested (timestamp 03:02:45). BPA [REDACTED] was not concerned about the effort or direction to return migrants to Mexico, because the migrants on United States soil were allowed to remain and the HPU BPAs were trying to get migrants in the Rio Grande River to return to Mexico (timestamp 03:03:40 ).

BPA [REDACTED] was shown portions of the video labeled as Video 2 and identified the HPU BPA on the white horse as BPA [REDACTED] (timestamp 03:05:10). Additionally, BPA [REDACTED] identified BPA [REDACTED] in the video and said that while watching the video he heard BPA [REDACTED] telling migrants to return to Mexico (timestamp 03:07:10). BPA [REDACTED] was shown the photograph labeled Photo 5 and identified BPA [REDACTED] in the photo.

BPA [REDACTED] said that this was the first time he had been instructed to "shut down a landing and send them back" (timestamp 03:09:30.) BPA [REDACTED] was uncertain if it was lawful to immediately return a migrant to Mexico after entry was made to the United States by having the migrant cross the Rio Grande River back into Mexico (timestamp 03:08:04).

BPA [REDACTED] was asked to explain credible fear and said that credible fear was when a migrant had a fear that their government would torture or persecute him or her (timestamp 03:12:09). When asked to explain asylum, BPA [REDACTED] explained that asylum was when a migrant left their home country because of fear. However, BPA [REDACTED] explained that he did not know the official meaning of asylum. BPA [REDACTED] knew the migrants present on September 19, 2021, were making claims of credible fear and requesting asylum because Carrizo Springs BPA were previously involved in processing Haitian migrants.

BPA [REDACTED] was again shown portions of the video labeled as Video 1. BPA [REDACTED] identified HPU BPA [REDACTED] in the video. BPA [REDACTED] had not had any conversations with BPA [REDACTED] about the statements made by BPA [REDACTED] in the video (timestamp 03:15:30). BPA [REDACTED] acknowledged the CBP Standards of Conduct addressed professionalism. BPA [REDACTED] said the comments made by BPA [REDACTED] in the video were unprofessional. Additionally, BPA [REDACTED] acknowledged that CBP provided training concerning discrimination and the prohibition of discriminating against an individual based upon race, sex, and national origin. BPA [REDACTED] opined that the statements made by BPA [REDACTED] in the video could be construed as discriminatory. However, BPA [REDACTED] did not believe BPA [REDACTED] intended the statements to be discriminatory. BPA [REDACTED] said that BPA [REDACTED] was "calling out" the male in the video for what he was doing with women and children around him (timestamp 03:17:40).

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BPA [REDACTED] was again shown a portion of the video labeled at Video 2. BPA [REDACTED] identified BPA [REDACTED] and BPA [REDACTED] in the video and said they were attempting to cause a male migrant to return to the Rio Grande River. BPA [REDACTED] did not know of a reason why BPA [REDACTED] and BPA [REDACTED] would attempt to cause the male migrant to return to the river while allowing the women and children to continue other than the male migrant was the one "giving them a hard time" (timestamp 03:19:35).

BPA [REDACTED] said there were no directives from the Department of Homeland Security or CBP which authorized certain migrants to enter the United States while preventing others from entering the United States (timestamp 03:21:45).

BPA [REDACTED] said that prior to the incident in Video 2 showing BPA [REDACTED] and BPA [REDACTED] allowing female migrants and children to continue while attempting to cause a male migrant to return to the Rio Grande River, he had not seen BPA [REDACTED] or BPA [REDACTED] allow certain migrants to continue while attempting to stop other migrants (timestamp 03:22:34).

BPA [REDACTED] said that anyone entering the United States other than at a POE was making an illegal entry and was apprehended (timestamp 03:22:45). BPA [REDACTED] was shown the photos labeled as Photo 3 and Photo 4 and identified BPA [REDACTED] in both photos (timestamp 03:24:24). BPA [REDACTED] said that on September 19, 2021, he did not grab anyone from horseback.

BPA [REDACTED] said that a media crew entered the Rio Grande River from the Mexican side of the Rio Grande River. The media crew who entered the Rio Grande River from Mexico did not leave the water and BPA [REDACTED] did not speak with the media or provide any direction to the media. BPA [REDACTED] knew the activities of HPU BPAs at the boat ramp on September 19, 2021, were being recorded by media. BPA [REDACTED] did not know if the media spoke with migrants and if the media did speak with migrants, he did not know what statements were made. (timestamp 03:30:35 ).

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None


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U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

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**EXHIBIT - 17**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 021</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp," approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p> <p>On November 9, 2021, Special Agent (SA) [REDACTED] and SA [REDACTED] conducted a compelled interview with Border Patrol Agent (BPA) [REDACTED].</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-DEC-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 09-DEC-2021</p>	<p>15. TELEPHONE NUMBER [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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On November 9, 2021, SA [REDACTED] and SA [REDACTED] conducted a compelled interview with BPA [REDACTED]. The interview was video and audio recorded with StarWitness equipment and is uniquely identified by Authentication Code ([REDACTED]) (Exhibit 1).

BPA [REDACTED] was advised to only answer the questions in the interview based on his personal knowledge, not what he may have seen on television or social media, unless he was specifically asked what he had seen on television or social media.

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview (Exhibit 2). The PowerPoint contains videos and photographs of the area near the Del Rio Port of Entry and boat ramp, as well as video and photos of Carrizo Springs HPU BPAs. During the interview, BPA [REDACTED] was shown the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2 and Video 3. The photos are labeled Photo 1, Photo 2, Photo 3, Photo 4 and Photo 5.

BPA [REDACTED] stated to prepare for this interview he had spoken with his union representatives. BPA [REDACTED] stated BPAs within the HPU have discussed what happened on September 19, 2021. BPA [REDACTED] stated the BPAs spoke about who was there and who had called out commands. BPA [REDACTED] stated he did not speak with any BPAs regarding specific allegations. BPA [REDACTED] stated these conversations were conducted verbally in person, and he had no text messages or emails related to the allegation made against the HPU on September 19, 2021.

BPA [REDACTED] stated he did not prepare a memorandum regarding the incident that occurred on September 19, 2021. BPA [REDACTED] stated after his shift on September 19, 2021, it was like any other day, and they went about their business of returning to the Carrizo Springs Station and putting up their horses.

BPA [REDACTED] stated he did not record any part of any incident that occurred on September 19, 2021.

BPA [REDACTED] stated he has been a BPA for [REDACTED] and is currently assigned to the HPU as [REDACTED] HPU at the Carrizo Springs Station. BPA [REDACTED] stated [REDACTED] BPA [REDACTED] stated he has been assigned to the HPU for [REDACTED] and previously did a [REDACTED] rotation with the HPU in the same location. BPA [REDACTED] stated being assigned to the HPU did not change any of the



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authorities of a BPA but did add responsibilities related to taking care of horses.

BPA [REDACTED] described the selection process to the Carrizo Springs HPU. Prospective BPAs submit a memorandum to apply for the position. After the memoranda are reviewed, initial selections are made and the BPA then goes before a board for an interview. BPAs are then required to display their knowledge of horses and demonstrate their riding abilities hands on. BPA [REDACTED] stated all these prescreening activities are graded and the top candidates are selected to join the HPU.

BPA [REDACTED] stated his training with the HPU consisted of a [REDACTED] week training in a controlled environment with another [REDACTED] weeks conducting on the job training in the field, in Carrizo Springs by a HPU instructor. BPA [REDACTED] stated he participated in this training on both of his assignments to the HPU. BPA [REDACTED] stated [REDACTED]. BPA [REDACTED] stated he attended two trainings related to crowd control on horseback, however he was not certified to conduct or teach crowd control. BPA [REDACTED] stated one of those trainings was given by a SBPA in Carrizo Springs and the other by a police department in Kentucky. BPA [REDACTED] stated the HPU had previously been requested to respond to crowd control issues, however they had never responded due to the lack of equipment and training. BPA [REDACTED] stated he was riding horses at as early as five years of age and assisting his father working cattle on horseback as early as seven years of age. BPA [REDACTED] stated he competed in horse shows at one point.

BPA [REDACTED] stated there was also eight hour quarterly training that was supposed to be conducted but due to COVID-19 quarterly training had not occurred in the past year to year and a half. BPA [REDACTED] stated if there was a deficiency seen or corrections that needed to be made with a rider, they were addressed in the field. (Timestamp 23:51)

BPA [REDACTED] stated the quarterly training included horsemanship and desensitizing. BPA [REDACTED] described desensitizing as training a horse not to be spooked when confronted with objects or items they were not familiar with or spooked by. BPA [REDACTED] used an example of a horse being spooked by a balloon. Desensitizing a horse spooked by a balloon would include using a balloon in training and making a horse become familiar with it, so the horse would not spook when it saw a balloon. BPA [REDACTED] explained there are many items used to desensitize horses. BPA [REDACTED] stated desensitizing was done for the safety of the rider.

BPA [REDACTED] described the HPU as a very productive resource due to the ability of horses to quickly traverse rough terrain in remote areas, where motor vehicles were not practical. BPA

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██████████ stated that HPU conducted normal field BPA activities, such as tracking groups of migrants, arresting non-citizens, and ██████████, but on horseback. (Timestamp 29:46)

BPA ██████████ stated when a BPA encounters a non-citizen in the United States, the BPA must first establish their citizenship and arrest them if they were in the United States illegally. BPA ██████████ stated HPU BPAs affected arrests on non-citizens but did not transport non-citizens via horseback. BPA ██████████ stated only in an emergency would a HPU BPA transport a non-citizen for emergency medical care. BPA ██████████ stated the HPU requested transportation via vehicles.

BPA ██████████ stated on September 19, 2021, without warning, the HPU was advised to report to the Del Rio POE and was told to provide security and crowd control due to the large number of migrants under the Del Rio POE. BPA ██████████ stated he was advised they would be assigned to the Del Rio POE for a week. BPA ██████████ stated he believed Acting Watch Commander (A)(WC) ██████████ was the one who ordered the HPU to the Del Rio POE. BPA ██████████ stated he did not know if WC ██████████ was directed to order the HPU to the Del Rio POE. BPA ██████████ advised Supervisory Border Patrol Agent (SBPA) ██████████ was the HPU Coordinator. BPA ██████████ stated he was advised of the order to respond to the Del Rio POE verbally by BPA ██████████ and there was no email string advising him to do so. (Timestamp 35:27)

BPA ██████████ stated he did not receive or see an operations plan regarding the situation at the Del Rio POE. BPA ██████████ stated when the HPU arrived at the Del Rio POE, they met with WC ██████████ and SBPA ██████████ at the command center and reviewed a map of the Del Rio POE area. BPA ██████████ stated they (WC ██████████ and ██████████) showed them the map and advised them to stay in the area and respond to calls for assistance. BPA ██████████ stated the HPU was present not only for the safety of other BPAs, but also the other agencies and the migrants. BPA ██████████ also advised there were several other law enforcement agencies and special units on location, and they were there to back them up and help when needed. (Timestamp 42:17)

BPA ██████████ stated the only standing directives, as described above, given by management to the HPU were from WC ██████████, SBPA ██████████, SBPA ██████████, and SBPA ██████████. (Timestamp 43:40)

BPA ██████████ stated he believed the allegations being made were civil rights violations. BPA ██████████ stated he heard the media made allegations that HPU BPAs had whipped migrants and used their horses in an aggressive manner on September 19, 2021.

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BPA [REDACTED] stated on September 19, 2021, both SBPA [REDACTED] and SBPA [REDACTED] were both at the Del Rio POE and were on horseback. BPA [REDACTED] stated initially the HPU was all together but later broke up into smaller groups. BPA [REDACTED] believed both SBPA [REDACTED] and SBPA [REDACTED] were closer to the Del Rio POE at the time of the incident. (Timestamp 50:26)

BPA [REDACTED] stated there were no directions regarding what to do with the non-citizens who were crossing and accumulating at the boat ramp. BPA [REDACTED] stated under normal circumstances these non-citizens would have been arrested when they crossed the Rio Grande River. (Timestamp 51:10)

BPA [REDACTED] stated he assumed that on September 19, 2021, the non-citizens at the Del Rio POE were free to travel back and forth from the United States to Mexico, because they had already been doing it for a week and there were no directives to detain or arrest these non-citizens. (Timestamp 51:55)

BPA [REDACTED] stated he was never advised if the migrants under the Del Rio POE were in custody nor was it discussed. BPA [REDACTED], relying on his experience, stated he did not believe any of the migrants were in custody because they were free to leave and travel back and forth to Mexico. BPA [REDACTED] stated in normal circumstances migrants who were in custody were not allowed to travel back and forth to Mexico on their own free will and return to the United States. BPA [REDACTED] stated he had never witnessed migrants traveling back and forth from the United States to Mexico until September 19, 2021. BPA [REDACTED] stated USBP management did not instruct the HPU to stop the non-citizens entering the United States at the boat ramp. BPA [REDACTED] stated he did not recall if USBP management requested the HPU to assist in making sure the non-citizens crossing at the boat ramp continue walking toward the Del Rio POE and not in other directions toward private property. BPA [REDACTED] stated he did ask how far the non-citizens were allowed to walk away from the river, because there were some non-citizens camping in the brush. BPA [REDACTED] stated he was advised law enforcement was trying to keep them closer to the Rio Grande River toward the Del Rio POE. BPA [REDACTED] stated he could not recall who he spoke to about this. (Timestamp 55:42)

BPA [REDACTED] stated the Texas Department of Public Safety (TXDPS) Troopers and the HPU were the only law enforcement agencies at the boat ramp on September 19, 2021. BPA [REDACTED] stated TXDPS arrived at the boat ramp prior to the HPU when this incident occurred. BPA [REDACTED] stated TXDPS asked for assistance at the boat ramp but does not recall who requested the assistance.

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BPA [REDACTED] stated HPU BPA [REDACTED], from Del Rio Station, advised via his radio that TXDPS had asked for assistance in closing and securing the boat ramp and requested more HPU BPAs at that location. BPA [REDACTED] stated when he arrived, he believed there were three to four DPS units. BPA [REDACTED] stated Troopers from the TXDPS units advised they wanted to make the boat ramp safe in case they (DPS) needed to use the boat ramp. BPA [REDACTED] stated there was no plan on how to close or secure the boat ramp area and that they just "took it upon themselves to close it". BPA [REDACTED] stated when he arrived there were approximately 200 to 300 non-citizens around the area of the boat ramp. BPA [REDACTED] stated he tried to clear the boat ramp by having the non-citizens move and enter on the bank of the Rio Grande River instead of the boat ramp. BPA [REDACTED] stated the objective was to have the boat ramp clear of people standing on it. BPA [REDACTED] stated there were no supervisors present, there was no plan on how to clear the ramp, and it was very disorganized. (Timestamp 59:55)

BPA [REDACTED] stated there were no directives given regarding how the HPU was to support TXDPS nor was there any formal coordination between the USBP and TXDPS. BPA [REDACTED] said the situation was much more informal, wherein each of the two agencies would support each other as needed.

BPA [REDACTED] stated there was no attempt to stop the non-citizens from crossing into the U.S. from Mexico at the boat ramp and that due to the large number of people there is no way they could have stopped the non-citizens from crossing.

BPA [REDACTED] stated the non-citizen were not responding to what they were asking them to do. BPA [REDACTED] stated there was a language barrier between law enforcement and the non-citizens.

BPA [REDACTED] was shown Photo 1 from the power point and provided a copy of Photo 1, an aerial photograph of the Del Rio POE area. BPA [REDACTED] identified the Del Rio POE, the Rio Grande River, the boat ramp, the U.S. and Ciudad Acuna, Coahuila, Mexico.

BPA [REDACTED] advised his understanding was the international boundary between the United States and Mexico was located in the middle of the Rio Grande River.

BPA [REDACTED] stated he did not hit any non-citizens with reins or a whip, nor did he witness any HPU BPA do so.

BPA [REDACTED] stated he did not make any unprofessional comments toward non-citizens, nor did he hear any HPU BPA do so.

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BPA [REDACTED] stated he did not order any non-citizen to return to Mexico, nor does he recall witnessing any HPU BPA doing so.

BPA [REDACTED] stated he did not maneuver his horse in an aggressive manner toward any non-citizen, nor did he witness any HPU BPA do so. BPA [REDACTED] stated he did use his horse as a barrier to stop the movement of one non-citizen or to move the non-citizen in a different direction toward the bank of the Rio Grande River and off the boat ramp.

BPA [REDACTED] stated he did not use force against any non-citizen, nor did he witness any HPU BPA do so on September 19, 2021. BPA [REDACTED] stated via the media he did see one HPU BPA grab a non-citizen by the shirt but did not believe that was a use of force. BPA [REDACTED] identified the HPU BPA grabbing the non-citizen by the shirt as BPA [REDACTED].

BPA [REDACTED] stated he did not grab any non-citizen by the shirt. BPA [REDACTED] stated the HPU BPAs were allowed to make an apprehension while on horseback. BPA [REDACTED] stated there was a short training, including use of force, regarding apprehending while on horseback. BPA [REDACTED] stated HPU BPAs were advised not to dismount their horse but if they must dismount, they needed to make sure there was another BPA there. BPA [REDACTED] stated there was no physical training related to apprehensions while on horseback. BPA [REDACTED] stated the purpose of staying on the horse was to maintain control of the horse while keeping the person you are trying to apprehend detained.

BPA [REDACTED] stated the majority of non-citizens they encountered during HPU operations are surprised to see BPAs on horseback. BPA [REDACTED] said it is not common to see non-citizens who are afraid of horses.

BPA [REDACTED] stated he did not recall a young child almost being trampled by a HPU BPA, nor did he witness this happening.

BPA [REDACTED] stated he did not hit the water with his reins or a lariat, nor did he witness any HPU BPA do so.

BPA [REDACTED] stated he did not use his horse to push any non-citizen back into the water, nor did he witness any HPU BPA do so.

BPA [REDACTED] stated he did not hit any non-citizen, intentionally or unintentionally, with his horse. BPA [REDACTED] stated he did not witness any horse make contact with a non-citizen.

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## 10. NARRATIVE

BPA [REDACTED] stated on September 19, 2021, he did not witness any non-citizens being knocked down into the water by a horse but had since seen video portraying this happening. BPA [REDACTED] stated he was unaware if contact between the horse and the non-citizen happened and that it also looked like the non-citizen slipped. BPA [REDACTED] stated it was slippery at the boat ramp.

BPA [REDACTED] stated he also saw a video that showed a non-citizen attempting to grab or grabbing the reins or bridle of the horse being ridden by HPU BPA [REDACTED]. BPA [REDACTED] stated the reins and bridle control a horse so if someone other than the rider had control of the horse it would become a safety issue for the rider. BPA [REDACTED] stated a horse could be forced to the ground by the reins or bridle. BPA [REDACTED] stated it was dangerous for a horse to rear its head back too much as it might force the horse to flip over backwards.

BPA [REDACTED] stated he believed the actions of the HPU on September 19, 2021, were within policy. BPA [REDACTED] stated he did not see any BPAs using force by using their horses on September 19, 2021.

BPA [REDACTED] stated he did not believe the non-citizens were an imminent threat.

BPA [REDACTED] was shown Photo 2 on the power point which contains four HPU BPAs on horseback at the boat ramp on September 19, 2021. BPA [REDACTED] identified the HPU BPAs from left to right as; [REDACTED] riding [REDACTED] (far left), himself, [REDACTED] riding [REDACTED] (second from left), [REDACTED] riding [REDACTED] (third from left), and [REDACTED] riding [REDACTED] (far right). (Timestamp 1:29:04)

BPA [REDACTED] was then shown Video 1 from the power point. BPA [REDACTED] identified BPA [REDACTED] in the front of the video and BPA [REDACTED] in the background of the video. BPA [REDACTED] identified BPA [REDACTED] as the BPA who made a statement regarding the treatment of women and their "shit" country. BPA [REDACTED] stated he recognized BPA [REDACTED] voice on the video. BPA [REDACTED] stated he did not hear this comment made by BPA [REDACTED] on September 19, 2021. (Timestamp 1:29:54)

BPA [REDACTED] stated prior to this comment he had not heard BPA [REDACTED] make any derogatory comments, nor had he heard any other BPAs from the HPU make comments like this. BPA [REDACTED] stated this was not common behavior from BPAs in the HPU. BPA [REDACTED] stated CBP has a standard of conduct that addressed professionalism, and he believed these comments were not professional. BPA [REDACTED] clarified by stating they (BPAs) were there to do a job and to do it professionally.

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BPA [REDACTED] stated CBP provided training related to prohibiting discrimination against people based on sex, race and national origin. BPA [REDACTED] stated he did not see these comments as discriminatory because there was not a comment about sex or race. BPA [REDACTED] stated he did understand how that comment could be viewed as discriminatory.

Using Photo 1, BPA [REDACTED] identified how the non-citizens were supposed to be walking along the Rio Grande River to get to the Del Rio POE (Timestamp 1:40:08). BPA [REDACTED] stated he was telling the non-citizens to move in this direction.

BPA [REDACTED] was shown Video 2 from the power point.

BPA [REDACTED] identified BPA [REDACTED] as the HPU BPA who was allowing women and children non-citizens to continue walking up the boat ramp and trying to stop male non-citizens. (Timestamp 1:43:25)

BPA [REDACTED] stated he did not know why it seemed male non-citizens were trying to be stopped versus women and children. BPA [REDACTED] stated there was no directive from DHS and/or USBP management stating to allow some non-citizens to enter the United States versus others. BPA [REDACTED] stated BPAs did not have the authority to decide who came into the United States. BPA [REDACTED] stated there were no directives or orders to let the women and children to cross and to stop males, but he was unsure of what BPA [REDACTED] was thinking. (Timestamp 1:46:34)

BPA [REDACTED] was shown Video 1 from the power point.

BPA [REDACTED] identified the BPA on horseback swinging his reins as BPA [REDACTED].

BPA [REDACTED] stated BPA [REDACTED] always swings his split reins in this manner when riding. BPA [REDACTED] stated other BPAs in the HPU swing their reins in the same manner. BPA [REDACTED] stated he also has swung his reins in this manner because of the horse he was riding. (Timestamp 1:50:18)

BPA [REDACTED] stated there are several different types of whips that can be used for horses. BPA [REDACTED] stated HPU BPAs were not issued whips. (Timestamp 1:51:12)

BPA [REDACTED] stated a lariat was a rope used to catch cattle. BPA [REDACTED] stated HPU BPAs were not issued lariats and that no BPAs in his unit carried one. (Timestamp 1:51:21)

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BPA [REDACTED] described BPA [REDACTED] as using his split reins to apply pressure to the horse to have the horse move to his left. BPA [REDACTED] stated horses work off pressure, stating there did not have to be contact with the horse. BPA [REDACTED] stated the movement and sound of the reins twirling would make a horse move or change direction. BPA [REDACTED] stated pressure was applied to the opposite side of the direction of travel. BPA [REDACTED] stated in the video the horse BPA [REDACTED] was riding immediately moved when the pressure of the reins swirling occurred next to his head. (Timestamp 1:51:39)

BPA [REDACTED] stated in Video 1, BPA [REDACTED] was not using his foot to apply pressure and it appeared BPA [REDACTED] was not wearing spurs. BPA [REDACTED] further stated therefore BPA [REDACTED] was using the reins to apply pressure. BPA [REDACTED] stated the horse, "[REDACTED]", liked to move on his own. (Timestamp 1:54:01)

BPA [REDACTED] stated some horses need more pressure than others and some react differently to different methods of pressure, as they all have their own personalities. BPA [REDACTED] stated riders also have their own preferences of how to apply pressure. BPA [REDACTED] stated he liked to wear spurs to apply pressure. (Timestamp 1:54:34)

BPA [REDACTED] stated during "reins training" there was no training related to the use of split reins as an application of applying pressure, however BPA [REDACTED] stated HPU BPAs are taught they could use split reins as a means of applying pressure when other types of pressure were not working. (Timestamp 1:55:40)

BPA [REDACTED] stated there are two types of reins, split and closed. BPA [REDACTED] stated split reins are longer, approximately five to six feet, and give the rider more movement of the horse and pressure on the horse. BPA [REDACTED] stated there is approximately three feet of split reins left from the hands of the rider to the end. BPA [REDACTED] stated the other type of reins are called closed reins, meaning there is one piece of leather connected to both side of the bridle on either side of the horse's head. BPA [REDACTED] stated closed reins are not used by HPU BPAs. BPA [REDACTED] stated these reins are more prone to getting stuck in brush, which was one reason USBP did not use them. (Timestamp 1:56:17)

BPA [REDACTED] stated if a BPA hit someone with reins it would be a use of force that would be reportable. BPA [REDACTED] stated if reins were swung at someone, but they did not make contact he did not believe that would be a use of force because no contact was made. (Timestamp 1:57:58)

BPA [REDACTED] believed the average person would move away from a rider swinging his reins so



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they would not be hit. BPA [REDACTED] believed the average person could perceive that a rider was trying to use force with the reins by swinging them. BPA [REDACTED] stated swinging them in this manner would be intermediate force. BPA [REDACTED] stated he did not witness any of the non-citizens displaying assaultive resistant behavior. BPA [REDACTED] believed the non-citizens were being resistant because they would not do what they were being told, but that there may have been because of a language barrier. (Timestamp 1:58:41)

BPA [REDACTED] was shown Video 2.

BPA [REDACTED] identified BPA [REDACTED] as using his horse to push non-citizens into the Rio Grande River. BPA [REDACTED] stated he did not recall using his horse to push anyone into the river. BPA [REDACTED] stated from what he saw BPA [REDACTED] was using his horse to make non-citizens move back to the river but was unaware of what BPA [REDACTED] intentions were. BPA [REDACTED] stated prior to this incident, he had never seen a HPU BPA use their horse to push someone into the river. (Timestamp 2:01:01)

BPA [REDACTED] stated some of the HPU had received training on crowd control. BPA [REDACTED] stated to his knowledge neither BPA [REDACTED] nor BPA [REDACTED] have received crowd control training. BPA [REDACTED] stated a rider needed to be concerned with running over someone with a horse, but a horse's instinct was not to run into things and instead maneuver around an object. (Timestamp 2:05:44)

BPA [REDACTED] stated if someone was run over by a horse it could lead to serious injury. BPA [REDACTED] stated injuries to people by a horse are prevented by horsemanship. (Timestamp 2:06:30)

BPA [REDACTED] stated there was no policy or training regarding the use of a horse to hit a person. BPA [REDACTED] stated he would only use a horse in deadly force. BPA [REDACTED] stated if a person was hit by a horse, it would be a use of force. BPA [REDACTED] stated horses were a prey animal and would not run over people. BPA [REDACTED] stated charging someone with a horse could be classified as a use of force. (Timestamp 2:08:23)

BPA [REDACTED] stated there are no circumstances that would permit a BPA to use a horse to force a non-citizen to return to Mexico. (Timestamp 2:12:48)

BPA [REDACTED] was shown Video 2.

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BPA [REDACTED] stated the video depicted BPA [REDACTED] maneuvering his horse for the purpose of moving non-citizen back into the Rio Grande River (Timestamp 2:14:56)

BPA [REDACTED] was shown Photo 5 from the power point.

BPA [REDACTED] identified BPA [REDACTED] in the forefront of the photo. BPA [REDACTED] identified BPA [REDACTED] in the background on the far right. BPA [REDACTED] stated prior to this incident he had not heard BPA [REDACTED] or another BPA telling anyone to return to Mexico. BPA [REDACTED] stated he did not tell anyone to go back to Mexico. (Timestamp 2:17:52)

BPA [REDACTED] stated he cannot tell someone to return to Mexico once they have entered the United States, prior to being processed. (Timestamp 2:19:38)

BPA [REDACTED] stated he was unaware if there were any special rules for treatment and processing of non-citizens who were not from Mexico. BPA [REDACTED] stated he had not processed any non-citizens in over five years. BPA [REDACTED] stated credible fear was when a non-citizen claimed if returned to their country, harm would come to them. BPA [REDACTED] stated asylum was when the President made an order to allow non-citizens to "come in" due to the conditions of their country. BPA [REDACTED] stated he was unaware if any of the non-citizen were claiming credible fear or asylum.

BPA [REDACTED] was shown Photo 3 and Photo 4 from the power point.

BPA [REDACTED] identified the BPA in both photos as BPA [REDACTED]. (Timestamp 2:22:40)

BPA [REDACTED] stated prior to this incident he had never seen BPA [REDACTED] grab anyone by the shirt to prevent them from entering the United States, nor had he seen anyone in the HPU do this. BPA [REDACTED] stated he did not grab anyone in this manner. BPA [REDACTED] stated he did not believe BPA [REDACTED] grabbing this non-citizen was a use of force. BPA [REDACTED] stated he did not witness BPA [REDACTED] grabbing the non-citizen on that date.

BPA [REDACTED] identified BPA [REDACTED] as wearing a "go pro" camera on his shoulder. BPA [REDACTED] stated he believed there was a policy that BPAs were not allowed to wear cameras when on duty. BPA [REDACTED] stated HPU BPAs were not issued go pro cameras.

BPA [REDACTED] stated there was news media present at the boat ramp on September 19, 2021. BPA [REDACTED] believed the media was filming the boat ramp. BPA [REDACTED] stated the media was

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speaking with the non-citizens, but he was not aware of what they were talking about.

BPA [REDACTED] stated he believed some of the media personnel crossed the Rio Grande River at other than designated POE, in violation of United States law.

BPA [REDACTED] stated he advised the media to return to Mexico and enter through a designated POE.

BPA [REDACTED] stated all equipment used by the HPU is issued by the USBP and that HPU BPAs are not allowed to make changes to the equipment. BPA [REDACTED] stated HPU equipment is inspected daily by HPU BPAs. BPA [REDACTED] stated HPU BPAs are not issued whips however there are lunge whips, which are used for training, located at the stalls. BPA [REDACTED] stated the lunge whips are locked up and he has never seen an HPU BPA possess a lunge whip in the field. (Timestamp 2:33:14)

BPA [REDACTED] stated there was no communication regarding concerns about non-citizens assaulting other non-citizens. BPA [REDACTED] stated there was a concern about assaults on BPAs by non-citizens due to the large number of non-citizens versus the number of BPAs on the ground. BPA [REDACTED] stated there was no protocol or discussion of what to do if there were riots. (Timestamp 2:36:55)

BPA [REDACTED] stated he did not recall hearing about a knife being thrown at any BPA.

BPA [REDACTED] stated he believed the chaos in this short time evolved from the fact that there was no organization or leadership present at the boat ramp. BPA [REDACTED] stated TXDPS was not very helpful at the boat ramp. BPA [REDACTED] stated he believed "miscommunication" between the non-citizens, TXDPS and USBP contributed to the situation. BPA [REDACTED] stated he believed due to the number of non-citizens and the number of BPAs on the ground the whole situation at the Del Rio POE was uncontrollable. (Timestamp 2:41:53)

At the conclusion of the interview BPA [REDACTED] was asked if there was anything he would like to add or clarify regarding his statement. BPA [REDACTED] deferred to his Attorney for the National Border Patrol Counsel (NBPC) [REDACTED]. [REDACTED] advised he wanted to ask "Weingarten questions" to clarify some questions regarding Supervisory BPA (SBPA) presence and directives at the boat ramp.

BPA [REDACTED] stated the direction to initially go to the boat ramp was given by BPA [REDACTED]. BPA

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██████████ stated BPA ██████████ is not a SBPA. BPA ██████████ stated he never heard a SBPA give any directives about the boat ramp. BPA ██████████ stated he acknowledged via his radio that he was going to the boat ramp and that it took under five minutes to arrive at the boat ramp. BPA ██████████ stated he heard other HPU BPAs acknowledge via radio they too were moving toward the boat ramp. BPA ██████████ again stated no SBPA came on the radio to give any instruction to the HPU. BPA ██████████ stated when he arrived at the boat ramp there were no SBPA on scene. BPA ██████████ stated while at the boat ramp he heard BPA ██████████ call on the radio, twice, asking for direction from SPBAs on what to do at the boat ramp. BPA ██████████ stated there was no response to the first request by BPA ██████████, but after the second request they were told to let the non-citizens through. BPA ██████████ stated he did not know who advised to let them through. (Timestamp 2:43:36)

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[REDACTED]

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**REPORT OF INVESTIGATION  
Exhibit List**

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[REDACTED]

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None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 18**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 020</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area known as the "Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE) Del Rio, Texas, located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p> <p>On November 9, 2021, Special Agent (SA) [REDACTED] and Senior Special Agent (SSA) [REDACTED], CBP OPR Del Rio, conducted a compelled subject interview of BPA [REDACTED].</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-DEC-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 09-DEC-2021</p>	<p>15. TELEPHONE NUMBER [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		



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**10. NARRATIVE**


On November 9, 2021, Special Agent (SA) [REDACTED] and Senior Special Agent (SSA) [REDACTED] conducted a compelled subject interview of BPA [REDACTED]. BPA [REDACTED] was accompanied by Union Representative [REDACTED]. The entirety of the interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 1). The time was Coordinated Universal Time, (UTC) 16:13:34 through UTC 21:06:27.

Prior to the interview, BPA [REDACTED] was provided with his Warning and Assurances to Employee Required to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation. At the beginning of the interview, BPA [REDACTED] reviewed copies of the Warnings and Assurance to Employee Required to Provide Information and Weingarten Rights, Employee Notification Regarding Union Representation, which he previously signed. BPA [REDACTED] identified his signature on the documents and he and Union Representative [REDACTED] stated they had no questions regarding the forms. BPA [REDACTED] was placed under oath prior to the interview.

BPA [REDACTED] entered on duty with USBP on [REDACTED], and has been assigned to the [REDACTED] HPU in Carrizo Springs since [REDACTED]. BPA [REDACTED] current supervisors were Supervisory Border Patrol Agent (SBPA) [REDACTED] and SBPA [REDACTED]. BPA [REDACTED] explained it was a voluntary and competitive selection process to join the HPU. BPA [REDACTED] was required to submit a memorandum of his prior experience and conduct an assessment ride. BPA [REDACTED] had extensive horse-related experience prior to joining the HPU. BPA [REDACTED] stated he had been around and worked with horses since he was two or three years old. BPA [REDACTED] explained he was a ferrier before joining USBP, during which he maintained horses' hooves daily (Timestamp 00:09:59).

BPA [REDACTED] completed a [REDACTED] week basic Horse Patrol training in which [REDACTED] weeks were in a controlled environment and [REDACTED] weeks were on-the-job training where riders were taken out into the field with their instructors. BPA [REDACTED] also attended one quarterly training which involved desensitizing the horse. BPA [REDACTED] explained desensitizing training consisted of teaching a horse to push objects out of the way and exposing a horse to objects that could cause them to get spooked. BPA [REDACTED] only attended one quarterly training since joining the HPU in [REDACTED]. BPA [REDACTED] stated the quarterly trainings have been canceled due to the reassignment of the HPU to assist in processing non-citizens. BPA [REDACTED] stated being in the HPU does not change his responsibilities or authority as a BPA.

Concerning his authority and responsibility, BPA [REDACTED] was asked to state his obligation as an immigration official when encountering non-citizens illegally present in the United States

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION CONTINUATION</b></p>	<p><b>1. CASE NUMBER</b></p> <p>202112280</p>
	<p><b>PREPARED BY</b></p> <p>████████████████████</p>
	<p><b>2. REPORT NUMBER</b></p> <p>020</p>
<p><b>10. NARRATIVE</b></p> <p>(Timestamp 00:13:09). BPA ██████ stated it is a BPA's responsibility to establish their status and, if they are illegally present, detain them and transport them to a Border Patrol facility for processing. BPA ██████ stated there are no other options and confirmed it is his job and he is required by law to apprehend non-citizens illegally in the United States. BPA ██████ reiterated that being a member of the HPU does not change his legal responsibilities.</p> <p>BPA ██████ stated the primary function of the HPU, as related to the USBP Mission, is a force multiplier. BPA ██████ stated, in general, the HPU is used to patrol the border. BPA ██████ said HPU can be utilized for crowd control situations but he had not been formally trained on crowd control. BPA ██████ stated during HPU basic training he was told that the horses could be used for crowd control and that they discussed these techniques. BPA ██████ stated crowd control was a separate training which he hasn't received (Timestamp 00:10:44).</p> <p>BPA ██████ stated he did speak with other CBP employees regarding the allegations stemming from the September 19, 2021, incident involving HPU but could not remember the names of the employees. BPA ██████ explained the media was alleging agents were whipping people and they didn't understand how they came to that conclusion (Timestamp 00:05:10).</p> <p>BPA ██████ was asked to explain the overall situation at the Del Rio POE which led to the assignment of the HPU to the area. BPA ██████ stated from what he understood, the HPU was being assigned there because the reintroduction of Title 42 was being announced and there was a concern regarding riots. BPA ██████ stated he believed they were going for crowd control (Timestamp 00:16:15). BPA ██████ was unaware of who ordered the HPU to the Del Rio POE, and SBPA ██████ and SBPA ██████ told him they would be assigned to that area. BPA ██████ stated the purpose for the HPU to be at the Del Rio POE area was for crowd control, to make sure people were safe, and to assist the Texas Department of Public Safety (TXDPS) (Timestamp 00:21:05).</p> <p>BPA ██████ was asked if he had received any written operation plans outlining the roles and responsibilities of the HPU (Timestamp 00:21:30). BPA ██████ stated not he did not receive such guidance when he initially arrived, however, he was aware of a proposed plan to move migrants from non-secure locations around the POE to "a more manageable area". BPA ██████ stated this plan was to be executed at 2:00 pm on September 19, 2021. The goal of the plan was to ensure the safety of the migrants. BPA ██████ stated BPA command later cancelled the operation.</p> <p>Once the HPU arrived in Del Rio on September 19, 2021, BPA ██████ attended an operational briefing at the Incident Command Center but could not recall who conducted the briefing. During</p>	

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the briefing, the HPU was told to assist any agency that needed assistance. BPA [REDACTED] stated the only other agency that was there was TXDPS (Timestamp 00:23:00).

BPA [REDACTED] stated SBPAs [REDACTED] and [REDACTED] were not with the HPU at the boat ramp and he assumed they stayed in the area under the bridge (Timestamp 31:10). BPA [REDACTED] stated there was no real direction given by management regarding the non-citizens accumulating at the boat ramp. BPA [REDACTED] recalled someone communicating via radio, whom he assumed was USBP command, telling them to go to the boat ramp and "shut it down". BPA [REDACTED] stated this individual did not identify themselves either by name or identifying number (Timestamp: 00:38:25).

BPA [REDACTED] explained that the HPU interpreted this order to mean that they should not allow anyone to proceed any further into the United States from the boat ramp. BPA [REDACTED] further stated his interpretation of this order was the non-citizens already on the shore could continue toward the POE. Any migrants continuing to cross would not be allowed to "further enter into the United States" (Timestamp 00:35:28). BPA [REDACTED] said he had not been told to send any of these people back, stating they could go back to Mexico if they wanted or stay at the riverbank but could not go any further into the United States.

While the HPU was on their way to the boat ramp, a second transmission was broadcast over the radio requesting the HPU to assist TXDPS at that location. BPA [REDACTED] stated he assumed this transmission was made by TXDPS personnel directly to HPU (Timestamp: 00:40:00). BPA [REDACTED] reiterated there were no names or other identifiers given by any of the individuals communicating over the radio, so he could not be certain who was speaking during these transmissions.

BPA [REDACTED] advised that there were two or three TXDPS troopers at the boat ramp when the HPU arrived (Timestamp 00:39:20). HPU was operating on radio channel [REDACTED] which was [REDACTED]. [REDACTED] was not usually recorded. BPA [REDACTED] said TXDPS was able to communicate on this channel as well.

BPA [REDACTED] said it was unclear to him if the migrants already in the camp underneath the bridge were considered to be in USBP custody (Timestamp 36:50). He stated he witnessed migrants freely crossing back and forth between the United States and Mexico but was unsure about their custody status as well. BPA [REDACTED] was asked if, under normal circumstances, migrants in custody would be allowed to cross back to Mexico to retrieve food and other items and return on their own. BPA [REDACTED] replied they would not (Timestamp 00:38:09). When the HPU arrived at the boat ramp, BPA [REDACTED] witnessed a very large crowd, which he estimated to be two hundred people, crossing and bathing. The HPU asked these people to go towards the bridge where necessities were

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available, such as food, water, and restrooms. Once this initial crowd was cleared out of the boat ramp area toward the POE, another group of individuals began to cross the river from Mexico. BPA [REDACTED] stated a TXDPS Trooper, who he could not identify, got on the radio and requested instructions on what to do with the individuals that were still attempting to cross but this request went unanswered (Timestamp 00:44:00).

BPA [REDACTED] observed a male individual approximately 20' from the US riverbank continuing toward the boat ramp. BPA [REDACTED] stated this individual indicated he was going to continue toward the POE (Timestamp 00:44:41). BPA [REDACTED] stated this individual was carrying a bag which he (BPA [REDACTED]) believed to contain food. BPA [REDACTED] instructed this individual to stop, but the male individual did not obey his commands and attempted to "abscond". BPA [REDACTED] pursued the individual, who then hid behind a group of women and children near the riverbank (Timestamp 00:45:48). The group of women and children realized BPA [REDACTED] was not pursuing them, so they continued up the boat ramp. As BPA [REDACTED] continued pursuing the individual, the family crossed in front of BPA [REDACTED] and his horse. As the family crossed directly in front of BPA [REDACTED], he pulled back on his reins to stop his horse and let the family go by. BPA [REDACTED] stated he continued to pursue this individual for approximately 30' but then noticed another BPA who was running. BPA [REDACTED] stated he diverted his attention back to the other BPA and the river at that point. He did not elaborate on what ultimately happened to the individual he had been pursuing.

BPA [REDACTED] was asked why he had focused his attention on this particular subject (Timestamp 00:46:35). BPA [REDACTED] stated it was because this individual was "telling us" (HPU) what "he wanted to do". BPA [REDACTED] stated he believed this individual may have been attempting to agitate the crowd. BPA [REDACTED] stated he could not be certain what this individual was actually bringing back across the river and this individual was not following his commands to stop. BPA [REDACTED] said he did not know what language this individual spoke. BPA [REDACTED] stated he spoke both Spanish and English when giving this individual commands.

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview. The PowerPoint contains videos and photographs of the area near the Del Rio Port of Entry and boat ramp, as well as video and photos of Carrizo Springs HPU BPAs. During the interview, BPA [REDACTED] was shown the videos and photos and asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2, and Video 3. The photos are labeled Photo 1, Photo 2, Photo 3, Photo 4, and Photo 5.

BPA [REDACTED] was shown Photo 1 and was told to mark where the United States was located on the

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map. BPA [REDACTED] explained the line between the United States and Mexico fluctuated based on the flow of the river (Timestamp 00:50:22). BPA [REDACTED] stated the international border fluctuated on the Rio Grande River but was at the center of the deepest part of the river. BPA [REDACTED] also identified the Del Rio POE International Bridge, the boat ramp, the United States, and Mexico. BPA [REDACTED] pointed out a triangular shaped area of brush and stated the HPU was instructed to move non-citizens from an area known as the firebreak towards the bridge area, where most migrants were.

BPA [REDACTED] was asked if he hit any non-citizen with reins or a whip or witnessed anyone do so, and BPA [REDACTED] stated he did not hit or witness anyone hit a non-citizen with reins or a whip (Timestamp 00:56:55).

When asked if he made any unprofessional comments toward any non-citizens, BPA [REDACTED] stated he believed that he made unprofessional comments towards a non-citizen. BPA [REDACTED] advised he couldn't remember specifically what he said, but it was along the lines of, "This is how you treat your women; this is why your country is shit." BPA [REDACTED] stated he also said "stop" a couple of times. BPA [REDACTED] stated he did not believe his comments were xenophobic (Timestamp 00:57:10). BPA [REDACTED] could not recall ordering anyone to return to Mexico, but he did tell non-citizens to stop (Timestamp 00:58:33). BPA [REDACTED] was asked to elaborate what he meant and said, "stop, don't, stop what you're doing, stop walking, stop running, stop continuing further into the United States."

BPA [REDACTED] denied maneuvering his horse in an aggressive way toward non-citizens. BPA [REDACTED] explained he maneuvered his horse but not towards any non-citizens (Timestamp 00:59:12). BPA [REDACTED] also did not witness any HPU BPA maneuver their horse in an aggressive way towards non-citizens.

When asked if he used any force against any non-citizens, BPA [REDACTED] denied doing so. BPA [REDACTED] also stated he did not witness any HPU BPAs use force against any non-citizens. BPA [REDACTED] denied grabbing any non-citizen by the shirt while on his horse and did not see any other BPA do so. BPA [REDACTED] stated HPU BPAs are allowed to apprehend subjects while on horse-back and were taught how to do so briefly during Horse Patrol basic training. BPA [REDACTED] believed they are allowed to do so by policy (Timestamp 01:00:24).

BPA [REDACTED] denied nearly trampling a young child and stated he did not witness any other HPU BPAs do so (Timestamp 01:00:35). BPA [REDACTED] denied hitting the water with a lariat or reins when near a non-citizen. BPA [REDACTED] also did not witness any HPU BPAs do so. BPA [REDACTED] denied using his horse to push or force any non-citizen back into the water. BPA [REDACTED] stated he did not

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witness any HPU BPAs use their horse to push or force any non-citizen back into the water.

BPA [REDACTED] denied hitting anyone with his horse and denied witnessing any HPU BPA hit anyone with their horse. BPA [REDACTED] stated he did not see any non-citizen make contact with a horse or get knocked down into the water. BPA [REDACTED] stated he believed the actions by HPU BPAs, on September 19, 2021, amounted to reasonable force and were within policy (Timestamp 01:01:39).

When asked if there was an imminent threat at the boat ramp on September 19, 2021, BPA [REDACTED] said he believed there was an imminent threat at the time surrounding the incident at the boat ramp. BPA [REDACTED] stated the situation was fluid and he had no way of knowing what the migrants were attempting to bring into the United States and there is always a chance of something happening (Timestamp 01:02:28). BPA [REDACTED] stated the HPU BPAs were outnumbered by the large number of migrants which were congregated near the boat ramp.

BPA [REDACTED] was asked to specifically identify any actions he observed that presented an imminent threat (Timestamp 01:02:50). BPA [REDACTED] recalled an incident earlier in the morning when the HPU was called to assist with a "knife fight" under the bridge. BPA [REDACTED] said that incident ended up being a migrant that attempted to stab another migrant with a plastic fork. Additionally, BPA [REDACTED] explained there were ongoing incidents throughout the morning where the non-citizens were being aggressive by attacking each other over the food they were bringing back from Mexico. BPA [REDACTED] said this was not occurring at the time of the encounter at the boat ramp. BPA [REDACTED] also stated there was an incident earlier in the morning where an individual was cutting cane with a steak knife. When BPA [REDACTED] asked the individual to drop the knife, he threw the knife towards BPA [REDACTED] (Timestamp 01:05:07). HPU BPAs did not report this incident.

BPA [REDACTED] was shown Photo 2 and identified the HPU BPAs as BPA [REDACTED], BPA [REDACTED], BPA [REDACTED] and himself (Timestamp 01:10:12). BPA [REDACTED] was shown Video 1 and confirmed he was the BPA in the video that could be heard making unprofessional comments (Timestamp 01:10:56). BPA [REDACTED] stated he was not talking to the group, but rather, to one person that was not following his commands. BPA [REDACTED] explained he made the comments because he was frustrated the individual was not obeying his lawful commands and it upset him that this individual was using women and children to shield himself from him ([REDACTED]) and his horse (Timestamp 01:11:48). When asked to explain why he said this individual's country "was shit", BPA [REDACTED] said, "I don't know; it just came out". BPA [REDACTED] stated he did not know what country the individual was from. BPA [REDACTED] said he was also frustrated because he did not know what the individual's intentions were and could have pushed one of the women or children in front of the horse. When asked if he made any other comments not caught on camera, BPA [REDACTED] denied

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doing so. BPA [REDACTED] denied hearing any other HPU BPAs make derogatory comments and advised it was not common HPU behavior to make comments such as those. When asked, BPA [REDACTED] admitted he did not know what language the individual spoke and acknowledged that there could have been a language barrier. BPA [REDACTED] admitted the comments he made were unprofessional. When asked to explain, BPA [REDACTED] said, "an agent shouldn't say something like that, you're supposed to be professional and it just wasn't professional and when wearing a uniform, it could be construed as views from the agency" (Timestamp 01:15:43). When asked if CBP provided training related to prohibiting discrimination, BPA [REDACTED] advised BPAs take computer-based training and some trainings have tests. BPA [REDACTED] said he has completed the computer-based training multiple times.

When asked if he saw his comments as discriminatory, BPA [REDACTED] said he could see why they could be viewed as discriminatory, but in his opinion, they were not. When asked to elaborate, BPA [REDACTED] said, "it had nothing to do with race, ethnicity or anything like that" (Timestamp 01:17:19). BPA [REDACTED] further stated, he could see how the comments could be viewed as discriminatory by saying, "I am a Caucasian, white individual speaking to people of color" (Timestamp 01:17:50). BPA [REDACTED] agreed the comments he made, had the appearance to be discriminatory, whether he intended them to be or not.

BPA [REDACTED] was shown Video 2 and BPA [REDACTED] was able to identify himself as the BPA who seemed to be allowing women and children to continue up the boat ramp while stopping a male non-citizen (Timestamp 01:20:28). When asked why the women and children were being allowed to continue and the male subjects were not, BPA [REDACTED] stated that usually in law enforcement, men are separated from women and continued by saying, "at the bridge everybody that was being processed first were men because they didn't want them to cause issues, any riots" (Timestamp 01:23:34). BPA [REDACTED] stated he wasn't necessarily letting women and children continue and stopping male subjects, he explained they could only stop so many people and could not stop everyone with the amount of HPU BPAs present. BPA [REDACTED] advised he was not aware of any directive from DHS or USBP management stating to allow some non-citizens to enter versus others, such as females, family units, males, and children (Timestamp 01:28:13). When asked if he witnessed any other HPU BPA allow women and children to pass but not male subjects prior to this incident, BPA [REDACTED] stated he had witnessed it occur. BPA [REDACTED] could not recall which BPA it was, when he witnessed it, or what their reasoning would have been.

BPA [REDACTED] was asked if he as a BPA has authority to decide who can enter the United States (Timestamp 01:32:18). BPA [REDACTED] said "No, if I follow the law, no. It doesn't discriminate against anybody. If you enter illegally, you enter illegally".

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BPA [REDACTED] was shown Video 1 and identified a HPU BPA swinging his reins as BPA [REDACTED] (Timestamp 01:32:40). BPA [REDACTED] explained swinging reins in that manner was used to control the horse by adding pressure to one side of the horse. It would make the horse move away from the pressure and force it to go the other way. BPA [REDACTED] stated the swinging or twirling of the reins was taught during HPU training and could also be used as a deterrent to keep people who were on the ground away from the horse. BPA [REDACTED] explained further that HPU BPAs try to keep people on the ground away from the horse for their safety and the safety of others, stating if an individual were to grab the reins of a horse, they could cause injury to the rider. BPA [REDACTED] characterized a situation where someone was trying to take control of the horse as being an instance in which a BPA could use force. BPA [REDACTED] stated BPAs do use this technique of spinning the reins to keep people away from the horse (Timestamp 01:36:35).

BPA [REDACTED] stated he may have twirled his reins the day of the incident and didn't think he did it within striking distance of any non-citizens. SA [REDACTED] asked BPA [REDACTED] to explain the difference between whips and lariats (Timestamp 01:44:06). BPA [REDACTED] stated lariats were used to catch something like a steer for branding or medical treatment. BPA [REDACTED] stated whips were not intended to make contact with or hit a horse, but instead, were used to make noise or to follow behind the animal. BPA [REDACTED] further stated HPU BPAs were not issued lariats or whips. BPA [REDACTED] stated HPU BPAs were issued split reins that were safer for HPU BPAs in case the reins get caught on a branch in the brush while riding.

BPA [REDACTED] was asked if using the reins to strike an individual, intentionally, or unintentionally, was a use of force (Timestamp 01:49:44). BPA [REDACTED] said it would be. BPA [REDACTED] was asked if a BPA swung the reins at someone with the intent to strike them but missed would that situation be a use of force. BPA [REDACTED] said it would be if the intent was to strike however it would not be absent that intent. BPA [REDACTED] was asked if he felt a reasonable person would move back to avoid being hit if reins were being swung near them. BPA [REDACTED] said it would depend on the proximity of the action but if the person was close to the spinning reins, he would expect them to move. He further stated it would be reasonable for an individual to perceive this action as a use of force. He stated this situation would be an intermediate use of force at most.

BPA [REDACTED] was asked when he can utilize intermediate force (Timestamp 01:52:00). BPA [REDACTED] said it is permissible if the individual is perceived to be a threat, providing examples of assaultive behavior such as throwing an object at the agent.

SSA [REDACTED] advised Union Representative [REDACTED] and BPA [REDACTED] to ask for clarification when they feel it is needed (Timestamp 01:54:45). SSA [REDACTED] stated a break can be taken at the end of



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the interview to allow Union Representative [REDACTED] and BPA [REDACTED] to discuss important information BPA [REDACTED] could share to clarify his statement (Timestamp 01:57:37). SSA [REDACTED] reminded Union Representative [REDACTED] that statements and information regarding the incident had to be communicated by BPA [REDACTED] and not Union Representative [REDACTED] (Timestamp 01:58:38). Union Representative [REDACTED] said he understood.

When asked if he witnessed any non-citizens displaying assaultive resistant behavior, BPA [REDACTED] stated he did not. [REDACTED] was asked to elaborate, and he explained that before the media arrived and began recording, non-citizens who were bringing food across were getting "mobbed" by other non-citizens for their food. When asked if anyone was assaulted, BPA [REDACTED] said no one was hurt or claimed to be hit, but he viewed the situation as potentially dangerous for the person carrying the food.

BPA [REDACTED] was shown Video 2 and was asked to identify the HPU BPA on the video who moved his horse in a direction of a non-citizen that caused the non-citizen to fall into the water. BPA [REDACTED] identified the HPU BPA as BPA [REDACTED]. When asked if he used his horse to force anyone back into the river, BPA [REDACTED] said he did not recall ever forcing anyone back into the river (Timestamp 02:16:48). BPA [REDACTED] stated prior to the incident, he never witnessed BPA [REDACTED] or anyone from the HPU use their horse to force people back into the river.

BPA [REDACTED] was asked if the HPU received training on crowd control and said it is discussed during Horse Patrol basic training (Timestamp 02:17:32). BPA [REDACTED] explained the horse can be used as a barrier to stop people from proceeding forward and can be used to push a crowd back.

When asked if HPU BPAs must worry about the horse running someone over, BPA [REDACTED] said HPU BPAs should always worry about potentially running someone over even though both the horse and rider are trained to avoid these situations. BPA [REDACTED] also stated if someone was run over, it could potentially result in serious injury. When asked to explain, BPA [REDACTED] stated someone could suffer a broken bone or it could even cause death for the rider or person on the ground. HPU BPAs were trained to keep distance by using verbal commands and in some instances, HPU BPAs used their reins to keep someone away from their horse to prevent injuries. BPA [REDACTED] said when operating around children, subconsciously HPU BPAs' senses were heightened to prevent them from injuring a child, and the BPAs would take a little more care in their actions (Timestamp 02:20:52).

When asked under what circumstance HPU BPAs were allowed to use the horse to hit someone, BPA [REDACTED] stated if there was an imminent threat, they could use the horse as a conveyance to hit

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someone. He further added it would be a use of force incident but did not know if there was policy detailing it specifically (Timestamp 02:21:26). SA [REDACTED] then asked if there was a policy detailing using a conveyance as a tool in a deadly force situation, BPA [REDACTED] responded by saying he believed there was.

BPA [REDACTED] agreed if a HPU BPA hit someone with a horse, either intentionally or unintentionally, it would be considered a reportable use of force incident (Timestamp 02:23:05). When asked to explain further, BPA [REDACTED] said if a horse came in contact with someone and potentially caused harm to someone, it would be considered a use of force incident.

BPA [REDACTED] stated HPU BPAs were permitted to charge at someone with a horse. When asked to explain why, BPA [REDACTED] said "there's nothing to say you can't charge at somebody, it's just like drawing your gun. There's nothing that says you can't draw your gun, pulling the trigger is a different story" (Timestamp 02:23:55). When asked if horses were trained to charge at someone, BPA [REDACTED] said it was not something that was covered in training. He further added that HPU BPAs were trained to chase after someone to apprehend them, but they were not trained to charge at someone to threaten to run them over. BPA [REDACTED] agreed charging at someone with a horse and forcing them into a body of water could cause injuries.

BPA [REDACTED] was asked if charging at someone with a horse would be classified as a reportable use of force incident, and BPA [REDACTED] stated he did not think it was. BPA [REDACTED] was then asked if it caused injuries to someone, would it be considered a reportable use of force incident and BPA [REDACTED] still believed it wouldn't (Timestamp 02:31:10).

BPA [REDACTED] was asked under what circumstances a BPA could use a horse to force a non-citizen to return to Mexico. BPA [REDACTED] said there were no circumstances where a BPA could force someone back to Mexico. He elaborated by saying a BPA cannot pursue someone back across the border. BPA [REDACTED] said it wasn't their job to make people go back to Mexico (Timestamp 02:31:47). BPA [REDACTED] added BPAs could not force anyone to go back to Mexico, but he believed BPAs could advise them to go back to Mexico. When asked to elaborate, BPA [REDACTED] stated if the river was dangerous in a certain area, BPAs would tell non-citizens not to proceed forward because they could potentially drown.

BPA [REDACTED] was shown Video 2 and was asked to identify the HPU BPA who could be heard telling people to go back to Mexico. BPA [REDACTED] identified the HPU BPA as BPA [REDACTED] (Timestamp 02:39:03). BPA [REDACTED] said he could not say for sure who BPA [REDACTED] was speaking to when he was telling people to go back to Mexico, but it looked like BPA [REDACTED] may have been speaking to

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a group of people who were in the middle of the river. BPA [REDACTED] stated he never heard BPA [REDACTED] or anyone from the HPU telling people to go back to Mexico prior to the incident on September 19, 2021. BPA [REDACTED] also stated he did not order anyone to return to Mexico (Timestamp 02:43:12).

After the incident at the boat ramp, the HPU BPAs advised non-citizens there was no food or water under the Del Rio POE and that they could go back to Mexico to obtain items. BPA [REDACTED] was asked who within his chain of command was ordering or allowing non-citizens to go back to Mexico to obtain food and water and he could not recall (Timestamp 02:47:26). BPA [REDACTED] stated before the incident at the boat ramp took place, BPA [REDACTED] asked for further instructions on the radio and did not receive a response. After the incident at the boat ramp, someone who BPA [REDACTED] believed was from incident command, advised via radio it was okay to let people cross back to Mexico for food and water.

BPA [REDACTED] was asked if he could describe his understanding of Credible Fear and BPA [REDACTED] said it is when someone feared persecution from their government (Timestamp 02:54:21). BPA [REDACTED] added if someone was claiming a credible fear or asylum, that individual was supposed to apply in the first country they arrived to and not "however many countries down the road." When asked to describe his understanding of asylum, BPA [REDACTED] explained it was also fear of persecution of someone's government. BPA [REDACTED] was then asked specifically what someone would be seeking if they were requesting asylum and BPA [REDACTED] said they would be seeking to become a resident in said country and not be returned to their country (Timestamp 02:56:36). BPA [REDACTED] was not aware the non-citizens were claiming credible fear and requesting asylum. BPA [REDACTED] said he did not know and was not aware or advised whether the migrants were claiming credible fear and requesting asylum.

BPA [REDACTED] was shown Photo 5 and identified the HPU BPA in the picture as himself (Timestamp 02:58:18). BPA [REDACTED] stated he was speaking to the individual in front of the horse wearing the blue shirt and black pants. BPA [REDACTED] was asked what he was telling the individual to do, and BPA [REDACTED] explained he believed he was telling him to get back. BPA [REDACTED] was asked where his finger was pointing in the picture and BPA [REDACTED] stated it was pointed toward the river. BPA [REDACTED] said he did not recall ordering the individual or anyone to return to Mexico but instead told people to get back (Timestamp 02:59:15). BPA [REDACTED] stated the individual in the picture was the same person that was using the women and children to shield himself from BPA [REDACTED] and his horse. BPA [REDACTED] explained he was trying to make the non-citizen get back and stay at the bank of the river. BPA [REDACTED] added he was not trying to make the individual go back into the water. BPA [REDACTED] was asked to explain the reason why he was stopping the individual from further entering

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the United States to present himself for Asylum. BPA [REDACTED] said he did not know what the individual's intentions were and that the individual was not following his (BPA [REDACTED]) commands. BPA [REDACTED] reiterated that his instructions were to shut down the boat ramp and interpreted that to mean keeping the non-citizens confined at the bank of the river and not letting them go further into the United States (Timestamp 03:12:57). BPA [REDACTED] said he assumed it was USBP management who gave the initial orders to shut down the boat ramp (Timestamp 03:14:26).

BPA [REDACTED] was asked if he ordered anyone to return to Mexico so they could not present themselves and claim a credible fear or asylum. BPA [REDACTED] denied ordering anyone to return to Mexico so they would not be able to present themselves and claim a credible fear or asylum (Timestamp 03:16:38). When asked if he witnessed anyone from the HPU ordering non-citizens back to Mexico, BPA [REDACTED] stated when he was shown Video 2, he could hear the HPU BPA, earlier identified as BPA [REDACTED], telling people to go back to Mexico. BPA [REDACTED] stated it appeared BPA [REDACTED] was speaking to individuals who were in the river, but he did not know why BPA [REDACTED] told them that.

BPA [REDACTED] was shown Photo 3 and Photo 4 and was able to identify the HPU BPA in the picture as BPA [REDACTED] (Timestamp 03:17:37). BPA [REDACTED] denied ever witnessing BPA [REDACTED] grab someone by the shirt in an attempt to prevent them from entering the United States prior to the incident at the boat ramp (Timestamp 03:19:05). BPA [REDACTED] stated generally in normal operations if individuals were running from them and not following commands to stop, they could grab the individual to apprehend them. BPA [REDACTED] was asked if the HPU received training on how to apprehend while mounted on the horse and BPA [REDACTED] stated during basic HPU training they were taught to reach out and grab someone by their shirt if they were running (Timestamp 03:26:14). BPA [REDACTED] stated they could also get in front of them to cut them off with their horse.

When asked if there were media and camera crews at the boat ramp, BPA [REDACTED] said he believed so (Timestamp 03:27:17). BPA [REDACTED] stated the media personnel crossed the Rio Grande River instead of using a designated POE, in violation of U.S. law (Timestamp 03:28:11). BPA [REDACTED] stated a TXDPS Trooper told the media personnel they needed to go back to either the middle of the river or across the river or they would arrest them. BPA [REDACTED] added they told them to go back to the middle of the river and an individual from the media responded by saying he did that all the time and knew where the boundary was. BPA [REDACTED] stated he directly told the media personnel to go back to the center of the river where the United States boundary was (Timestamp 03:29:16). BPA [REDACTED] was asked if he told the media to return to Mexico and enter through a designated POE and BPA [REDACTED] stated he did not but did ask them to go to the international border which was the center of the river (Timestamp 03:29:43). BPA [REDACTED] stated he did not know if the media

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personnel came from Mexico or the United States.

[Agent's Note: BPA [REDACTED] was asked if he had anything he wanted to add or clarify and Union Representative [REDACTED] began to question BPA [REDACTED] directly, eliciting responses from BPA [REDACTED]. Union Representative [REDACTED] was advised multiple times his line of questioning in this forum was not appropriate and was asked to stop. Union Representative [REDACTED] was allowed breaks to confer with BPA [REDACTED] but continued being disruptive. Union Representative [REDACTED] stopped as per the request of SSA [REDACTED].]

SA [REDACTED] asked BPA [REDACTED] if any HPU BPA on his unit received crowd control training (Timestamp 04:21:39). BPA [REDACTED] stated he believed BPA [REDACTED] received crowd control training and further recalled having a conversation with BPA [REDACTED] regarding his concern for not having received crowd control training. BPA [REDACTED] stated he was concerned with the assignment of the HPU to the Del Rio POE area and explained the quarterly trainings that were canceled would have been a good opportunity to receive crowd control training.

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Exhibit List**

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None

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U. S. CUSTOMS AND BORDER PROTECTION  
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**EXHIBIT - 19**

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U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 037</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station (CAR) Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the boat ramp," approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, located in the Western District of Texas.</p> <p>On March 16, 2022, Special Agent (SA) [REDACTED] and SA [REDACTED] conducted a compelled interview with Border Patrol Agent (BPA) [REDACTED]. The interview was video and audio recorded with StarWitness equipment and uniquely identified by Authentication Code [REDACTED].</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 09-APR-2022</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>13. APPROVED DATE 09-APR-2022</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		



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On March 16, 2022, Special Agent (SA) [REDACTED] and SA [REDACTED] conducted a compelled interview with BPA [REDACTED]. The interview was video and audio recorded with StarWitness equipment and uniquely identified by Authentication Code [REDACTED].

BPA [REDACTED] stated he entered on duty with the USBP [REDACTED] at the Carrizo Springs Station. BPA [REDACTED] stated his current position is a BPA.

BPA [REDACTED] was advised to only answer the questions in the interview based on his personal knowledge, not what he may have seen on television or social media, unless he was specifically asked what he had seen on television or social media.

Prior to the interview, OPR Threat Mitigation and Analysis Division created a PowerPoint presentation, which was displayed at various points throughout the interview (Attachment 2). The PowerPoint contains videos and photographs of the area near the Del Rio POE and boat ramp, as well as video and photos of CAR HPU BPAs. During the interview, BPA [REDACTED] viewed the videos and photos and SA [REDACTED] and SA [REDACTED] asked questions concerning the videos and photos. The videos in the PowerPoint are labeled Video 1, Video 2, and Video 3. The photographs are labeled Photo 1, Photo 2, Photo 3, Photo 4, and Photo 5.

BPA [REDACTED] stated the allegation was apparent due to the media attention and the statement given by the President. BPA [REDACTED] stated he spoke to his union representative attorney, [REDACTED] about the incident. BPA [REDACTED] stated in the days following September 19, 2021, he and the other HPU BPAs discussed the media coverage of the incident. (Timestamp 7:30)

BPA [REDACTED] stated the HPU had a text message group and advised he would preserve any texts he has. Attorney [REDACTED] stated he would advise BPA [REDACTED] not to turn over anything not required, and he and BPA [REDACTED] could review those messages. (Timestamp 8:25)

BPA [REDACTED] stated he did not prepare a memorandum regarding the HPU activities on September 19, 2021. (Timestamp 9:46)

BPA [REDACTED] stated he did not make any recording from the Del Rio POE on September 19, 2021. (Timestamp 10:03)

BPA [REDACTED] stated the HPU is a standardized national program. BPA [REDACTED] stated there is a solicitation for BPAs to join the HPU and each BPA must be evaluated prior to being selected to

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attend the HPU training. BPA [REDACTED] stated if selected, the selectee would attend a [REDACTED] week training and on the job training. BPA [REDACTED] advised the [REDACTED] week training includes basic horsemanship, equipping a horse with tack, cleaning up tack and care for horses. (Timestamp 10:12)

BPA [REDACTED] stated crowd control was not part of the national program. BPA [REDACTED] said he had previously participated in a Mobile Field Force (MFF) training, which he described as similar to crowd control training. BPA [REDACTED] said he believed this training took place in 2019. BPA [REDACTED] stated the MFF training was provided by the USBP, and the instructor was Supervisory Border Patrol Agent (SBPA) [REDACTED]. BPA [REDACTED] stated SBPA [REDACTED] was certified to provide the training. BPA [REDACTED] believed the MFF training was approximately [REDACTED] in length. BPA [REDACTED] stated he started with the HPU on [REDACTED], and he attended this training within the first six months of being assigned to the HPU. (Timestamp 11:51)

BPA [REDACTED] stated the training addressed how to control large groups of people when outnumbered, improving rider control of the horse, as well as formations and individual techniques in horsemanship used to maneuver and contain people in a certain area. (Timestamp 14:18)

BPA [REDACTED] stated he believed HPU BPAs [REDACTED] and [REDACTED] also attended this training. (Timestamp 15:55)

BPA [REDACTED] stated the national policy on HPU training required HPU BPAs attend recurring quarterly training. BPA [REDACTED] added there was also constant evaluation in the field by instructors who would address any issues they observed. BPA [REDACTED] stated due to the Covid-19 pandemic, quarterly training was not being conducted, and prior to September 2021, three of the previous four quarterly trainings did not occur. BPA [REDACTED] stated there were approved waivers for the quarterly trainings that were missed due to Covid. BPA [REDACTED] stated the last quarterly training he attended was in 2020. BPA [REDACTED] stated quarterly training covered basic horsemanship, MFF, desensitizing, and anything associated with being on the HPU. (Timestamp 16:27)

BPA [REDACTED] stated desensitizing, although addressed during quarterly training, was also something that was constantly monitored and addressed by the riders and instructors. BPA [REDACTED] stated HPU BPAs were assigned a horse, however horses were also sometimes rotated among BPAs. BPA [REDACTED] stated each horse had its own personality and may act differently than another horse to the same stimuli. (Timestamp 18:48)

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On September 19, 2021, BPA [REDACTED] was riding [REDACTED], a horse that was assigned to him in June of 2021. BPA [REDACTED] stated [REDACTED] was a new horse for the HPU. (Timestamp 19:30)

BPA [REDACTED] stated in June of 2021, the HPU was suspended, and HPU BPAs were assigned to assist the CAR with processing and transporting migrants. BPA [REDACTED] stated during this time he did not ride any of the HPU horses but believed the two wrangler instructors were riding them as part of maintaining the horses. BPA [REDACTED] stated HPU BPAs should have been riding as much as possible because it is a perishable skill. (Timestamp 20:05)

BPA [REDACTED] stated he had no experience riding horses prior to joining the HPU. BPA [REDACTED] stated he was comfortable riding horses. (Timestamp 22:44)

BPA [REDACTED] stated on September 18, 2021, while assigned to the transport unit, he received a phone call from SBPA [REDACTED]. BPA [REDACTED] stated SBPA [REDACTED] advised him the HPU BPAs were being requested in Del Rio due to concerns that migrants would learn about Title 42 and riot. BPA [REDACTED] stated the HPU responded to Del Rio with their horses. BPA [REDACTED] believed the HPU arrived back at the CAR around 11:30 pm on September 18, 2021. (Timestamp 23:11)

BPA [REDACTED] stated there was no concern that the horses had not been ridden in the past three months prior to being assigned to assist at the Del Rio POE. BPA [REDACTED] stated that during the five days prior, he picked up migrants at the Del Rio POE and transported them to different locations. BPA [REDACTED] stated over those five days he saw the population and the tension of the migrants grow. BPA [REDACTED] stated he had concerns about the safety of everyone at the Del Rio POE because it was very chaotic. (Timestamp 25:08)

BPA [REDACTED] stated that BPAs from the [REDACTED] HPU [REDACTED] had already been at the Del Rio POE, and they reported the population responded the HPU presence more than anything else. BPA [REDACTED] opined that the population under the Del Rio POE was being detained. (Timestamp 26:00)

[Agents note: At this point in the interview, in response to BPA [REDACTED] offering his assessment that the population under the POE was being detained, Union Representative [REDACTED] interjected about what the legal and operational definition of "detained" may be related to BPA [REDACTED]'s opinion.]

BPA [REDACTED] stated in the days and weeks prior to September 19, 2021, the number of people

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entering the country continued to grow. BPA [REDACTED] stated the migrants were transported from the Del Rio POE to different stations for processing. (Timestamp 26:24)

BPA [REDACTED] stated he did not recall any USBP management advising whether the migrants under the Del Rio POE were in custody. BPA [REDACTED] stated USBP management expressed that the migrants needed to be moved as quickly as possible for processing. When asked if USBP was doing its best to manage the migrant population at the Del Rio POE, BPA [REDACTED] stated that it was subjective. BPA [REDACTED] stated if managing the population was part of the USBP plan, he did not know what the USBP plan was. (Timestamp 30:25)

BPA [REDACTED] was asked to describe his observation of the atmosphere and the overall situation under the Del Rio POE over the five days he had been transporting migrants. BPA [REDACTED] responded by saying, "Many people and a growing population. It seems, basically, I don't want to say unorganized, but as the week progressed, the five days progressed, there seemed to be a little bit more order and a little bit more efficiency but, by and large, it was still, I would just call it sickening." (Timestamp 33:36)

BPA [REDACTED] stated migrants were moving around freely but within reason. BPA [REDACTED] stated he was at the weir dam [REDACTED] BPA [REDACTED] stated the only time the only "people in positions of authority" he saw were assigned to move support services like setting up porta pottys. (Timestamp 34:16)

BPA [REDACTED] stated some migrants were being released to non-government organizations (NGOs) and given a date to return for processing. BPA [REDACTED] stated that due to the migrant population's access to communication, he anticipated that the migrants would learn about the Title 42 expulsion flights and that they were not being released into the U.S. BPA [REDACTED] believed this knowledge might cause the migrants at the Del Rio POE to become disgruntled or act out, thus creating a safety issue. (Timestamp 35:50)

BPA [REDACTED] stated law enforcement was "greatly outnumbered" at the Del Rio POE, continuing that the situation was "far from ideal". BPA [REDACTED] stated there was a growing population who had not been searched and were not secured. BPA [REDACTED] described the population of migrants as "unknown". BPA [REDACTED] stated they (USBP) thought the migrants were being cooperative because they were getting what they wanted but Title 42 would change the migrants disposition. (Timestamp 37:30)

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BPA [REDACTED] stated he was unaware of who ordered the HPU to the Del Rio POE on September 18, 2021, but he was personally notified by SBPA [REDACTED]. BPA [REDACTED] stated Acting Assistant Chief Patrol Agent (A-ACPA) [REDACTED] was overseeing the HPU and gave briefings to the HPU at the Del Rio POE. (Timestamp 38:44)

BPA [REDACTED] stated on September 18, 2021, SBPA [REDACTED] did not provide any objective for the HPU at the Del Rio POE. BPA [REDACTED] stated he did not recall any specific instructions given by A-ACPA [REDACTED]. BPA [REDACTED] stated he recalled that the HPU was only instructed to be in the area and answer calls for assistance on the radio. (Timestamp 40:03)

BPA [REDACTED] stated the HPU responded to a call of a female migrant with a knife who was trying to stab someone. BPA [REDACTED] stated the female migrant was located within the large group of migrants, but HPU was able to form a path through the crowd so either BORTAC or BORSTAR were able to contact the female migrant. (Timestamp 41:13)

BPA [REDACTED] stated prior to September 18, 2021, he witnessed migrants crossing the Rio Grande River at the weir dam upriver from the Del Rio POE. BPA [REDACTED] stated [REDACTED] BPA [REDACTED] stated there was no specific instruction given to the HPU regarding migrants crossing back and forth between the U.S. and Mexico. BPA [REDACTED] stated at one point he asked an unknown SBPA about a group of migrants who were walking away from the encampment, to which the SBPA stated the migrants were probably lost, but not to worry, they would return. BPA [REDACTED] stated this comment "sums up the mentality" at the time. (Timestamp 41:54)

BPA [REDACTED] did not recall any instruction that permitted migrants to cross back and forth between the U.S. and Mexico. (Timestamp 43:40)

BPA [REDACTED] stated he did not recall when Texas Department of Public Safety (TXDPS) stopped [REDACTED] the weir dam. BPA [REDACTED] stated he had hoped the closing of the weir dam was a collaborative effort between TXDPS and USBP, but he was not there so he did not know what or how it occurred. BPA [REDACTED] stated the HPU was advised, for situational awareness, [REDACTED] were crossing at the boat ramp area. (Timestamp 43:55)

BPA [REDACTED] stated the migrants crossing back to Mexico were getting provisions (food and water) for themselves or their families. BPA [REDACTED] stated some of the migrants were selling the provisions upon their return in the U.S. BPA [REDACTED] stated on September 18, 2021, the USBP

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was supplying the migrants at the Del Rio POE with food and water. BPA [REDACTED] stated migrants were told that diapers and medical services were available. BPA [REDACTED] stated migrants continued crossing back and forth between the U.S. and Mexico during his entire assignment at the Del Rio POE. (Timestamp 45:01)

BPA [REDACTED] stated BPAs used the [REDACTED] radio channel throughout the operation. This channel was [REDACTED] BPA [REDACTED] said he did not believe this channel was recorded. BPA [REDACTED] stated call signs were not being used during radio communications which frustrated him. BPA [REDACTED] stated communication was lacking, no landmarks in the area were named, and agents were calling others by their names rather than using their assigned call signs. BPA [REDACTED] stated anyone using the [REDACTED] radio channel would have been able to hear radio transmission from the boat ramp area to the Del Rio POE and to the weir dam. BPA [REDACTED] said cell phones were also used for communication. (Timestamp 48:20)

BPA [REDACTED] stated on September 19, 2021, while he was located approximately 30 yards from the incident command trailer, he heard over the radio an unknown person ask for assistance to close the boat ramp. BPA [REDACTED] stated he believed a [REDACTED] HPU BPA at the boat ramp requested the HPU to respond. BPA [REDACTED] stated when he arrived at the boat ramp there were two DPS troopers there. (Timestamp 52:34)

[Agent note: A second recording was initiated due to the camera shutting off. BPA [REDACTED] was advised all notifications and advisements were still in effect. The interview was video and audio recorded with StarWitness equipment and uniquely identified by Authentication Code ([REDACTED]).]

BPA [REDACTED] was shown Photo 1, an aerial photograph of the Del Rio POE area, from the PowerPoint. BPA [REDACTED] identified the Del Rio POE, the boat ramp, weir dam, and Rio Grande River. (Timestamp 00:40)

BPA [REDACTED] stated the international boundary is the Rio Grande River. BPA [REDACTED] recalled being taught at the academy the international boundary between the U.S. and Mexico is the deepest part of the Rio Grande River. (Timestamp 2:22)

BPA [REDACTED] stated on September 18, 2021, the mass of the migrant population was gathered around the Del Rio POE toward the boat ramp area, because upriver of the Del Rio POE was occupied by TXDPS. BPA [REDACTED] stated TXDPS may have occupied the upriver area to the weir dam as early as September 17, 2021. (Timestamp 5:13)

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BPA [REDACTED] stated he did not know who requested assistance from the HPU to close the boat ramp on September 19, 2021. BPA [REDACTED] stated discussions he has had after the fact lead him to believe a [REDACTED] HPU BPA made the request. BPA [REDACTED] said that due to his proximity to the Incident Command Center, he believed the incident command staff should have heard the same request on their radios. BPA [REDACTED] stated there was not a call to stand down to the request, so the HPU responded. BPA [REDACTED] stated he responded with three HPU BPAs from his location, traveling along the dirt road that parallels the Rio Grande River, from the Del Rio POE to the boat ramp. BPA [REDACTED] stated more HPU BPAs also responded. BPA [REDACTED] stated he did not recall the other HPU BPAs who responded with him. (Timestamp 7:30)

BPA [REDACTED] was shown Photo 2, a photograph of four HPU BPAs on horseback at the boat ramp on September 19, 2021, from the PowerPoint. BPA [REDACTED] identified himself on the far right of the photo, then stated from right to left was BPA [REDACTED], BPA [REDACTED] and BPA [REDACTED] on the far left. (Timestamp 10:15)

BPA [REDACTED] stated he was not asked to participate in any operation, nor was he provided an operations plan on September 18 or 19, 2021. BPA [REDACTED] stated on September 20, 2021, the HPU was ordered to assist in moving the migrant population located in the brush along the fire break to the creek, which is located down river from the Del Rio POE, and the boat ramp area. BPA [REDACTED] stated the objective was to move and consolidate migrants who had been staying down river from the Del Rio POE to an area closer to the Del Rio POE to detain them. BPA [REDACTED] believed both SBPAs [REDACTED] and [REDACTED] were at the Del Rio POE on these dates. (Timestamp 11:24)

BPA [REDACTED] stated on September 19, 2021, he arrived at the Del Rio POE around 9:00 am and recalled the incident at the boat ramp occurred just after 12:00 pm. BPA [REDACTED] stated when he arrived at the boat ramp there were two TXDPS vehicles, TXDPS troopers on foot and some of the Del Rio HPU BPAs. BPA [REDACTED] stated a large number of migrants were crossing the Rio Grande River and there were migrants bathing and drying out clothes. (Timestamp 14:01)

BPA [REDACTED] believed the TXDPS troopers and some of the HPU had given the migrants instruction to gather their things and begin walking toward the Del Rio POE. BPA [REDACTED] advised he did not know who authorized the boat ramp to be shut down. BPA [REDACTED] stated closing the boat ramp made sense tactically, to stop or control migrants crossing like TXDPS had done at the weir dam. (Timestamp 15:00)

BPA [REDACTED] stated part of USBP's mission is to deter entry (into the U.S.) and that was what

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was taking place at the boat ramp. BPA [REDACTED] stated the migrants already in the U.S. were being moved toward the Del Rio POE. (Timestamp 16:08)

BPA [REDACTED] stated he did not know if any of the HPU BPAs contacted USBP management prior to commencing the closure of the boat ramp. BPA [REDACTED] stated it made sense to shut down the boat ramp like the weir dam. (Timestamp 18:53)

BPA [REDACTED] recalled a discussion with TXDPS troopers at the boat ramp regarding moving migrants toward the Del Rio POE but did not recall any specific plan. (Timestamp 19:35)

BPA [REDACTED] stated when he arrived at the boat ramp, he began to convey the message to migrants to start gathering their things and move toward the Del Rio POE. BPA [REDACTED] stated he had to continue "verbally encouraging" migrants to gather their things and start moving because some migrants were reluctant to leave. (Timestamp 20:08)

BPA [REDACTED] defined "shutting down the boat ramp" as preventing migrants from crossing back and forth and moving migrants who were at the boat ramp toward the Del Rio POE. BPA [REDACTED] stated to stop the migrants from crossing at this location safely, they must first move all migrants who were on or at the boat ramp area. BPA [REDACTED] stated if there were still migrants on the boat ramp, preventing more migrants from crossing there would not work. BPA [REDACTED] stated the boat ramp would have been considered shut down when migrants stopped crossing "because they saw they weren't, we weren't allowing it". BPA [REDACTED] stated at one point on September 19, 2021, there were not migrants crossing at the boat ramp, stating the migrants were waiting on the bank in Mexico and not in the river. BPA [REDACTED] agreed one way to shut down a crossing was by deterrence. Attorney [REDACTED] stated BPA [REDACTED] had previously stated he used the term "shutting down" loosely as that was how it was described at the weir dam. (Timestamp 21:09)

BPA [REDACTED] stated he would define "shut down" as putting the boat ramp in a similar state as the weir dam, at that time, where migrants were not crossing. BPA [REDACTED] was asked if it was his personal goal to shut down the boat ramp. BPA [REDACTED] replied it was not his job to make that decision. BPA [REDACTED] agreed he responded to the boat ramp and commenced in doing certain things, because his goal was to do what he was told. (Timestamp 26:16)

BPS [REDACTED] stated the order to shut down the boat ramp was given via an official communication channel, which he was sure was heard by incident command, therefore it was a safe assumption the order was valid. BPA [REDACTED] stated the order could have come from TXDPS because they also had communication on the same channel. (Timestamp 28:06)



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When asked if there was a discussion regarding what BPAs should do when another agency, like TXDPS, asked BPAs to do something, BPA [REDACTED] stated he was sure it was brought up. BPA [REDACTED] stated he remembered making a comment, "this should be incident command 101, there should be a defined chain of command, there should be call signs and there was none of that." (Timestamp 28:58)

BPA [REDACTED] stated he did not think about any legal issues of responding to a call from TXDPS because the call came over the radio. BPA [REDACTED] stated this was a USBP issue and imagined USBP would be "in charge". BPA [REDACTED] said there were no SBPAs at the boat ramp during the incident. (Timestamp 29:44)

BPA [REDACTED] was asked if he gave any thought to USBP policy and what was happening at the boat ramp and his actions. BPA [REDACTED] stated at that time he did not, until seeing a photo of himself grabbing his radio mic asking for guidance. BPA [REDACTED] stated he called for guidance twice and did not get a response. (Timestamp 30:45)

BPA [REDACTED] stated while at the boat ramp he did not inquire about the immigration status from any of the migrants. BPA [REDACTED] stated he did ask some of the migrants where they were from. BPA [REDACTED] stated most of the conversations he had with migrants were related to food, water, and medical attention. (Timeline 32:09)

When asked what BPA [REDACTED] knew of the migrant's status, BPA [REDACTED] stated the migrants were entering the U.S. unlawfully, but he did not know the dispositions of the migrants. (Timestamp 34:15)

BPA [REDACTED] stated, beyond officer presence, he did not use any force toward migrants at the boat ramp. BPA [REDACTED] stated he did not see any reportable use of force incidents. (Timestamp 35:28)

BPA [REDACTED] stated the use of force policy is the same for the HPU, however there are additional factors to consider. BPA [REDACTED] continued there were certain risks when dealing with horses, to include the horse, the rider, and anyone around the horse. BPA [REDACTED] stated the horses were very well trained, but they still had their own will. BPA [REDACTED] stated due to the size of a horse there was risk of serious injury or even death to the rider or a person on the ground. (Timestamp 36:06)

BPA [REDACTED] stated the MFF training covered using a horse to get people to comply. BPA

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██████████ stated a reasonable person would be willing to comply because of a horse's size. BPA ██████████ stated in this training, role players were used to conduct practical exercises and BPAs also participated as part of the crowd. BPA ██████████ stated contact between the horse and a civilian, in an effort to obtain compliance, should only happen in exigent circumstances. BPA ██████████ continued by saying sufficient space between a person and the horse was ideal so that the civilian did not get too close to the horse. (Timestamp 37:28)

BPA ██████████ was asked to give an example of exigent circumstance where a horse would be used to physically contact someone. BPA ██████████ stated based on the MFF training, if a line of horses was being used and a crowd was actively trying to move past the line of horse, the size and strength of horse could be used to stop the crowd. BPA ██████████ stated a horse can also be used in a deadly force situation. (Timestamp 40:01)

When asked if there was anything in policy about using a horse to hit someone, BPA ██████████ responded he would follow the use of force policy. (Timestamp 40:55)

BPA ██████████ was shown Video 1 from the PowerPoint. BPA ██████████ identified himself at the beginning of the video on a horse with the number ██████████ on its rear flank. (Timestamp 41:35)

BPA ██████████ stated he did not know what his voice sounded like on a recording. BPA ██████████ stated he did tell people who were standing in Mexico to stay in Mexico. (Timestamp 44:44)

BPA ██████████ identified BPA ██████████ on a white horse. BPA ██████████ stated at the time of the incident he did not hear BPA ██████████ make the comments related to using women and the migrant's country being "shit." BPA ██████████ stated he did not recall anyone making derogatory comments. He also stated that these types of comments were not normal practice for BPAs. When asked why BPA ██████████ may have made these comments, BPA ██████████ said, "probably because we are in a very stressful situation." BPA ██████████ stated BPA ██████████ had "a certain respect for women and children" and thought this migrant was using the women and children as shields. BPA ██████████ stated he never discussed BPA ██████████ comments with BPA ██████████ (Timestamp 46:08)

BPA ██████████ stated CBP provided training related to professionalism. BPA ██████████ was asked of his opinion of the comments made by BPA ██████████ and BPA ██████████ stated he did not think the comments made by BPA ██████████ were derogatory. (Timestamp 49:06)

BPA ██████████ stated USBP provided quarterly use of force training. BPA ██████████ stated officer presence was a use of force and therefore force was always being applied. BPA ██████████ stated

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an applied use of force was reportable per policy. BPA [REDACTED] stated the quarterly use of force training had been limited to PowerPoints. BPA [REDACTED] stated there was nothing specific in the use of force policy regarding using a horse to apply force. (Timestamp 53:05)

BPA [REDACTED] was asked about a child who was nearly trampled by a horse. BPA [REDACTED] stated she was not almost trampled and did not see anyone being hit by a horse. (Timestamp 55:55)

BPA [REDACTED] identified himself in Video 1 on horseback. BPA [REDACTED] stated in the video he was stopping a migrant from entering the U.S. When asked if this migrant was already in the U.S., BPA [REDACTED] agreed he was. BPA [REDACTED] stated he was trying to stop this migrant from entering further into the U.S. because he was asked to shut the boat ramp down. BPA [REDACTED] stated these migrants had stopped on the bank in Mexico when there were no migrants crossing at the boat ramp. BPA [REDACTED] stated he asked for guidance (from USBP management) because some of the migrants had tickets previously given to them by USBP, but his understanding was not to allow migrants to cross at the boat ramp. BPA [REDACTED] stated there was not a goal of not allowing migrants to return to Mexico, but that if there were no migrants at the boat ramp (in the U.S.) there would be no migrants there to return. BPA [REDACTED] stated he did not recall when during the chain of events this particular part of Video 1 took place. BPA [REDACTED] continued, saying that due to the amount of time since the incident, his recollection had been clouded by seeing the videos. (Timestamp 56:28)

[Agent note: Migrants who had made contact with USBP under the Del Rio POE and were added to a list to be transported were provided a ticket from USBP so they would know when it was time for them to be transported.]

BPA [REDACTED] agreed the two migrants in Video 1 were in the U.S. and his said his goal was to stop them from entering further into the U.S. BPA [REDACTED] stated at that point he could make a lawful arrest, or the migrants could have turned back to the river themselves, evade his arrest and returned to Mexico, which was very common. BPA [REDACTED] said to his knowledge no migrant was arrested at the river. (Timestamp 1:00:10)

BPA [REDACTED] was asked if he attempted to arrest the migrant he was attempting to stop in Video 1. BPA [REDACTED] asked, "how was I going to arrest him?" BPA [REDACTED] stated migrants were arrested largely based on being complacent, but this was not the usual atmosphere they work in. BPA [REDACTED] said, given the situation, to arrest that many migrants at once on horseback would be difficult and, outside of the migrants complying, "the best bet would be to keep them from

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advancing". (Timestamp 1:01:52)

BPA [REDACTED] stated he did not consider the migrant he was trying to stop, in Video 1, to be under arrest. BPA [REDACTED] continued by saying he tried to stop the migrant, but the migrant did not stop. BPA [REDACTED] stated the women and children in the video were part of the last group that was being allowed to walk toward the Del Rio POE, but the male migrant he was trying to stop was not part of that group. BPA [REDACTED] agreed the male migrant he was trying to stop was standing with the group of females and children that were being allowed to continue to the Del Rio POE, however BPA [REDACTED] stated the male migrant was not traveling with the females and children. BPA [REDACTED] stated the women and children were some of the migrants that were reluctant to move from the boat ramp when the HPU initially arrived to send the crowd back to the POE. BPA [REDACTED] stated the migrants bringing back food would have been waiting along the riverbank but would have taken the food to their families. BPA [REDACTED] stated he could not recall why that particular male migrant was pushed back toward the river. (Timestamp 1:04:05)

BPA [REDACTED] stated there were no directives given to separate adult males and allow women and children to enter the U.S. BPA [REDACTED] advised there was a "push" to disperse the adult male population before the females and children. BPA [REDACTED] stated as the population of migrants rose the priority was to process adult males first because they were the greatest safety risk if there was a riot. (Timestamp 1:09:20)

BPA [REDACTED] stated he attempted to stop the male migrant because he assumed that migrant arrived after the boat ramp was cleared of most migrants. BPA [REDACTED] was advised of three options for the migrants being held at the riverbank: to let them continue to the Del Rio POE, arrest them, or wait at the riverbank until the migrants returned to Mexico. BPA [REDACTED] stated, "or to turn them back", explaining this was common verbiage used by USBP and a stat (statistic) USBP kept. BPA [REDACTED] continued, saying he would not be forcing the migrant back across the river to Mexico, but that the migrant would decide to go back. BPA [REDACTED] stated if the situation would have become safe, "we" (the HPU) could have affected an arrest. BPA [REDACTED] was asked what he remembered from this specific event, which he replied he did not remember this event. (Timestamp 1:11:00)

BPA [REDACTED] identified the object he was twirling in his hands in Video 1 as split reins. BPA [REDACTED] stated he did not have a whip in his hand, nor did he see a whip in the field that day. BPA [REDACTED] stated he did not hit anyone with his reins on September 19, 2021. (Timestamp 1:13:36)

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BPA [REDACTED] stated humans learned to control horses through pressure and release, whether through cues from the rider in the saddle, pressure on the horse's sides via the rider's legs, reins, or the bit in the horse's mouth. BPA [REDACTED] stated reins can apply pressure on the horse's mouth and can be used against the horse's neck. BPA [REDACTED] stated the spinning of the reins in the horse's eyes sight was another stimulus which would make a horse move away from the stimulus. (Timeline 1:14:23)

BPA [REDACTED] stated spinning of reins can also be used to create distance between the horse and a person coming too close. BPA [REDACTED] stated he believed that he was trying to create distance and make his horse turn quickly in Video 1. BPA [REDACTED] stated he was constantly learning and spinning the reins was probably taught simultaneously in the field and quarterly training. (Timestamp 1:15:41)

BPA [REDACTED] stated an HPU BPA does not want someone on the ground advancing toward the horse because of safety concerns. BPA [REDACTED] stated a person could be injured if the horse stepped on them. BPA [REDACTED] stated if a person on the ground was able to control the reins it could be a deadly situation for both the rider and the person grabbing the reins. BPA [REDACTED] added if someone harmed the horse, the horse's reaction could affect the rider. (Timestamp 1:16:46)

BPA [REDACTED] stated use of force policy did not specifically address the use of reins to create distance and stated the use of force policy was open for interpretation and using the reins in this manner would not be any different than no contact being made. BPA [REDACTED] stated if someone was hit by a rein it would be considered an extension of your body. (Timestamp 1:18:24)

BPA [REDACTED] stated he did not see a whip on September 19, 2021. BPA [REDACTED] stated there was a lunging whip used in a training environment. BPA [REDACTED] stated he could not identify a lariat. (Timestamp 1:19:20)

BPA [REDACTED] stated he did not see any HPU BPA strike anyone with reins. (Timestamp 1:20:40)

BPA [REDACTED] identified himself on horseback in the forefront of screen in Video 1. BPA [REDACTED] stated he could not recall who he was speaking to but assumed it was migrants who had not crossed the (international) boundary. BPA [REDACTED] stated he was not speaking to anyone who can be seen in the video. (Timestamp 1:21:00)

BPA [REDACTED] stated he recalled seeing airboats on the days he worked at the Del Rio POE,

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recalling on September 20, 2021, the boat ramp had to be cleared of migrants so that an airboat could dock. BPA [REDACTED] stated after the incident TXDPS parked their patrol vehicles on the boat ramp and put yellow caution tape around it. (Timestamp 1:25:43)

BPA [REDACTED] stated after they were advised to let the migrants enter, he and the other HPU BPAs returned to the firebreak area about halfway to the Del Rio POE from the boat ramp. BPA [REDACTED] advised the order to allow the migrants to enter at the boat ramp came over the radio, but the person did not identify themselves. (Timestamp 1:26:30)

BPA [REDACTED] recalled the timeline of events at the boat ramp stating when he arrived migrants were advised to gather their belongings and move toward the Del Rio POE. BPA [REDACTED] stated once most of the migrants had left the boat ramp area, there were no migrants crossing the river. BPA [REDACTED] continued by saying at some point, migrants began coming to the middle of the river, so he called via radio for guidance, twice, asking what to do with the migrants standing in the river. BPA [REDACTED] stated some of the migrants had tickets, which he believed that meant they had checked in (with USBP). BPA [REDACTED] stated he did not know what the ticket meant. BPA [REDACTED] stated after a "standoff" the migrants moved and that was when the photos and videos were taken. BPA [REDACTED] stated later they were told to let the migrants continue walking up the boat ramp and that was when TXDPS took over putting up the caution tape. (Timestamp 1:28:25)

BPA [REDACTED] stated when he called for guidance over the radio he stated, "I need a call from leadership." BPA [REDACTED] stated not long after the second call for guidance, the migrants in the middle of the river crossed the river and ran, and he grabbed the migrant by the shirt. BPA [REDACTED] stated when he called for guidance, he advised that migrants with tickets and food were coming back. BPA [REDACTED] stated after the incident he asked other HPU BPAs and a TXDPS trooper if they had heard his request for guidance over the radio and those BPAs responded yes. (Timestamp 1:30:10)

BPA [REDACTED] was shown Video 2 from the PowerPoint. BPA [REDACTED] identified himself in the middle of the screen on horseback. BPA [REDACTED] said it was possible he told migrants in Spanish "go over there". BPA [REDACTED] stated he was probably talking to the people crossing. BPA [REDACTED] stated one of the reporters was saying the migrants were not breaking any laws because they had not made it to land. (Timestamp 1:39:20)

BPA [REDACTED] stated he did not remember telling any migrants on the bank (U.S. side) to return to Mexico. BPA [REDACTED] identified himself as the BPA on horseback when the migrant fell into the water at the end of the boat ramp. BPA [REDACTED] stated neither he nor his horse made contact

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with the migrant. BPA [REDACTED] stated at the end of the boat ramp, there were softball sized crushed stones under the surface of the water. (Timestamp 1:41:46)

BPA [REDACTED] stated the boat ramp was a hard surface made from concrete. BPA [REDACTED] advised his horse was shod and he considered his horse's footing on this surface. BPA [REDACTED] said he and this horse had worked on hard slick surfaces before. BPA [REDACTED] stated if the horse goes down the rider is going down with the horse, which was a concern. (Timestamp 1:43:44)

BPA [REDACTED] was again shown part of Video 2 where his horse lifts its head and a migrant falls back into the water. BPA [REDACTED] stated he specifically remembered the horse not contacting this migrant. BPA [REDACTED] stated his horse raised his head in such a manner because he was reacting to being pulled back. BPA [REDACTED] stated he was getting too close to the migrant that tripped. (Timestamp 1:44:50)

BPA [REDACTED] stated to his knowledge the [REDACTED] had given TXDPS the access and permission to file trespassing charges on migrants found on their property. BPA [REDACTED] stated he did not recall any instruction about keeping migrants off the [REDACTED] (Timestamp 1:46:43)

BPA [REDACTED] was shown a clip of Video 2 in which he is using his horse to stop a migrant wearing red shorts at the water's edge. BPA [REDACTED] stated his objective was to prevent this migrant from entering further into the U.S. BPA [REDACTED] continued, saying the ultimate operational goal was to stop migrants from crossing (into the U.S.). BPA [REDACTED] stated this operational goal could not be achieved if migrants continued to be allowed to enter further into the U.S. BPA [REDACTED] stated to "stop the flow, you have to have a starting point." (Timestamp 1:49:20)

BPA [REDACTED] advised that the migrants he was holding at the boat ramp could either abscond to Mexico or stay there in the boat ramp area until the area was secure to place them under arrest and have them move to the Del Rio POE. BPA [REDACTED] stated the way these migrants were being held was out of his control from an operational standpoint. BPA [REDACTED] stated to stop more migrants from crossing they could not let this migrant continue walking. (Timestamp 1:50:39)

BPA [REDACTED] stated he did not force any migrants to return to Mexico. BPA [REDACTED] stated he did not see any BPAs force any migrants to return to Mexico. (Timestamp 1:53:51)

BPA [REDACTED] was asked why he was holding the migrants at the water's edge and in the water instead of on dry solid ground. BPA [REDACTED] stated he wished there was a better way for

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migrants to present themselves. BPA [REDACTED] added how far back is that line allowed to move before the migrants think more can come. (Timestamp 1:54:24)

BPA [REDACTED] advised in the section of Video 2 where he is sitting on his horse looking around, he was checking the surrounding area. BPA [REDACTED] advised during this time he did not have conversations with BPA [REDACTED] who was located just up the boat ramp from him. (Timestamp 1:56:24)

BPA [REDACTED] stated the migrants stopped crossing the river very close to the time when the first male was separated from the women and children. (Timestamp 1:57:23)

BPA [REDACTED] stated on September 19, 2021, his handheld radio [REDACTED]. BPA [REDACTED] advised that in Video 2 he grabbed his mic [REDACTED]. BPA [REDACTED] stated he believed this was the first time he radioed leadership to ask for guidance. BPA [REDACTED] stated there was a photo of him using the mic and he believed that was when he made the second call. BPA [REDACTED] stated they continued to hold the migrants until he was advised by an unknown person to let the migrants in. (Timestamp 2:02:21)

BPA [REDACTED] stated he spent five days traveling to the Del Rio POE and recalled when his peers (BPAs) showed up for the first time he would tell them, "It gets worse." BPA [REDACTED] stated it made him sick the first time he saw it. (Timestamp 2:07:00)

After further viewing Video 2, BPA [REDACTED] stated this may not be when he was advised to let the migrants in because the group of migrants in the video was small. BPA [REDACTED] stated this was the last small group before they began stopping migrants at the boat ramp BPA [REDACTED] continued, saying that he told the migrants in the river that was the last group to come across. (Timestamp 2:08:13)

BPA [REDACTED] stated he heard "go to Mexico" while reviewing Video 2. BPA [REDACTED] stated he was talking to migrants that were behind everyone in the river that are shown on the video. BPA [REDACTED] stated the reporters were the last people to "come in" and there were a lot of migrants still waiting behind them. (Timestamp 2:12:40)

BPA [REDACTED] stated he did not have the authority to order someone back to Mexico from the U.S. at the bank of the Rio Grande River. BPA [REDACTED] stated he did not have the authority to force a migrant back to Mexico using a horse, because it would still be an order. BPA [REDACTED] stated it was a function of the USBP to deter migrants from entering the U.S. BPA [REDACTED] stated that at



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the end of Video 2, he believed there was a large number of people standing on the bank of the river in Mexico. (Timestamp 2:13:50)

BPA [REDACTED] stated as a BPA when he encountered a migrant who had entered the U.S. illegally, he could make an arrest. (Timestamp 2:16:15)

BPA [REDACTED] identified himself in Video 3 as the BPA hanging off the saddle. (Timestamp 2:20:42)

BPA [REDACTED] was shown Photo 3 from the PowerPoint. BPA [REDACTED] stated BPAs often grab individuals who run from them. BPA [REDACTED] stated it was also normal for HPU BPAs on horseback to grab individuals who run. BPA [REDACTED] stated he had received training on handcuffing from horseback. BPA [REDACTED] stated trying to arrest someone from horseback was not a violation of policy. (Timestamp 2:21:57)

BPA [REDACTED] stated the training included situations similar to the one depicted in the photo, which involved reaching for items while simultaneously controlling the horse. BPA [REDACTED] stated in Photo 3, he was trying to stop this migrant and arrest him. (Timestamp 2:25:51)

BPA [REDACTED] was shown Photo 4 from the PowerPoint. BPA [REDACTED] stated that the migrant in this photo was the same migrant from Photo 3. (Timestamp 2:26:43)

BPA [REDACTED] was shown Video 3 from the PowerPoint. BPA [REDACTED] stated that in the video he attempted to affect an arrest on a migrant. BPA [REDACTED] stated after the migrant broke loose from him, he turned around back toward the boat ramp because there were more migrants. BPA [REDACTED] explained that if a BPA chased the one migrant running away from the group there was a potential the rest of the group will abscond and not be apprehended. BPA [REDACTED] stated he discontinued pursuing this migrant as a matter of efficiency. BPA [REDACTED] stated it was more effective from a law enforcement standpoint to let one migrant run away and go back to the group, so all the migrants did not get away. BPA [REDACTED] stated he also wanted to be a deterrent at the boat ramp for the other migrants still waiting on the Mexico side of the river. (Timestamp 2:27:03)

BPA [REDACTED] stated it appeared some of the media had entered the U.S. illegally on September 19, 2021. (Timestamp 2:38:43)

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[REDACTED]



**REPORT OF INVESTIGATION  
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None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**


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**EXHIBIT - 20**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 007</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of SBPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 20, 2021, Special Agents (SA) [REDACTED] and [REDACTED], CBP OPR Del Rio, conducted a witness interview of SBPA [REDACTED].</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 27-SEP-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 27-SEP-2021</p>	<p><b>15. TELEPHONE NUMBER</b> No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

 <p><b>DEPARTMENT OF HOMELAND SECURITY</b></p> <p><b>REPORT OF INVESTIGATION CONTINUATION</b></p>	<p><b>1. CASE NUMBER</b> 202112280</p> <p><b>PREPARED BY</b> [REDACTED]</p> <p><b>2. REPORT NUMBER</b> 007</p>
<p><b>10. NARRATIVE</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 20, 2021, SA [REDACTED] and SA [REDACTED] OPR Del Rio, conducted an interview of Supervisory Border Patrol Agent (SBPA) [REDACTED]. The interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code: [REDACTED] (Exhibit 1). The time was Coordinated Universal Time, (UTC) 00:38:40 through UTC 02:11:32.</p> <p>SBPA [REDACTED] is currently assigned as the supervisor for the HPU for the [REDACTED] of Del Rio Sector and he normally operates out of the Carrizo Springs Station. There are currently [REDACTED] agents assigned to him that work on the HPU. [REDACTED] (SBPA [REDACTED]). SBPA [REDACTED] and his unit start their shift at [REDACTED] at the [REDACTED] Station. On September 19th and September 20th, SBPA [REDACTED] and his unit assisted with the current surge in migrants that occurred near the Del Rio POE. They arrived at the Del Rio POE at approximately 9:30 AM. SBPA [REDACTED] stated that there were also two Del Rio HPU agents working that day (Exhibit 1 timestamp 00:41:01).</p> <p>During the shift on September 19, 2021, SBPA [REDACTED] attended a mission briefing at the Incident Command Center at the Del Rio POE. The briefing was in reference to a mission that was being planned to clear migrants from a brush area near the Del Rio POE and Boat Ramp just south of the Del Rio POE. The mission had been planned for September 19, 2021, but eventually got postponed until Monday, September 20, 2021. The mission included clearing an area from a point known as the "fire break". They were planning to move migrants from the east side of the fire break to the west side of the fire break. SBPA [REDACTED] described the area they were to clear out to be approximately four tenths of a mile to half a mile wide. The end of the fire break connected to an area of the river close to Boat Ramp. The mission was to be conducted in coordination with the State SWAT team, Border Patrol Tactical Unit (BORTAC) Agents, and Texas Department of Public Safety (TXDPS). The plan was for the HPU to assist the other teams (who would be utilizing vehicles) to clear that area and move migrants from the east side of the firebreak to the west side. SBPA [REDACTED] stated the orders they received for this mission were given by Acting Assistant Chief Patrol Agent (ACPA) [REDACTED] (00:45:00 – 00:51:15).</p>	

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

007

## 10. NARRATIVE

While at the command center attending the briefing, SBPA [REDACTED] received a call at approximately 1:30 PM from one of his agents, BPA [REDACTED], informing him that TXDPS Troopers were requesting assistance with shutting down a crossing at the Boat Ramp just south of the Del Rio POE. SBPA [REDACTED] stated he was told by BPA [REDACTED] that the TXDPS operation was to shut down the crossing so that no people could go back and forth (timestamp 00:56:55 – 01:01:15).

SBPA [REDACTED] verified with the Command Center that the DPS request for assistance was not part of the current operational briefing (01:02:01). SBPA [REDACTED] stated he was under standing orders for his unit to help where needed (01:03:30). SBPA [REDACTED] stated the order to assist where needed came from BPA [REDACTED] ( [REDACTED] ) whom he believed was part of the Del Rio Sector Special Operations Group (SOG). SBPA [REDACTED] advised BPA [REDACTED] that the unit could assist DPS with their operation (01:05:00). SBPA [REDACTED] stated the operation at the boat ramp was a DPS operation (01:13:20). He believes that DPS was conducting the operation because they had completed similar operations on the upriver side of the bridge the day before (00:58:22).

SBPA [REDACTED] was shown a video (Video 2) of several HPU BPAs at the boat ramp where they were assisting the DPS Troopers with shutting down the crossing (01:05:50). In the video, one of the BPAs can be seen twirling his reins, while attempting to prevent migrants from crossing at the boat ramp. SBPA [REDACTED] was able to identify the BPA as BPA [REDACTED]. SBPA [REDACTED] stated the twirling of the reins is not consistent with Horse Patrol training, but that he is aware that BPA [REDACTED] has used that method before to help distract/control his previous horse. SBPA [REDACTED] stated that he is not sure why BPA [REDACTED] is twirling the reins in this instance, possibly intimidation, but he did notice that the horse responded (moved abruptly) at one point when BPA [REDACTED] twirled the reins in the video. SBPA [REDACTED] stated he has seen agents in the past twirl the reins in this manner. SBPA [REDACTED] stated he did not believe that he witnessed any policy violations in the video but that he could see how it could look bad. SBPA [REDACTED] said it did not appear that BPA [REDACTED] hit any of the individuals with the reins. SBPA [REDACTED] also stated it did not appear that any of his agents hit any of the individuals with their horse (01:05:50 – 01:22:20). SBPA [REDACTED] believes that the individual falling in the water fell due to a drop off at the edge of the ramp in the river (01:59:10).

SBPA [REDACTED] was able to identify a total of four of the BPAs in the video (Video 2) as BPAs from his unit. He was able to identify BPA [REDACTED], BPA [REDACTED] (not certain), BPA [REDACTED] (mentioned previously) and BPA [REDACTED] (01:17:50).

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

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## PREPARED BY

## 2. REPORT NUMBER

007

**10. NARRATIVE**

SBPA [REDACTED] was shown another video (Video 1) of one of the HPU BPAs on a white/light colored horse (01:22:30). SBPA [REDACTED] was unable to definitively identify the BPA in the video. He could see that the horse was white, but he couldn't be sure because two of his agents ride white/light color horses. The two BPAs he believes that it could have been BPA [REDACTED] or BPA [REDACTED]. He also believes that there was a Del Rio HPA out there that day that also had a light-colored horse as well, but he couldn't be sure which agent was in the second video. SBPA [REDACTED] was able to identify BPA [REDACTED] in this video as the BPA on the brown horse who was twirling his reins and was pointing (01:26:15).

SBPA [REDACTED] was shown several still photos of the incident at the boat ramp (01:31:10). In the first photo (Photo 2), he was able to identify BPA [REDACTED], BPA [REDACTED], BPA [REDACTED] and BPA [REDACTED]. The second and third picture (Photo 3 and Photo 4) depict one of the BPAs next to a migrant and grabbing a migrant by the shirt. SBPA [REDACTED] was able to identify the agent as BPA [REDACTED] (01:33:40) in photo 3, and he wasn't sure about photo 4. SBPA [REDACTED] advised that his agents are trained to apprehend people while on horseback due to and they may have to grab people at times while on horseback (01:36:25).

SBPA [REDACTED] was asked if he was aware of any of his BPAs wearing a "Go Pro" camera during the incident (01:53:40). He stated that he was aware that BPA [REDACTED] was wearing a personal "Go Pro" camera that day. SBPA [REDACTED] stated that in the past the Del Rio Sector Border Patrol Strategic Communications Branch has asked for footage of the HPU in action. He stated for this reason some of his agents at times will carry cameras with them for that purpose and for liability purposes. SBPA [REDACTED] stated he did not receive a request from BPA [REDACTED] to wear the camera and that he did not tell BPA [REDACTED] that he couldn't wear it. SBPA [REDACTED] was not sure if the wearing of the camera was a policy violation. SBPA [REDACTED] did not know the whereabouts of the camera, but he assumed the agent had it. SBPA [REDACTED] stated he is not aware of any footage/pictures being released to the media by his agents regarding this incident.

SBPA [REDACTED] said he was not advised of, nor did he witness any incidents of excessive force conducted by his HPU BPAs in relation to this incident. SBPA [REDACTED] also stated he did not witness and was not advised of any migrants being combative (01:37:40).

**DEPARTMENT OF HOMELAND SECURITY**



**REPORT OF INVESTIGATION  
Exhibit List**

**1. CASE NUMBER**

202112280

**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

007

None




**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 21**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 010</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of SBPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 20, 2021, Special Agent (SA) [REDACTED] and SA [REDACTED], CBP OPR Del Rio, conducted an interview of Supervisory Border Patrol Agent (SBPA) [REDACTED], Carrizo Springs, Texas.</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 28-SEP-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 28-SEP-2021</p>	<p><b>15. TELEPHONE NUMBER</b> No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

010

**10. NARRATIVE**

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 20, 2021, SA [REDACTED] and SA [REDACTED] conducted an interview of SBPA [REDACTED]. The interview was audio and video recorded using the StarWitness equipment and uniquely identified by Authentication Code: [REDACTED]. The time was Coordinated Universal Time, (UTC) 02:47:42 through UTC 03:39:18.

SBPA [REDACTED] started his duty on September 19, 2021, at [REDACTED], as the HPU supervisor at the Carrizo Springs Border Patrol Station. SBPA [REDACTED] stated he was assigned to the Del Rio POE for support of the mass influx of migrants. He arrived at the Del Rio POE at 9:30 a.m.

SBPA [REDACTED] stated prior to reporting to the Incident Command Center, he met with SBPA [REDACTED]. SBPA [REDACTED] informed them of an operation that will be taking place later that day. The operation was an attempt to guide all the migrants closer to the POE and was to start at approximately 2:00 p.m. SBPA [REDACTED], SBPA [REDACTED] and 11 HPU BPAs, two of which were from Del Rio Station, patrolled the perimeter via horseback prior to the operation.

SBPA [REDACTED] was informed to stand down from the operation, with no explanation as to why. At approximately 2:00 p.m., at the time the incident in question took place, the Texas Department of Public Safety (TXDPS) had previously closed the Wier Dam and was attempting to direct traffic to the boat ramp. SBPA [REDACTED] was a half mile away from the Boat Ramp. TXDPS requested assistance of the HPU in stopping the foot traffic of the migrants at the Boat Ramp. SBPA [REDACTED] stated TXDPS had previously closed the Wier Dam and did not know who authorized them to close the Boat Ramp. SBPA [REDACTED] believed the Incident Command Center did not authorize the closure.

SBPA [REDACTED] stated HPU was not given instructions to assist DPS in closing the foot traffic at the Wier Dam. SBPA [REDACTED] stated the agents did so, on their own accord.

SBPA [REDACTED] stated, in reference to radio communications they were operating on [REDACTED] by orders of the Command Center. [REDACTED]

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

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## PREPARED BY

## 2. REPORT NUMBER

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## 10. NARRATIVE

SBPA [REDACTED] was not a HPU instructor and was [REDACTED] SBPA [REDACTED] joined HPU in [REDACTED] SBPA [REDACTED] stated he attended the [REDACTED] week training.

SA [REDACTED] showed Video 1 (timestamp 03:02:41). Video 1 was paused at 03:03:21 and SBPA [REDACTED] identified BPA [REDACTED] as the BPA in Video 1. BPA [REDACTED] was on a horse and saying something to the migrants and while on his horse he was preventing migrants from passing further. Video 1 was paused again at 03:04:16, SA [REDACTED] asked SBPA [REDACTED] in his opinion and experience what were the BPAs attempting to do. SBPA [REDACTED] responded, they appeared to be attempting to prevent the migrants from entering the Boat Ramp. SA [REDACTED] asked whether it was part of the mission that day or common practice, and if they have the authorization as BPAs to deter migrants. SBPA [REDACTED] responded, to deter migrants, no. SBPA [REDACTED] believed they were following instructions from DPS, in stopping the foot traffic.

SA [REDACTED] asked if they are trained to block people with horses. SBPA [REDACTED] responded in case of a riot, yes, and did not see anything wrong with that.

SA [REDACTED] paused Video 1 at 03:07:28 and asked SBPA [REDACTED] if he saw an HPU BPA twirl his reins and if could identify him. SBPA [REDACTED] responded, yes. and identified the BPA as BPA [REDACTED]. SA [REDACTED] asked if twirling of the reins is part of normal operations. SBPA [REDACTED] stated yes. SBPA [REDACTED] explained that reins were used to guide a horse to places the horse did not want to go. SA [REDACTED] asked could reins be used for any other reason. SBPA [REDACTED] stated, in an event when someone was attempting to take the reins, that would be a safety concern and the reins may be used as a deterrent.

SA [REDACTED] asked if they were taught twirling the reins. SBPA [REDACTED] stated, he did not recall it being part of the training syllabus. SBPA [REDACTED] stated using the reins to make the horse move was acceptable.

SA [REDACTED] paused Video 1 at 03:09:58 and asked SBPA [REDACTED] in his experience, why the agent would twirl his reins in that manner. SBPA [REDACTED] stated he believed if there was a stone or obstacle, perhaps the BPA used it to prevent the horse from going to it. SBPA [REDACTED] did not know if the BPA was trying to make the horse go somewhere or deter a person. After conclusion of Video 1, SA [REDACTED] asked SBPA [REDACTED] if he was able to identify any of the horses in the video. SBPA [REDACTED] identified a palomino horse and stated BPA [REDACTED] typically rode that horse.

SA [REDACTED] showed Video 2 and asked SBPA [REDACTED] if he was able to identify any other BPAs

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
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## 1. CASE NUMBER

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## PREPARED BY

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## 10. NARRATIVE

in the video (timestamp 03:15:49). SBPA [REDACTED] stated yes. SBPA [REDACTED] identified BPA [REDACTED] based on the GoPro camera he was wearing, BPA [REDACTED] and BPA [REDACTED]. SA [REDACTED] paused Video 2 at 03:17:19, and asked SBPA [REDACTED] if he observed BPA [REDACTED] twirl his reins and see the migrant fall to the water. SBPA [REDACTED] stated yes. SA [REDACTED] asked if SBPA [REDACTED] believed the horse struck the migrant or if there were obstacles that would have caused the migrant to fall. SBPA [REDACTED] stated that it was difficult to see if the horse struck the migrant, but he knew the specific spot was slippery due to his recent past experience when his horse was drinking water from the same area.

SA [REDACTED] paused Video 2 at 03:19:36, and asked SBPA [REDACTED] in his opinion what was the BPA trying to do with his reins. SBPA [REDACTED] did not know what the BPA's intentions were.

SA [REDACTED] paused Video 2 at 03:21:35 and asked SBPA [REDACTED] if could identify the BPA on the screen. SBPA [REDACTED] could not.

SA [REDACTED] presented Photo 2 and asked SBPA [REDACTED] if he could identify the BPAs (timestamp 03:22:21). SBPA [REDACTED] stated yes and identified BPA [REDACTED] BPA [REDACTED] BPA [REDACTED] and BPA [REDACTED]

SA [REDACTED] presented Photo 3 and asked SBPA [REDACTED] if he could identify the BPAs. (timestamp 03:23:15) SBPA [REDACTED] stated no.

SA [REDACTED] presented Photo 4 and asked SBPA [REDACTED] if he could identify the BPAs (timestamp 03:23:39). SBPA [REDACTED] stated yes and identified BPA [REDACTED]

SA [REDACTED] presented Photo 3 and asked SBPA [REDACTED] if it safe to say the BPA is BPA [REDACTED] (timestamp 03:24:28). SBPA [REDACTED] stated yes. SA [REDACTED] asked SBPA [REDACTED] with his experience and training, what BPA [REDACTED] was doing. SBPA [REDACTED] stated it appeared BPA [REDACTED] had a hold of the individual by the shirt, which was common when someone was fleeing. SBPA [REDACTED] stated HPU BPAs were trained both on and off the horse and no use of force was reported to him.

SA [REDACTED] inquired about the GoPro worn by BPA [REDACTED]. SBPA [REDACTED] stated he was aware of BPA [REDACTED] use of a GoPro. STRATCOM (Del Rio Border Patrol Sector Strategic Communications) had requested photos and footage not necessarily of this operation.

HPU did not ask for authorization to assist DPS in the attempt to shut down foot traffic. DPS did

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION CONTINUATION

1. CASE NUMBER

202112280

PREPARED BY

2. REPORT NUMBER

010

10. NARRATIVE

ask for permission from USBP to shut down the foot traffic.

SA [redacted] asked SBPA [redacted] whether based on the videos he had seen, if there was any policy the HPU BPAs violated. SBPA [redacted] responded no, and that there was no use of force.

SBPA [redacted] stated BPA [redacted], BPA [redacted], BPA [redacted] and BPA [redacted] were also on the day shift and SBPA [redacted] will provide "481" (G-481, Daily Unit Assignment Log) to show all HPUs that were on shift via email.

SBPA [redacted] stated the Incident Command Center provided guidance in operations and to assist where needed, which included assisting other agencies like DPS. SBPA [redacted] did not know who exactly gave that command but, it did come from the Incident Command Center. SBPA [redacted] heard it personally. SBPA [redacted] also stated that he believed all agencies report to the Command Center.

DEPARTMENT OF HOMELAND SECURITY



REPORT OF INVESTIGATION  
Exhibit List

1. CASE NUMBER

202112280

PREPARED BY

[REDACTED]

2. REPORT NUMBER

010

None

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**


**202112280**



**EXHIBIT - 22**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**



 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 008</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of BPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 22, 2021, Special Agents (SA) [REDACTED] and [REDACTED], CBP OPR Del Rio, conducted a witness interview of BPA [REDACTED].</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 28-SEP-2021</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 28-SEP-2021</p>	<p><b>15. TELEPHONE NUMBER</b> No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

008

**10. NARRATIVE**

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 22, 2021, Special Agents [REDACTED] and [REDACTED], CBP OPR Del Rio, conducted an interview of BPA [REDACTED]. The interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code:

[REDACTED] The time was Coordinated Universal Time, (UTC) 19:57:49 through UTC 20:25:35.

BPA [REDACTED] is currently assigned to the [REDACTED] [REDACTED] and he normally operates out of the Del Rio [REDACTED]. For the past two weeks, he has been assigned to the Del Rio Port of Entry Incident Command trailer located near the Del Rio Port of Entry (POE) bus loading area.

BPA [REDACTED] stated he was assigned to work on September 19, 2021, and he started his shift at approximately [REDACTED] and finished at approximately [REDACTED]. BPA [REDACTED] stated his assignment, that day, was to help coordinate security and the movement of migrants from the "pods" that they were being held at to the "Loading Zone" so that they could be loaded onto the buses. BPA [REDACTED] advised that he reports to [REDACTED] who is assigned to the Del Rio Border Patrol Sector (Del Rio Border Patrol Station) and is currently overseeing the operations at the incident command area near the bridge loading zone. BPA [REDACTED] did consult with [REDACTED] on September 19, 2021, regarding his specific area of operation. They specifically discussed what would be done with migrants who crossed the border and arrived at areas other than the checkpoint area near the camp (timestamp 20:03:30).

BPA [REDACTED] stated that on September 19, 2021, he met with the HPU supervisor and advised him to assist with security in his area. He stated he did not remember telling the HPU supervisor or any agents to "help where needed" (timestamp 20:09:15). BPA [REDACTED] stated it is possible someone could have heard him say those words, but he does not normally use that expression. BPA [REDACTED] stated that most of the direction that he gave on that day revolved around providing security in the Loading Zone and in the lavatory area when they were being cleaned out. Additionally, he also coordinated security when an EMT must go into an area to

## DEPARTMENT OF HOMELAND SECURITY

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**10. NARRATIVE**

assist with treating one of the migrants. BPA [REDACTED] did not recall the HPU agents being part of any special operations on that day (timestamp 20:08:10).

BPA [REDACTED] was shown Video 2 of the incident involving members of the HPU at the Boat Ramp that occurred on September 19, 2021 (timestamp 20:10:30). BPA [REDACTED] did not recall hearing about that incident either directly or on the radio while he was working that day. BPA [REDACTED] stated that the operations being conducted on site were communicated on radio [REDACTED]. BPA [REDACTED] stated he did not recall hearing any requests for assistance regarding the incident at the Boat Ramp.

BPA [REDACTED] stated he has had training in Incident Command Operations and receives ongoing incident command training due to his position on the [REDACTED] (timestamp 20:07:01). BPA [REDACTED] stated he believed guidance to the Texas Department of Public Safety (TXDPS) troopers came from their chain of command. BPA [REDACTED] said he believed TXDPS had their own incident command center, and he did not know if the TXDPS command center was in communication with the Border Patrol command center on that day. BPA [REDACTED] did state that it was normal for TXDPS and Border Patrol to help each other during this time with everything going on at the Del Rio POE (timestamp 20:14:02).

BPA [REDACTED] was shown photo 1, a satellite image of the area in question and was asked to identify and mark pertinent locations. He annotated the U.S. and Mexico on their respective sides of the international boundary, the Rio Grande River, the POE bridge, and the location of his operation and the security line that he oversees. He further identified and marked the Boat Ramp depicted in the video he was shown (timestamp 20:15:45).

BPA [REDACTED] stated he was not aware of any circumstance where he as a BPA would be authorized to use force or the threat of force to force an individual to return to Mexico after making entry into the United States (timestamp 20:17:10).

BPA [REDACTED] said he was not advised of, nor did he receive any complaints from any migrants that day regarding the use of excessive force by any HPU agents (timestamp 20:12:50). BPA [REDACTED] stated he was not aware of any agent's video recording the incident involving the HPU agents at the boat ramp (timestamp 20:22:55).

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**REPORT OF INVESTIGATION  
Exhibit List**

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[REDACTED]

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None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 23**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 009</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 22, 2021, CBP OPR Special Agents (SA) [REDACTED], CBP OPR Del Rio and SA [REDACTED], OPR SAC Tucson, interviewed [REDACTED] at the Del Rio OPR office.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 28-SEP-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 28-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

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**10. NARRATIVE**

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 22, 2021, SA [REDACTED] and SA [REDACTED] interviewed [REDACTED] at the Del Rio OPR office. The interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code: [REDACTED]. The time was Coordinated Universal Time, (UTC) 21:49:49 UTC through 22:18:34 UTC.

[REDACTED] stated that on Sunday, September 19, 2021, he was assigned as the [REDACTED] for the migrant staging location located "under the bridge" at the Del Rio POE, and his shift began at [REDACTED]. [REDACTED] responsibilities were the identification, accounting, movement, and transfer of migrants, the amenities provided to migrants, and the coordination of all persons entering the Migrant Staging Location. He also coordinated with the Emergency Operations Center (EOC) for the transportation of all migrants away from the Del Rio POE.

Between September 18, 2021, and the early part of the day on September 19, 2021, the U.S. Border Patrol recorded their "high water mark," of 15,877 migrants. U.S. Border Patrol (USBP) Del Rio was working with different Border Patrol Sectors, Immigration and Customs Enforcement (ICE), ICE facilities, and others to move migrants out of the Migrant Staging Location. [REDACTED] responsibility was to identify migrants who were to be transported and determine their composition, such as family units or adults. [REDACTED] was also responsible for water, food, and medical treatment. On September 12, 2021, USBP had 700 migrants detained, and by September 18, 2021, to early September 19, 2021, that number had reached 15,877. [REDACTED] was responsible for managing the "chaos." [REDACTED] explained there was a lot of movement and accounting for incoming and outgoing migrants.

In the Incident Command Post (ICP), [REDACTED] would also account for BPAs and other agency personnel as they arrived. [REDACTED] explained that arriving personnel were logged and provide them with responsibilities, such as the feeding of migrants, providing security, and preparing migrants for movement.

[REDACTED] previously received Incident Command Training between approximately 2009 and

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2012 when he was a Field Operations Supervisor. [REDACTED] training consisted of the Incident Command Systems (ISC) 300 and 400 courses. [REDACTED] has not completed any refresher courses as these are one-time courses only; however, he stated he had sharpened his skills since completing the training by responding to numerous incidents. [REDACTED] explained that he was previously assigned to the USBP's Rio Grande Valley Sector where they established EOCs for hurricanes, and he became very familiar with ICS operations.

[REDACTED] IPC at the migrant staging location consisted of a trailer with radios and cameras. The Migrant Staging Location ICP was the location where personnel assigned to the Migrant Staging Location would meet and where personnel entering and exiting the Migrant Staging Location would be tracked. This included CBP employees, outside agency law enforcement officers, food service contractors, volunteers, and the media. [REDACTED] initial concern was safety and he wanted to ensure he had enough personnel on hand to meet safety requirements. (timestamp 21:59:55)

[REDACTED] recalled the specific time the HPU arrived on September 19, 2021 (timestamp 22:00:01). A larger ICP and the EOC had been established behind the Migrant Staging Location ICP. This larger IPC and EOC handled security for the overall area impacted by the influx of migrants, not just the Migrant Staging Location. Laredo Sector [REDACTED] [REDACTED] was the Lead Field Coordinator (LFC) and was the IC responsible for all Department of Homeland Security (DHS) and outside agency components assigned to the migrant influx. [REDACTED] was [REDACTED] first line supervisor during this operation. [REDACTED] [REDACTED] did not need guidance from [REDACTED] that day ( timestamp 22:01:16). The HPU did not check in with [REDACTED] at the Migrant Staging Location ICP when they arrived (timestamp 22:01:26).

On September 19, 2021, there was a 10:00 a.m. or 10:30 a.m. briefing with the Team Leaders (TLs) from the involved components and agencies to discuss security. A migrant "community" was being established close to the Boat Ramp (east of the Migrant Staging Location) because they were running out of room in the Migrant Staging Location. In the meeting, two Deputy ICs were going over security and contemplating how law enforcement personnel could move the migrants from the Boat Ramp area into the "containment zone" closer to the Del Rio POE. After going over the plan, the TLs departed and were to meet again at 2:00 p.m. to discuss what assets they had for the operation and to develop a strategy. This included Texas Department of Public Safety (TXDPS), Texas Criminal Investigations Division (TXCID), and the Val Verde County Sheriff's Office. The HPU was going to be part of this operation, but [REDACTED] did not speak to any of the HPU supervisors. (22:02:40)



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██████████ said that personnel at this meeting were not instructed to stop or deter the flow of migrants entering the U.S. ██████████ never gave instructions to the HPU to assist in stopping or deterring the flow of migrants into the U.S. ██████████ did not recall a request being broadcast over the radio to do so (timestamp 22:05:27). ██████████ did submit a request through the EOC for additional HPU for a security presence, but not for the purpose of stopping the flow of migrants. ██████████ requested that the HPU respond to augment the Del Rio Sector's HPU, which had been working in the area since September 12, 2021. Del Rio Sector's HPU had only been working ██████████ and ██████████ wanted a 24-hour, seven day a week HPU coverage. ██████████ intended HPU to patrol up and down (east and west) the Rio Grande River from the Migrant Staging Location to provide a security presence.

██████████ did not know what the Carrizo Springs' HPU's instructions were on September 19, 2021, from 10:30 a.m. to 2:00 p.m. as he did not speak to them when they arrived (timestamp 22:06:45). ██████████ spoke to their Special Operations Supervisor (SOS) to ensure they were providing security patrols up and down the "bridge road." USBP anticipated that migrants would learn about deportation flights back to Haiti and wanted a good presence at the Migrant Staging Location and up and down the river.

██████████ did not recall a request from DPS at approximately 1:30 p.m. for HPU's presence at the "down river Boat Ramp." (timestamp 22:07:35). ██████████ learned of DPS's request after the incident at the Boat Ramp involving the Carrizo Springs HPU had already occurred. ██████████ learned of the incident when Border Patrol Chief ██████████ advised him that it was in the media.

██████████ had overarching command of security for this operation, to include DPS assets, and provided direction and guidance. However, ██████████ had two Deputy ICs, one of which was Del Rio Sector ██████████ PAIC ██████████. PAIC ██████████ was responsible for the coordination of the various law enforcement agencies and was responsible of security operations. The second Deputy IC was Eagle Pass North Station PAIC ██████████. A DPS Trooper was co-located at the EOC with ██████████ and the two Deputy ICs to facilitate communication with TXDPS and command staff (22:09:53).

██████████ explained at the Migrant Staging Location, any arriving personnel reported to him, and he assigned them as needed, such as to security operations or migrant feeding. When services or contractors arrived, ██████████ ensured there was an adequate law enforcement presence for security.

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When asked, [REDACTED] clarified that [REDACTED] and [REDACTED] had oversight of security for the entire operation, whereas he had oversight for security at the Migrant Staging Location. When additional outside agency personnel or BPAs arrived, they reported to the EOC run by [REDACTED] and the two Deputy ICs. If they were then subsequently directed to the Migrant Staging Location, they would report to him upon their arrival (22:12:12).

All personnel involved in the overall operation were communicating on radio [REDACTED] [REDACTED] frequency. This frequency was chosen due to the amount of radio traffic involved with the operation and [REDACTED] channels used by the Del Rio Sector BPAs. He was not aware of any other channel being used during the operation. [REDACTED] for that area, [REDACTED], but they were all operating on [REDACTED]. He believed, but was not sure, that DPS had access to [REDACTED] on their radios but was unsure if they were communicating on it.

[REDACTED] was shown Video 2 via a link: "Trapped": Migrants collecting food try to evade law enforcement at the U.S.-Mexico border" ( timestamp 22:14:14).

According to [REDACTED], no allegations of excessive force or misconduct on the part of BPAs or officers were reported to him, nor was he aware of such allegations until he saw the video that was shown to him (timestamp 22:16:24). He believed the order or authorization for HPU to assist DPS at the Boat Ramp came from the EOC. He was not sure if the request from DPS for HPU assistance went from DPS up to the EOC and then to HPU, or if it went straight from DPS to HPU. He saw HPU patrolling back and forth (timestamp 22:17:04).

Regarding radio transmissions, [REDACTED] stated he heard some of the of radio traffic occurring during the overall operation. When he was in the EOC the radio was on, and he heard people call the command post. He didn't know who was in the EOC monitoring the radio. When people arrived at the EOC, they were required to sign in, but he didn't know if that was actually taking place. Arriving personnel were given their assignments when they arrived at the EOC. If they were assigned to him at the Migrant Staging Location, he had a sign in board at his ICP on which he accounted for personnel as they came and left. His board was erased at the end of every shift, or the names of individual personnel were erased as they are relieved. He didn't have any pictures of the board for achieving. In the EOC, they had the number of assets written down by agency, such as the number of BPAs or DPS Troopers, but he didn't know if they have them by name.

On or about September 19, 2021, it was normal for BPAs to help other agencies as needed.

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**10. NARRATIVE**

There was a high number of law enforcement personnel going back and forth, and it wouldn't be out of the realm of possibility for DPS to ask for help. He asked DPS for help when he saw something they could assist with. It was a unified command and requesting assistance from other agencies occurred (timestamp 22:21:17).

When asked to clarify, ██████████ confirmed he believed permission for HPU to help DPS came from ██████████'s EOC, or that DPS communicated directly with HPU. He wasn't sure who granted permission for HPU to assist DPS. He also clarified that all personnel arriving at the scene, to include DHS, outside agency, and civilian personnel, were supposed to sign in at the EOC by name, but he could not confirm that occurred. At his Migrant Staging Location ICP, he only annotated the TL's name and the number of personnel with each TL (timestamp 22:22:40).

Referring to the previously mentioned 2:00 p.m. meeting that was scheduled to take place, ██████████ did not go to the meeting and was unsure if it occurred. He was advised by an unknown person that the operation to move the migrants towards the containment zone was postponed, and he believed he was advised of this before 2:00 p.m. If the meeting had taken place, ██████████ or ██████████ would have conducted the meeting as they handled the initial meeting that took place at 10:00 or 10:30 a.m. (timestamp 22:24:58).

According to ██████████, no Operations Plan (OpPlan) had been drafted for the overarching operation dealing with the migrant surge. Based on past practice, he did not believe an OpPlan would have been drafted for an individual operation, such as the operation they intended to plan at 2:00 p.m. Individual units or personnel would have been advised of their roles and responsibilities, but he didn't believe anything was put in writing. Due to time constraints, a Command's Intent, or something simple with overall roles and responsibilities may have been drafted, but not an OpPlan. ██████████ stated no Commander's Intent, OpPlan, Operations Order, etc., had been sent out and all directives were verbal. In his position he would have known if such a document had been distributed (timestamp 22:28:02).

SA ██████████ presented Photo 1 a satellite image of the area in question to ██████████ and asked to identify and mark pertinent locations (timestamp 22:29:17). He annotated the U.S. and Mexico on their respective sides of the international boundary, the Rio Grande River, the POE bridge, and the location of his migrant staging location ICP. He further identified and marked the Boat Ramp depicted in the video he was shown.

██████████ was asked under what circumstances a BPA could use force, or threaten to use force, to make an individual return to Mexico after they entered the U.S., to which he replied that

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no such circumstances exist. Through officer presence BPAs could be encouraged migrants to return to Mexico, but once they have entered the U.S. it's the USBP's job to arrest them. It was, or should be, part of a BPAs training that once a migrant entered into the U.S., BPAs could not use force to cause a migrant to return to Mexico. ██████████ stated he instructed Use of Force for many years and did not teach BPAs they could use force or threaten the use of force to cause someone to return to Mexico (timestamp 22:31:13).

He did not know if BPAs who arrived in Del Rio Sector or at the Del Rio Station were briefed on the location of the International Boundary. He believed it was common knowledge that the middle of the Rio Grande River was the International Boundary. He added that the boundary can change based on depth and other factors such as islands that must be traversed. If a BPA wanted simplify things, they'll use the northern bank of the river as a migrant would already in the U.S. by the time, they reach the north bank

██████████ drew a line on the satellite image of what he identified as the north bank of the Rio Grande River.

According to ██████████, with the exception of rescues, BPAs do not take enforcement action in the river, and they wait until migrants have stepped foot onto the north riverbank before doing so (timestamp 22:33:29).

Referring to the previously viewed video (Video 2), ██████████ confirmed that the migrants seen in it were already in the U.S. He was not aware of any instances of BPAs forcing migrants back into the river, and no such actions were reported to him that day (timestamp 22:34:51).

██████████ signed, dated, and wrote the time on the back of the satellite image he was provided and on which he made annotations (timestamp 22:34:56).

He recommended that OPR speak with Special Operations Supervisor ██████████, the Del Rio Sector HPU second line supervisor. He also recommended that OPR speak with Del Rio Sector's ██████████ HPU supervisor, Supervisory Border Patrol Agent ██████████, although he is not the supervisor for the Carrizo Springs HPU BPAs seen in the video. Also recommended were ██████████ and ██████████ and ██████████. He believes they may know what was told to the HPU regarding their role with DPS and the containment zone north of the boat ramp and west to the bridge during the hours of 10:30 a.m. to 2:30 p.m.

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Exhibit List

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[REDACTED]

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None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
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**EXHIBIT - 24**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 004</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On Friday September 24, 2021, Assistant Special Agent in Charge (ASAC) [REDACTED], OPR SAC Houston and Special Agent (SA) [REDACTED], OPR SAC Tucson, conducted a witness interview of [REDACTED] of the Del Rio Sector Special Operations Detachment.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 27-SEP-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 27-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

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## 10. NARRATIVE

On Friday September 24, 2021, OPR ASAC [REDACTED] and SSA [REDACTED] conducted a witness interview of [REDACTED] of the Del Rio Sector Special Operations Detachment at the OPR office in Del Rio, Texas. The interview was audio and video recorded using StarWitness equipment and uniquely identified using Authentication Code: [REDACTED]). The time was Coordinated Universal Time, (UTC) 17:16 through UTC 18:28.

[REDACTED] is currently assigned to the Del Rio Border Patrol Sector Special Operation Detachment. [REDACTED] said he was familiar with the incident involving the HPU that occurred at the Boat Ramp on September 19, 2021, where HPU was seen interacting with several migrants attempting to enter the United States. [REDACTED] stated that he found out about the incident the following day. On September 19, 2021, [REDACTED] said he was stationed at the incident command center located near the Del Rio POE where the majority of the of the Haitian migrant population were located. [REDACTED] role during the incident was to serve as one of the Deputy Patrol Agent's in Charge assigned by [REDACTED] and [REDACTED] [REDACTED] Del Rio Sector, to manage security operations and to coordinate with other law enforcement agencies and tactical units. [REDACTED] reported directly to [REDACTED] and [REDACTED].

[REDACTED] explained the chain-of-command during the incident are as follows: [REDACTED] was the overall Incident Commander and below him were two Deputy Incident Commanders, [REDACTED] and [REDACTED]. Serving under [REDACTED] command is Border Patrol Tactical Unit (BORTAC) Commander [REDACTED], who was assigned to take care of field operations and was [REDACTED] main point-of-contact. After [REDACTED], there are multiple BORTAC supervisors including [REDACTED], and Border Patrol Search, Trauma, and Rescue Unit (BORSTAR) [REDACTED]. BORTAC Commander [REDACTED] coordinated with other Border Patrol units including the HPU. [REDACTED] responsibilities were to assist with operations, including transport, feeding operations, logistics and administrative reporting procedures.

[REDACTED] said that his responsibilities included assessing the security situation in which he initially observed approximately 15,000 migrants under the POE bridge on the north side of the river scattered east and west of the river. Initially he established a security perimeter to contain the situation so that it wouldn't get larger. Texas Department of Public Safety (TXDPS) had already established a perimeter on the west side of the POE with marked TXDPS vehicle units parked facing the river all the way to the boat landing on the westside. [REDACTED] stated that the main mission during the incident was to provide security and to be prepared for any emergency that might arise. [REDACTED] said that he wanted to establish a security line of vehicles on the



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## 10. NARRATIVE

eastside POE since TXDPS had the westside covered, but USBP was short on manpower. Therefore, USBP was unable to establish a security line until the following morning on September 20th. However, [REDACTED] stated that there were some ATV patrol units patrolling in the area [REDACTED] on September 19, 2021. [REDACTED] orders were mainly to collect situational awareness and to observe and report at that time, but not to deter migrants from coming north towards the United States (timestamp 17:34:31). [REDACTED] further explained that there was no intention to create a choke point to funnel the migrants at that time and pointed out that having vehicles parked on east and westside was only for the purpose of observation and having situational awareness (timestamp 17:36:35:00). [REDACTED] reiterated that [REDACTED] was the overall Incident Commander on September 19, 2021, but also that [REDACTED] was overseeing operations as [REDACTED]. [REDACTED] considered both [REDACTED] and [REDACTED] to be joint Incident Commanders. [REDACTED] stated that he reported to both [REDACTED] and [REDACTED].

[REDACTED] stated that [REDACTED] was used for the main radio frequency channel for operations and [REDACTED] radio channel was used for medical emergencies. Neither [REDACTED] nor [REDACTED] were [REDACTED] [REDACTED] was chosen because it was a common channel that everyone had on their radios and was easy to use to communicate with all parties including TXDPS. [REDACTED] said that [REDACTED] he did not believe they are recorded. [REDACTED] did not know the maximum range of [REDACTED] but was not aware of any radio communications issues. [REDACTED] further stated that he did not know if the frequency was encrypted. [REDACTED] also said that everyone was capable of monitoring the radio including the Incident Command, but nobody was specifically assigned to monitor the radio such as dispatch personnel, but there was always someone in the mobile command unit (timestamp 17:42:00).

[REDACTED] stated that there was a meeting that occurred around 10:30 a.m., on the September 19, 2021. regarding placement of vehicles on the eastside of the POE in order to gain situational awareness. Present at the meeting were [REDACTED], [REDACTED], [REDACTED] as well as other team leaders. During the meeting, concern was raised for the migrant children and mothers for possible medical issues considering the heat, as well as providing food and water. Also, during the meeting, it was decided by [REDACTED], [REDACTED] and [REDACTED] that a security line that was supposed to occur at 2:00 p.m., that day would not be established and that agents would stand down due to lack of manpower. [REDACTED] stated that there were no other operations scheduled for September 19, 2021, but several informal meetings were probably occurring between different agents throughout the day to decided how to organize a perimeter line. The recommendation was to establish the perimeter the following day on September 20, 2021, since

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more USBP mobile response team members would be arriving to the incident location. After the meeting, the directive for the remainder of the day was to stand-down but to continue with situational awareness and providing security (timestamp 17:50:00).

██████████ stated that there was no overarching operation plan drafted on September 19, 2021, to establish the line of vehicles for a perimeter. There was only a verbal briefing at 10:30 a.m., to team leaders regarding the perimeter. ██████████ further stated that no operation took place around 2:00 p.m., hours on the September 19, 2021, with the HPU, but each individual unit supervisors were assigning their personnel to help with situational awareness and medical emergencies (timestamp 17:53:00). The HPU team leader reported to the HPU program manager Acting Assistant Chief Patrol Agent (ACPA) ██████████ who in turn reported directly to ██████████. ██████████ stated that the HPU supervisor during the incident should have been at the meeting at 10:30 a.m. but was unable recall his name.

██████████ further stated that if an HPU supervisor was at the 10:30 a.m. meeting, the only instructions to personnel were to maintain security and that the movement that was to occur around 2:00 p.m., was cancelled. ██████████ further stated that ideally, he would have been notified of the incident involving the HPU when it happened on the September 19, 2021, but there were a lot of gaps in communication as far as who was communicating with each other. The first time ██████████ spoke to HPU program manager Acting ACPA ██████████ about the incident was via telephone on September 20, 2021.

██████████ stated that he did not know if TXDPS requested assistance from the HPU to shut down the border ramp and that TXDPS didn't specifically communicate with him for assistance to shut down the Boat Ramp (18:04:44). ██████████ said that TXDPS requests for permission such as to shut down the Boat Ramp was circumstantial and depended on unfolding events and that it was common for agents to talk amongst themselves and support each other. There wasn't necessarily a clear chain-of-command for those requests (18:06:46).

██████████ stated he was not aware of anyone from USBP giving TXDPS guidance to stop the flow of migrants across the border. ██████████ said that TXDPS did not request any permission to stop migrants and that DHS had no tactical operational control over TXDPS and that BPAs had no authority to enforce Texas state laws (timestamp 18:07:00). ██████████ stated he did not hear HPU units on the radio during the incident on September 19, 2021, but said that it was possible they could've used a different radio frequency, but he probably would have known about it.

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[REDACTED]

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None


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U. S. CUSTOMS AND BORDER PROTECTION  
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**EXHIBIT - 25**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
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 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 012</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of Patrol Agent in Charge [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas, which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 21, 2021, Special Agents (SAs) [REDACTED] and [REDACTED], CBP OPR, Del Rio, interviewed Patrol Agent in Charge (PAIC) [REDACTED], U.S. Border Patrol (USBP) Eagle Pass North Station, Eagle Pass, Texas.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 28-SEP-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 28-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
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## PREPARED BY

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012

**10. NARRATIVE**

On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas, which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.

On September 21, 2021, Special Agents (SAs) [REDACTED] and [REDACTED], CBP OPR, Del Rio, interviewed Patrol Agent in Charge (PAIC) [REDACTED], U.S. Border Patrol (USBP) Eagle Pass North Station, Eagle Pass, Texas. The interview was audio and video recorded using the StarWitness equipment and uniquely identified by Authentication Code: [REDACTED]. The time was Coordinated Universal Time, (UTC) 18:04:03 UTC through 18:25:15 UTC. Assistant Special Agent in Charge [REDACTED], CBP OPR, Houston, Texas, prepared this report based upon a review of the interview video recording.

Prior to the interview, PAIC [REDACTED] was provided with an Administrative Warning Acknowledgment for Non-Bargaining Unit Employees, which he signed acknowledging he understood his rights and obligations. SA [REDACTED] placed PAIC [REDACTED] under oath prior to the interview.

During the interview, PAIC [REDACTED] explained that approximately five days prior to the interview he was assigned as the Incident Commander for the influx of migrants entering the U.S. near the Del Rio POE. The following day, [REDACTED], USBP, Laredo, Texas, was assigned as the Incident Commander and PAIC [REDACTED] became the Deputy Incident Commander. As the Deputy Incident Commander, PAIC [REDACTED] was responsible for coordination with other agencies and stakeholders, reporting, and providing general guidance to subordinate personnel.

On September 19, 2021, PAIC [REDACTED] worked from approximately [REDACTED] to [REDACTED], and was working at the Incident Command Center near the Del Rio POE during the incident involving the HPU near the Boat Ramp. PAIC [REDACTED] did not recall when the USBP Carrizo Springs HPU arrived in Del Rio. PAIC [REDACTED] explained that there was an Incident Command Center and an Incident Command Post near the Del Rio POE, and he was assigned to the Incident Command Center. The USBP Carrizo Springs HPU reported to the Incident Command Post near the Del Rio Port of Entry; therefore, PAIC [REDACTED] was unaware of their arrival. USBP Special Operations Groups reported to the Incident Command Center, but other personnel reported to the Incident Command Post near the Del Rio POE.

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## 10. NARRATIVE

PAIC [REDACTED] was uncertain but believed PAIC [REDACTED], USBP Del Rio Station, was responsible for the Incident Command Post during the incident involving the HPU. However, PAIC [REDACTED] did not specifically know if PAIC [REDACTED] was present during the incident (timestamp 00:08:51).

PAIC [REDACTED] said he was aware that the HPU was assigned to the incident location, but he did not know the specifics of their daily taskings and was unaware of any operations that USBP Carrizo Springs HPU planned to assist with on September 19, 2021. (timestamp 00:09:11).

PAIC [REDACTED] denied giving direction to the USBP Carrizo Springs HPU or having any contact with the HPU (timestamp 00:09:29). PAIC [REDACTED] said that while at the Incident Command Post, he observed the HPU but did not have any communication with them. (timestamp 00:09:39).

According to PAIC [REDACTED], on September 19, 2021, [REDACTED] was the Incident Commander assigned to the main Incident Command Center (timestamp 00:09:52).

PAIC [REDACTED] agreed that there was a multi-agency effort near the Del Rio POE and said that Texas Department of Public Safety (TXDPS) Troopers and personnel received direction from their management (timestamp 00:11:42). PAIC explained that DPS coordinated with USBP.

PAIC [REDACTED] was unaware of any standing order on September 19, 2021, directing the HPU to assist where needed (timestamp 00:12:30). PAIC [REDACTED] explained that the HPU would have received direction from their immediate supervisors. However, PAIC [REDACTED] was uncertain who would have provided direction to the HPU supervisors. According to PAIC [REDACTED], HPUs, typically, have program managers and an Assistant Chief Patrol Agent (timestamp 00:12:50).

PAIC [REDACTED] said that BPA [REDACTED] is a BORSTAR (Border Patrol Search Trauma and Rescue) Operator who was likely present at the area commonly referred to as the Loading Zone on September 19, 2021, but PAIC [REDACTED] was not sure (timestamp 00:13:42). PAIC [REDACTED] explained that BPA [REDACTED] would have tasked and assigned BPAs working near the Loading Zone who were involved in loading and unloading migrants. PAIC [REDACTED] agreed that it was possible the HPU received guidance from BPA [REDACTED] (timestamp 00:16:15).

PAIC [REDACTED] agreed that it was common for BPAs and DPS Troopers to work together and assist each other in matters concerning the migrant influx near the Del Rio POE (timestamp 00:17:06).

PAIC [REDACTED] denied knowledge of any DPS operational orders to stop the entry of undocumented

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**10. NARRATIVE**

migrants or that he received notification that DPS intended to act to stop migrants from entering the United States. However, PAIC [REDACTED] said he did see video feed and hear radio communications that DPS personnel were lining up near the Weir Dam (timestamp 00:17:47).

PAIC [REDACTED] denied knowledge of a request from DPS to assist preventing undocumented migrants from entering the United States (timestamp 00:19:07). PAIC [REDACTED] said PAIC [REDACTED], USBP Special Operations Detachment Del Rio, is his counterpart at the Incident Command Center and is also serving as a Deputy Incident Commander leading the special operations element (timestamp 00:18:10). According to PAIC [REDACTED], PAIC [REDACTED] was working on September 19, 2021 (timestamp 00:18:42).

PAIC [REDACTED] was asked if the USBP mission was to stop or deter the entry of undocumented migrants into the U.S. PAIC [REDACTED] replied "...not down there" and explained that was the "mission set" USBP was currently postured to care for individuals involved in the migrant influx near Del Rio, Texas. (timestamp 00:19:24). PAIC continued by stating that he did not believe BPAs were instructed to stop the flow of migrants that day, unless it was possibly put out on radio (timestamp 00:19:53).

PAIC [REDACTED] explained that radio communications occurred on [REDACTED] and this radio channel is not recorded. PAIC [REDACTED] said that [REDACTED] and other agencies involved in operations near the Del Rio POE have the ability to communicate on [REDACTED] (timestamp 00:20:13).

Both the Incident Command Center and Incident Command Post are located near the Del Rio POE and are located within approximately 100 yards of each other (timestamp 00:21:44).

PAIC [REDACTED] denied receiving reports of any allegations of misconduct or use of excessive force by BPAs. PAIC [REDACTED] explained that he first learned of the September 19, 2021, incident involving the HPU from social media (timestamp 00:22:01).



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[REDACTED]

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None


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U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**


**202112280**



**EXHIBIT - 26**

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U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 013</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 24, 2021, OPR Senior Special Agent (SSA) [REDACTED], CBP OPR SAC Tucson and Assistant Special Agent in Charge (ASAC) [REDACTED], OPR SAC Houston, conducted an interview of [REDACTED], Laredo Sector Headquarters.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 28-SEP-2021</p>	<p>14. ORIGIN OFFICE UFITS Region 1</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 28-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
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 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION CONTINUATION</b></p>	<p><b>1. CASE NUMBER</b></p> <p>202112280</p>
	<p><b>PREPARED BY</b></p> <p>██████████</p>
	<p><b>2. REPORT NUMBER</b></p> <p>013</p>
<p><b>10. NARRATIVE</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p> <p>On September 24, 2021, OPR Senior Special Agent (SSA) ██████████, CBP OPR SAC Tucson and Assistant Special Agent in Charge (ASAC) ██████████, OPR SAC Houston, conducted an interview of ██████████, Laredo Sector Headquarters. The interview was audio and video recorded using the Star Witness equipment and uniquely identified by Authentication Code: ██████████ (Exhibit 1). The time was Coordinated Universal Time, (UTC) 19:10:31 through UTC 20:21:08. ██████████ said he arrived in Del Rio on September 16, 2021, and was the designated Incident Commander (IC) for the group of immigrants massed under the bridge near the Del Rio POE. ██████████ said he initially learned of the incident involving the Carrizo Springs HPU from what he saw in the media and internal CBP reporting. ██████████ said he was not present during the incident involving the HPU and had no firsthand knowledge of what occurred.</p> <p>██████████ said when he arrived in Del Rio, he coordinated his efforts with ██████████, Del Rio Sector Headquarters, with the focus of assuring the safety of approximately 15,000 migrants and getting them to a CBP or Immigration Customs Enforcement or (ICE) facility (timestamp 00:05:20). ██████████ said his principal role and responsibility was to manage the scene and assure it was properly resourced. ██████████ said he and other BPAs were not prepared for what they were faced with and described the event as something no one involved had ever seen or experienced before. ██████████ said he worked hand in hand with ██████████ to manage and resolve the incident, but as the IC, he accepted full responsibility for what occurred at the POE (timestamp 00:08:50).</p> <p>██████████ said during the initial days of the migrant surge, it was all hands-on deck with no organizational structure and took a few days to get communications and resources defined. ██████████ said they (the USBP) did not have time to formulate an operational plan to specify responsibilities of each unit or to stipulate a clear chain of command. ██████████ said during the first 72 hours there was not a lot of structure in place (timestamp 00:16:40) and operations were very chaotic (timestamp 00:17:30). ██████████ described the event as an unbelievable situation (timestamp 00:18:30) with the first 72 hours of the operation as being reactive. ██████████</p>	

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**10. NARRATIVE**

██████████ said although the situation at the site was chaotic, he never had any reason to believe there was a breakdown in communication between management and personnel in the field (timestamp 00:23:00).

According to ██████████, Sunday, September 19, 2021, was the height of the worst conditions he experienced at the camp (timestamp 00:28:40). ██████████ described the condition as dire because they were having difficulty obtaining basic hygiene items and an adequate supply of bottled water. ██████████ said the temperature was 104 degrees, and the migrants were getting desperate. ██████████ said he observed some of the immigrants relieving themselves in plain sight because the port-a-potties were not adequately being serviced. ██████████ described the situation as unlike anything he had ever seen in his life.

██████████ said BPAs were stretched thin at that point, but they continued to focus on preserving human life and maintaining control at the site (timestamp 00:1:00) ██████████ said he was aware BPAs were working two shifts but did not know the total hours the agents were working per day. ██████████ acknowledged that he had no issues with communications between the units and had the ability to continuously monitor all portable and vehicle radio traffic.

██████████ acknowledged that on September 19, 2021, at 10:30 AM, he had a meeting with all the unit team leaders. The purpose for the meeting was to conduct an operation to consolidate the several groups of migrants in to one single group underneath the bridge. ██████████ said he was not aware of any team leader from the HPU attending the meeting, and he did not give any specific tasking to the HPU for this operation (timestamp 00:16:00). ██████████ was not aware of who directed the HPU to patrol any specific areas along the river. ██████████ said he did not recall receiving a request from the Texas Department of Public Safety (TXDPS) to assist in shutting down the Boat Ramp area.

██████████ said he learned about the HPU incident late Sunday evening, but at the time, he thought the incident occurred the day prior. Upon learning about the incident, he and ██████████ met to discuss the actions taken by the HPU. ██████████ said the social media video that was shown to him showed a BPA speaking unprofessionally and behaving in an unacceptable manner. ██████████ said ██████████ removed the HPU from that area and placed specific agents involved on administrative leave.

██████████ said he did not ask or direct the DPS to shut down the flow of migrants at the Boat Ramp (timestamp 00:00:55) nor did they have any plans or intentions of closing it down that day. If the DPS requested any form of direct assistance or support from BPAs on cite, BPAs had the

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**10. NARRATIVE**

authority to respond and act without having to first ask for permission from the USBP chain of command.

██████████ clarified that there was an operational plan drafted to take control of the east side of the bridge and consolidate west of the fire break near the bridge. ██████████ said the operations plan was verbally briefed to all team leaders present but was unsure if a paper copy of the plan was distributed. ██████████ said he never gave an order or instruction to push migrants back to Mexico after reaching the U.S. side.

██████████ concluded his statement by stating that as the Incident Commander, he accepted full responsibility for what occurred at the POE. ██████████ said although he was unaware of what occurred at the Boat Ramp, it was still his responsibility (timestamp 20:19:50).

**DEPARTMENT OF HOMELAND SECURITY**

**1. CASE NUMBER**

202112280

**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

013



**REPORT OF INVESTIGATION  
Exhibit List**

None

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**


**202112280**



**EXHIBIT - 27**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**



 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 005</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1610 General Misconduct-Other Non-criminal/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of ACPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b> On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol, Carrizo Springs Station Horse Patrol Unit (HPU) Carrizo Springs, Texas. , The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio , Texas which is located in the Western District of Texas. CBP OPR is investigating and preparing a case to be presented to the United States Attorney's Office.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 27-SEP-2021</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 27-SEP-2021</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

005

## 10. NARRATIVE

On September 22, 2021, Special Agent (SA) [REDACTED] and Senior Special Agent (SSA) [REDACTED], CBP OPR Del Rio, conducted an interview of Acting Assistant Chief Border Patrol Agent (ACPA) [REDACTED] via Microsoft Teams. This interview was audio and video recorded with StarWitness equipment and uniquely identified by Authentication Code: ([REDACTED]). The following is a summary of the interview.

ACPA [REDACTED] is currently the Acting Program Manager for the U.S. Border Patrol (USBP) National Horse Patrol Program (NHPP). This assignment is a Headquarters assignment which she performs from the USBP Tucson Sector. ACPA [REDACTED] has been involved with the Tucson Station HPU since [REDACTED]. She became a HPU instructor in [REDACTED] and has taught numerous courses, both basic and instructor classes. ACPA [REDACTED] served as a Tucson Station HPU agent from [REDACTED] through [REDACTED] and then was promoted to a supervisor. She served as a Tucson Station HPU supervisor until she left the HPU in [REDACTED]. During her time with the HPU, ACPA [REDACTED] assisted with writing NHPP policy and both the NHPP Basic and Instructor course curriculum which is used across the USBP. In [REDACTED] she was selected as the Tucson Sector HPU Coordinator. ACPA [REDACTED] began her current assignment in [REDACTED] and is working on updating the NHPP policy. ACPA [REDACTED] added that she grew up around horses and personally owns, breeds, and trains horses.

ACPA [REDACTED] advised that the equipment is utilized for the horse patrol including saddles and reins was issued by the Border Patrol.

ACPA [REDACTED] was shown Video 1. ACPA [REDACTED] said she believed the HPU agents were assigned to deter entries into the country, which was what their normal duties were. She described that the HPU agents appeared to be blocking several women, children and one or two males. ACPA [REDACTED] said the positioning and maneuvering of the horse by the HPU agent near the beginning of the video was consistent with maneuvers utilized by the HPU agents referred to as cutting and blocking. She advised there was not a standard distance a HPU agent should maintain between the horse and people. ACPA [REDACTED] added that she did not know what specific instructions HPU agents received so she could only speculate that they may have been to allow women and children in but keep males from entering or separated. She explained that the maneuvering in the video was a "cutting" tactic where the HPU agent "cut" through the group to get to the individual he's watching, which in this case appeared to be the male with the grey shirt (timestamp 16:28:48).

ACPA [REDACTED] said the HPU agent on the brown horse utilized split reins. ACPA [REDACTED] explained that the HP agent was holding on the tail of the reins and was twirling it. ACPA [REDACTED] said this was a training technique which encouraged the horse to immediately move from one direction to

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

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## PREPARED BY

## 2. REPORT NUMBER

005

**10. NARRATIVE**

another as it occurred in the video (timestamp 16:31:22). ACPA [REDACTED] said the twirling of the reins can also be used as a distance tactic but was not an aggressive maneuver. ACPA [REDACTED] advised that the twirling of the reins was conducted near the HPU agent's body in his personal space. She later added that the HPU agent twirling the reins only did so with his right hand to encourage the horse to turn left, likely because he was right-handed and maintained control of the horse with his left hand. ACPA [REDACTED] explained that the twirling of the reins was not the only factor that caused the horse to turn in the video, but one of them. ACPA [REDACTED] said these were methods taught and practiced during training.

ACPA [REDACTED] said that based on her observations of the video, she did not observe anything that would lead her to believe that the reins were utilized for anything other than a control measure for the horse, and she did not observe anything that would make her believe that the reins were utilized as a weapon.

ACPA [REDACTED] was shown a second video (timestamp 16:35:30). The video showed a male migrant in a grey shirt and carrying what appeared to be a bag of food. The migrant, along with other migrants, was at the base of the Boat Ramp, still in the water, and in front of HPU agents. ACPA [REDACTED] opined that the video shows the HPU agent performing back and forth maneuvers to keep people back. ACPA [REDACTED] said that the HPU agent twirling the reins in this video appeared to be doing so as a distancing tactic (timestamp 16:40:39). She opined that this was a common non-aggressive tactic used but could not speculate what the specific intent of the HPU agent in the video was.

As with the first video, ACPA [REDACTED] advised that she did not observe any maneuver made by the horse that endangered anyone entering the U.S. ACPA [REDACTED] advised that everything that she viewed was within policy and what would have been taught as an ethical training method on how to keep people in a contained area or to prohibit someone to enter. ACPA [REDACTED] said the tactics used by the HPU agent in the video appear to be confined to his space not force directed out to someone. She compared this to deploy a collapsible straight baton but maintaining it within the users personal space. ACPA [REDACTED] advised that the tactics that are being utilized are exactly the tactics that they are taught to do.

ACPA [REDACTED] was shown the photograph of the HP agent grabbing the individual while on the horse (timestamp 16:44:53). ACPA [REDACTED] advised that the HPU agent was using the proper technique by grabbing the clothing of the person to maneuver the person to where he wanted him to go. She said HPU agents are taught to grab a person's clothing while mounted because it was more difficult to grab an arm while still trying to control the horse with the other hand. She said this

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
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## 1. CASE NUMBER

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**10. NARRATIVE**

technique was taught to all HPU agents.

ACPA [REDACTED] was shown the photograph with the HP agent and the rein that appeared to be lashing out towards the person (timestamp 16:46:23). ACPA [REDACTED] explained that the HPU agent just brought his horse to a stop and was getting ready to turn. She explained that when that happened the reins could flap out a little bit and the rider flipped his hand down. This was a technique called "clearing the rein." This technique brought the reins back down so someone else could not grab ahold of the reins. ACPA [REDACTED] said that based on the HPU agent's hand position, the agent could not flip the rein towards the individual.

ACPA [REDACTED] said she had not seen any other videos beyond what she viewed during the interview. She clarified that she did see different versions of the same videos on open-source media. ACPA [REDACTED] said NHPP policy does not address specific circumstances near water. Training did cover learning the disposition of a horse including a HP agent's confidence in their horse when it comes to a horse's behavior in a variety of situations such as crowd control to keep everyone safe.

ACPA [REDACTED] advised that from the videos and photographs that she has seen, she believed that the HPU agents did a really good job of trying to do what they were told to do with what they were working with. ACPA [REDACTED] advised that the BPAs knew their horses very well and were attempting to make the best maneuvers that they could with what they had.

To be considered for the HPU, agents must meet a few minimum requirements. They must have been an agent for at least two years and must pass a practical pre-assessment. The pre-assessment measured the candidate's ability to mount and dismount the horse, and ability to lift a saddle. If accepted, the candidates attended a [REDACTED] week course that taught basics on catching, grooming, saddling, and riding a horse. During the course they must also pass a written exam, a riding aptitude exam, and a horse tack inspection. During the last week of the course, the candidates received training on trailering and field operations.

The horses acquired by the program also go through 25-point inspection before being accepted. The inspection ensured the horses were capable of performing the maneuvers taught during the course and adapting to certain situations they were likely to encounter in the field.

DEPARTMENT OF HOMELAND SECURITY

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202112280

PREPARED BY

[REDACTED]

2. REPORT NUMBER

005



REPORT OF INVESTIGATION  
Exhibit List

None

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 28**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 034</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of SBPA [REDACTED]</p>		
<p><b>9. SYNOPSIS</b> On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station (CAR), Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the boat ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 08-APR-2022</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>13. APPROVED DATE 08-APR-2022</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

034

**10. NARRATIVE**

On March 22, 2022, SA [REDACTED] and SA [REDACTED], CBP OPR Del Rio, interviewed Supervisory Border Patrol Agent (SBPA) [REDACTED]. The interview was audio and video recorded using StarWitness equipment and uniquely identified by Authentication Code: [REDACTED].

SBPA [REDACTED] stated he is familiar with Mobile Field Force (MFF) training. SBPA continued by stating the MFF training created a national team that was trained in large crowd gatherings, disbursement of crowds, and things of that nature. SBPA [REDACTED] agreed MFF training could be considered crowd control training.

SBPA [REDACTED] stated he was not certified in MFF training, but he went through a two-day familiarization course conducted by an El Paso Border Patrol Tactical Unit (BORTAC) agent. SBPA [REDACTED] could not recall the name of the BORTAC agent that conducted the training. The familiarization training covered movements and formations but was not a full MFF training. SBPA [REDACTED] stated that he believed there was a formation in which BPAs on horseback could be positioned to separate individuals from a crowd. When asked if they taught a specific formation that addressed the apprehension of subjects while BPAs are horseback, SBPA [REDACTED] stated he would have to refer to the curriculum. SA [REDACTED] advised SBPA [REDACTED] to send the curriculum to CBP OPR if SBPA [REDACTED] located it.

SBPA [REDACTED] stated the El Paso familiarization course was a HPU specific course. SBPA [REDACTED] stated all the USBP Sectors with HPUs gathered in El Paso, TX, for a two-week period. The purpose of the conference was to discuss HPU policies, to formulate a national HPU Policy, and to take part in the familiarization course involving horse patrol crowd control tactics. SBPA [REDACTED] stated one week was to discuss HPU policies, and the second week was to conduct the MFF familiarization course. SBPA [REDACTED] stated SBPA [REDACTED] was also present in El Paso during this two-week period.

SBPA [REDACTED] stated that Del Rio Sector (DRT) HPU BPAs were provided with a one or two-day familiarization course, with the same formations and movements that the El Paso BORTAC agents covered in El Paso. SBPA [REDACTED] stated the familiarization course may have been conducted in the winter of 2019.

SBPA [REDACTED] stated some role-players assisted and BPAs went through some mock scenarios. SBPA [REDACTED] stated it was not a certification course, and it was only a familiarization course. SBPA [REDACTED] advised SBPA [REDACTED] and retired HPU Coordinator [REDACTED] assisted in the familiarization course with [REDACTED] HPU BPAs. SBPA [REDACTED] stated this course was



## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

034

**10. NARRATIVE**

conducted in case the HPU BPAs were to ever encounter themselves in a large crowd situation. SBPA [REDACTED] stated between the [REDACTED] and [REDACTED] HPUs, each BPA most likely received two days of familiarization training.

SBPA [REDACTED] stated the familiarization course was a part of quarterly training for the HPU. The goal of training was for the horses to be de-sensitized to loud noise and anything that may scare or spook the horse, and anything that could startle them and injure the BPA. SBPA [REDACTED] stated the MFF familiarization course was geared at dispersing a crowd away from an area and moving them to another area. SBPA [REDACTED] did not recall if the MFF course addressed how to position horses in relation to large or small crowds. SBPA [REDACTED] stated he did not believe the MFF course addressed how to keep people away from horses with any special tactics. SBPA [REDACTED] stated the closest thing covered in MFF was to use the horse as a barrier or tool to keep distance between the HPU rider and other people.

SBPA [REDACTED] said the HPU did not have any crowd control or riot control equipment issued. SBPA [REDACTED] stated HPU BPAs were instructed to use their training under the Use of Force curriculum to address any threats.

SBPA [REDACTED] stated that utilization of the reins to keep people away was never taught or instructed. SBPA [REDACTED] stated the reins were utilized to stimulate the horse to in the desired direction. SBPA [REDACTED] stated it was never taught to utilize the reins as a defense tool.

SBPA [REDACTED] stated most of the formations covered in MFF were team type formations, not individual or single rider formations. SBPA [REDACTED] stated that while "cutting" was not covered in MFF, most HPU BPAs were good horsemen and were able to cut their horse back and forth. SBPA [REDACTED] stated that the BPAs probably learned how to cut their horses on their own while apprehending individuals out in the field.

**DEPARTMENT OF HOMELAND SECURITY**



**REPORT OF INVESTIGATION  
Exhibit List**

**1. CASE NUMBER**

202112280

**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

034

None


**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 29**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 030</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of SOS [REDACTED]</p>		
<p><b>9. SYNOPSIS</b> On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station, Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the Boat Ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, which is located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent</p>	<p><b>11. COMPLETION DATE</b> 01-APR-2022</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 01-APR-2022</p>	<p><b>15. TELEPHONE NUMBER</b> [REDACTED]</p>
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## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

030

## 10. NARRATIVE

On March 24, 2022, CBP OPR Del Rio, SA [REDACTED] and SA [REDACTED], conducted an interview of SOS [REDACTED]. The interview was audio and video recorded using StarWitness equipment and uniquely identified by Authentication Code: [REDACTED].

During the interview, SOS [REDACTED] was provided with his Administrative Warning Acknowledgment for Non-Bargaining Unit Employees. On March 24, 2022, SOS [REDACTED] signed and dated the form indicating he understood it. SOS [REDACTED] was placed under oath prior to the interview.

SOS [REDACTED] stated at the time of the migrant surge, at the Del Rio POE, in September of 2021, he had received a temporary promotion to Acting Assistant Chief Patrol Agent (A)(ACPA). SOS [REDACTED] began his duties as an (A)ACPA in [REDACTED]. SOS [REDACTED] was placed in charge and had operational control of all Del Rio Sector specialty programs including, Horse Patrol Unit (HPU), K-9, Marine Boats, Small Unmanned Ariel Systems (SUAS), and Counter-Unmanned Aerial Systems (CUAS). During the surge, SOS [REDACTED] had operational control of all HPU assets and was assisting with general duties at the Del Rio POE. SOS [REDACTED] stated he was not on duty the day of the incident but was called in and worked overtime that day. (Timestamp 4:40)

SOS [REDACTED] stated [REDACTED] was the overall Incident Commander for the migrant surge in September of 2021. SOS [REDACTED] was not part of the incident command team or emergency operations center (EOC) staff and stated he has not received the proper training to conduct the duties of incident commander or EOC. (Timestamp 5:45)

SOS [REDACTED] stated he was off duty on September 18, 2022, when he was notified by EOC staff member, SOS [REDACTED], that the Chief of the Border Patrol [REDACTED] ordered the mobilization of all available HPUs in the Del Rio Sector and requested they be assigned to the Del Rio POE. Additionally, Chief [REDACTED] requested other Border Patrol Sectors to be contacted for assistance with providing HPU assets, to include the Laredo Border Patrol Sector. SOS [REDACTED] stated he never spoke to Chief [REDACTED] directly but was given orders via the EOC, specifically SOS [REDACTED]. SOS [REDACTED] stated he was advised by SOS [REDACTED] that Chief [REDACTED] wanted the HPUs at the Del Rio POE because Title 42 flights to Haiti were going to begin, and Chief [REDACTED] was worried the migrants under the Del Rio POE would find out about the flights, causing an uprising. According to SOS [REDACTED] Chief [REDACTED] wanted the HPUs there as a show of force and for crowd control. SOS [REDACTED] stated there was no exact guidance on what tasks the HPUs would carry out, but stated Chief [REDACTED] wanted all available HPUs at the Del Rio POE in case of an uprising. SOS [REDACTED] stated, "Other than that, there was not to be any enforcement activities or anything like that" (Timestamp 7:35).

After the call, SOS [REDACTED] immediately notified ACPA [REDACTED] [REDACTED] who was his acting Division

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

030

## 10. NARRATIVE

Chief at the time of the incident. SOS [REDACTED] also notified [REDACTED] HPU SBPA [REDACTED] and [REDACTED] HPU SBPAs [REDACTED] and [REDACTED] of the ongoing situation. SOS [REDACTED] advised all his HPU SBPAs to gather all available HPU assets and deploy them to the Del Rio POE as soon as possible. Additionally, SOS [REDACTED] advised his HPU SBPAs to call HPU BPAs who were off duty and request they come to work. SOS [REDACTED] stated the exact guidance he gave his HPU SBPAs was they were to deploy to the Del Rio POE as a show of force in case there was a riot once the migrants discovered the beginning of Title 42 flights back to Haiti. They were not to engage with the migrants, all they needed to do was stand on the sidelines in case there was a big riot. (Timestamp 9:20)

SOS [REDACTED] stated he contacted Laredo Border Patrol Sector to advise them about Chief [REDACTED] request. Laredo Border Patrol Sector sent four HPU BPAs to the Del Rio POE. The HPU BPAs arrived in Del Rio late Saturday (September 18, 2021) evening.

SOS [REDACTED] stated he was unsure if the Incident Commander was notified about the mobilization of HPUs to the Del Rio POE but assumed all EOC staff were aware since the call to mobilize came from EOC SOS [REDACTED] (Timestamp 12:12)

SOS [REDACTED] was asked if he gave the order to help where needed and SOS [REDACTED] stated, "Yeah, I guess. They weren't supposed to do any enforcement actions, but yes. If somebody needed a hand, it was kind of all hands on deck". (Timestamp 13:06)

SOS [REDACTED] stated he was acting on the orders of Chief [REDACTED]. SOS [REDACTED] stated there was no operational plan for the mobilization of HPUs to the Del Rio POE. (Timestamp 14:16)

SOS [REDACTED] stated on Sunday, September 19, 2021, he arrived at the Del Rio POE on his day off and was advised by SBPA [REDACTED] that he had attended a meeting earlier that morning. SBPA [REDACTED] advised SOS [REDACTED] that Texas Department of Public Safety (TXDPS) was planning an operation at 2:00 p.m. to shut down the downriver boat ramp. SOS [REDACTED] clarified he was not present at the meeting and received the information secondhand from SBPA [REDACTED]. According to SBPA [REDACTED] TXDPS requested the assistance of HPU at the boat ramp for the 2:00 p.m. operation. SOS [REDACTED] stated SBPA [REDACTED] called later that day and told him he received orders to stand down due to the operation being cancelled. SOS [REDACTED] could not recall who gave the order to stand down but believes it may have been Watch Commander (WC) [REDACTED]. SOS [REDACTED] stated he was unaware who canceled the operation but stated the purpose of the operation was to shut down the boat ramp. SOS [REDACTED] stated SBPA [REDACTED] notified all HPU BPAs to stand down as well since he had told them to be on standby for the operation. (Timestamp 14:20)

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

030

**10. NARRATIVE**

Aside from the purposed operation, SOS [REDACTED] stated he was unaware if TXDPS had requested assistance from HPU at the boat ramp later that day. While at the Del Rio POE on September 19, 2021, SOS [REDACTED] stated he never heard a radio transmission requesting assistance at the boat ramp. SOS [REDACTED] stated he first became aware of the HPU's involvement at the boat ramp at approximately 11:30 p.m. on September 19, 2021. SOS [REDACTED] stated he received a text message from SBPA [REDACTED] with, "The famous picture", from social media. (Timestamp 18:24)

SOS [REDACTED] stated he did not give HPU BPAs the order to assist TXDPS at the boat ramp. SOS [REDACTED] stated the HPU BPAs were told to patrol the immediate area of the Del Rio POE on the upriver side. The incident command post later wanted situational awareness on the downriver side and HPU BPAs were allowed to patrol the downriver side of the Del Rio POE as well. (Timestamp 20:17)

SOS [REDACTED] stated to his knowledge HPU BPAs were not asked to stop migrants at the boat ramp from crossing or to shut down the boat ramp. (Timestamp 23:17)

SOS [REDACTED] stated he never received allegations of excessive use of force by BPAs, on September 19, 2021. (Timestamp 24:46)

SOS [REDACTED] stated the HPU BPAs may have received some riot training but did not recall any specifics related to riot training. SOS [REDACTED] stated the HPU SBPAs or BPA-P [REDACTED] may have training records for each HPU BPAs that shows what type of training they have completed.

**DEPARTMENT OF HOMELAND SECURITY**



**REPORT OF INVESTIGATION  
Exhibit List**

**1. CASE NUMBER**

202112280

**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

030

None



**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 30**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 035</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of SOS [REDACTED]</p>		
<p><b>9. SYNOPSIS</b> On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station (CAR), Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the boat ramp", approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, located in the Western District of Texas. CBP OPR is investigating the case by examining evidence, conducting interviews, and reviewing all relevant operational and training documentation related to the event.</p>		
<p>10. CASE OFFICER (Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>11. COMPLETION DATE 08-APR-2022</p>	<p>14. ORIGIN OFFICE CBP OPR RAC DEL RIO</p>
<p>12. APPROVED BY(Print Name &amp; Title) [REDACTED] - CBP OPR Special Agent</p>	<p>13. APPROVED DATE 08-APR-2022</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

035

## 10. NARRATIVE

On March 28, 2022, Special Agent (SA) [REDACTED] [REDACTED] and SA [REDACTED] [REDACTED] CBP OPR Del Rio, interviewed SOS [REDACTED] [REDACTED]. The interview was audio and video recorded using StarWitness equipment and uniquely identified by Authentication Code: [REDACTED].

SOS [REDACTED] stated she was familiar with the incident involving the HPU that transpired on September 19, 2021, at the Del Rio POE boat ramp. SOS [REDACTED] stated she was originally supposed to be off duty; however, she was called in to work on September 19, 2021. SOS [REDACTED] stated during that time, she served as the Deputy Incident Commander (DIC) of the Emergency Operations Center (EOC), located at the USBP Del Rio Sector Headquarters.

SOS [REDACTED] stated some EOC personnel were assigned to the command post, located at the Del Rio POE. Government cell phones were checked out and issued to the duty supervisor to help facilitate communication between the EOC and the BPAs located at the Del Rio POE. SOS [REDACTED] stated the Incident Commander changed multiple times. ACPA [REDACTED] [REDACTED] was initially the Incident Commander, it then transitioned to PAIC [REDACTED] [REDACTED] and ultimately [REDACTED] [REDACTED] from the USBP Laredo Sector, remained as the Incident Commander for the migrant surge (Timestamp 00:07:00).

SOS [REDACTED] stated the order to mobilize the HPU was made on Saturday, September 18, 2021 (Timestamp 00:08:00). SOS [REDACTED] received a phone call from BPA [REDACTED] [REDACTED] who was located at the Del Rio POE. According to SOS [REDACTED], BPA [REDACTED] [REDACTED] advised her that [REDACTED] [REDACTED] Chief of the USBP [REDACTED]) was present at the Del Rio POE and made a direct order to get every available HPU to the Del Rio POE. SOS [REDACTED] was instructed to modify shifts and do whatever was needed to mobilize the HPU as soon as possible (Timestamp 00:08:10). SOS [REDACTED] stated there was no guidance given on the role or responsibility the HPU would take upon arrival at the Del Rio POE.

Upon receiving the order, SOS [REDACTED] contacted SOS [REDACTED] [REDACTED] and SBPA [REDACTED] [REDACTED]. SOS [REDACTED] stated SOS [REDACTED] and SBPA [REDACTED] raised questions regarding how long the HPU would be assigned to the Del Rio POE, how many BPAs should be assigned, and which shifts the HPU would be covering. SOS [REDACTED] stated the only instruction received was to get every available HPU to the Del Rio POE (Timestamp 00:09:38).

SOS [REDACTED] vaguely recalled discussion of the HPU providing security and controlling the perimeter of the Del Rio POE. SOS [REDACTED] could not recall specific duties the HPU had and was not provided with instructions when receiving the order (Timestamp 00:10:39). SOS [REDACTED] stated

## DEPARTMENT OF HOMELAND SECURITY

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CONTINUATION

## 1. CASE NUMBER

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**10. NARRATIVE**

due to the ongoing situation, the order to mobilize the HPU was given from [REDACTED] directly and bypassed the normal chain of command. SOS [REDACTED] informed the BPAs at the Del Rio POE of the order to mobilize the HPU but could not recall if she notified her chain of command immediately after the order was executed.

SOS [REDACTED] stated that to her knowledge, there were no operational plans drafted regarding the HPU. SOS [REDACTED] recalled hearing discussion of the possibility of locking down or shutting down the boat ramp. SOS [REDACTED] never received an official notification or operational plan. SOS [REDACTED] recalled hearing the possibility of obtaining additional manpower from SOD and bringing in outside help due to concerns that law enforcement entities were outnumbered. However, SOS [REDACTED] stated that the EOC was responsible for transporting migrants out of the Del Rio area and who was allowed in and out of the area. SOS [REDACTED] stated the EOC became involved when a request was made for materials and support (Timestamp 00:13:18). SOS [REDACTED] stated USBP did not have an official role in any operation to shut down the boat ramp that she was aware of. (Timestamp 00:15:02)

SOS [REDACTED] stated TXDPS did not have personnel assigned to area of the EOC where she worked. SOS [REDACTED] clarified there was an attempt made to bring all law enforcement entities into the EOC. Some components of the EOC were being housed in a room adjacent to the USBP Sector Conference Room (Timestamp 00:15:24). SOS [REDACTED] stated TXDPS could have been present in another area of the EOC, but she was unsure. SOS [REDACTED] stated TXDPS never coordinated any operational plans through her or the EOC (Timestamp 00:16:40). SOS [REDACTED] stated if TXDPS had coordinated their plans it would have been on the ground at the Del Rio POE with PAIC [REDACTED] because a command post trailer was established at the Del Rio POE.

SOS [REDACTED] stated she was not aware that TXDPS requested assistance at the boat ramp on September 19, 2021. SOS [REDACTED] stated that the EOC did not have a radio. SOS [REDACTED] stated she was not aware of the incident involving the HPU until after the fact. SOS [REDACTED] stated she recalled seeing the uproar in the media regarding the incident and recalled feeling frustration over the incident and accusations because she mobilized the HPU (Timestamp 00:18:00). SOS [REDACTED] stated the EOC did not receive any allegations of misconduct and did not receive any reports of excessive use of force by BPAs.

**DEPARTMENT OF HOMELAND SECURITY**



**REPORT OF INVESTIGATION  
Exhibit List**

**1. CASE NUMBER**

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**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

035

None

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**EXHIBIT - 31**


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U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**



**Homeland  
Security**

April 26, 2013

MEMORANDUM FOR COMPONENT HEADS

FROM: Secretary Napolitano 

Subject: The Department of Homeland Security's Commitment to  
Nondiscriminatory Law Enforcement and Screening Activities

The Department of Homeland Security's mission is to ensure that the Nation remains a safe, secure, resilient place where the American way of life can thrive. As former Secretary Ridge explained in the predecessor to this policy, "In all we do to secure America, our strategies and our actions must be consistent with the individual rights and civil liberties protected by the Constitution and the rule of law."

The Department of Homeland Security's policy is to prohibit the consideration of race or ethnicity in our investigation, screening, and enforcement activities in all but the most exceptional instances. The following is the Department's official policy on this issue:

*"Racial profiling" is the invidious use of race or ethnicity as a criterion in conducting stops, searches, and other law enforcement, investigation, or screening activities. It is premised on the erroneous assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity. The Department of Homeland Security (DHS) has explicitly adopted the Department of Justice's "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies," issued in June 2003. It is the policy of DHS to prohibit the consideration of race or ethnicity in our daily law enforcement and screening activities in all but the most exceptional instances, as defined in the DOJ Guidance. DHS personnel may use race or ethnicity only when a compelling governmental interest is present, and only in a way narrowly tailored to meet that compelling interest. Of course, race- or ethnicity-based information that is specific to particular suspects or incidents, or ongoing criminal activities, schemes or enterprises, may be considered, as stated in the DOJ Guidance.*

*Except as noted below, it is DHS policy, although not required by the Constitution, that tools, policies, directives, and rules in law enforcement and security settings that consider, as an investigative or screening criterion, an individual's simple connection to a particular country, by birth or citizenship, should be reserved for situations in which such consideration is based on an assessment of intelligence and risk, and in which alternatives do not meet security needs, and*

*such consideration should remain in place only as long as necessary. These self-imposed limits, however, do not apply to antiterrorism, immigration, or customs activities in which nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order, or in individualized discretionary use of nationality as a screening, investigation, or enforcement factor).*

All Components should include the DHS policy stated above in all manuals, policies, directives, and guidelines regarding any activity in which the use of race, ethnicity, or nationality may arise as a security screening, enforcement, or investigative criterion. Each Component, in coordination with the Department's Office for Civil Rights and Civil Liberties, should implement Component-specific policy and procedures to implement this guidance for law enforcement, investigation, and security activities. Moreover, all Components should ensure that all law enforcement personnel, including supervisors and managers, are trained to the standards set forth in the DOJ Guidance and the DHS policy stated above, and are held accountable for meeting those standards.



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**EXHIBIT - 32**

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DEPARTMENT OF HOMELAND SECURITY  
U.S. CUSTOMS AND BORDER PROTECTION  
CBP DIRECTIVE

**DIRECTIVE NUMBER:** 51735-013B

**EFFECTIVE DATE:** December 9, 2020

**SUPERSEDES:** 51735-013A

**OFFICE:** Enterprise Services

**SUBJECT CODE:**

**SUB OFFICE:** Human Resources Management

**DISTRIBUTION:**

**PROGRAM OFFICE:** Human Resources Policy and Programs Directorate/Human Resources Policy and Regulatory Affairs Division

**U.S. CUSTOMS AND BORDER PROTECTION  
STANDARDS OF CONDUCT**

**1 PURPOSE**

1.1 This Directive establishes the U.S. Customs and Border Protection (CBP) policy on the ethical conduct and responsibilities of all CBP employees.

**2 POLICY**

2.1 It is the policy of CBP to maintain a workforce that demonstrates high standards of ethical and professional conduct in order to ensure efficient performance of government service.

**3 INTRODUCTION**

3.1 In fulfilling its mission, CBP and its employees must sustain the trust and confidence of the public they serve. All employees must maintain high standards of honesty, integrity, impartiality, character, and professionalism to ensure the proper performance of government business and the continued trust and confidence of the public. The conduct of CBP employees must reflect the qualities of integrity and loyalty to the United States; a sense of responsibility for the public trust; courtesy and promptness in dealing with and serving the public; and a standard of personal behavior that reflects positively upon, and will be a credit to, both CBP and its employees.

3.2 Certain conduct, on or off-duty, may subject an employee to appropriate disciplinary action. This holds true whether or not such conduct is specifically addressed in these standards, or in related statutes or regulations, to include those noted in the Authorities section below. ***The absence of a specific standard of conduct does not mean that an act is permissible or would not result in disciplinary action.*** Employees are held accountable for their actions, to include activity on social media, and are subject to appropriate disciplinary action when there is a nexus



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(connection) between their misconduct (on or off-duty) and the efficiency of the service. For example:

- Failing to conform to these standards or related statutes and regulations.
- The nature and gravity of the conduct (e.g., criminal conduct) creates the presumption of a connection between the employee's conduct and the efficiency of the service.
- Directly and negatively impacting the job performance of an employee or his/her co-workers, or management's trust and confidence in an employee's job performance.
- Adversely affecting or interfering with the accomplishment of CBP's mission.

#### **4 SCOPE**

4.1 This Directive applies to all CBP employees. Where there are differences in this Directive and a negotiated union agreement, the negotiated union agreement shall govern over those matters concerning bargaining unit employees.

#### **5 AUTHORITIES**

5.1 Executive Order (E.O.) 12674, Principles of Ethical Conduct for Government Officers and Employees.

5.2 Department of Homeland Security (DHS) Management Directive System - MD Number 0480.1, Standards of Conduct (March 1, 2003).

5.3 Title 5, Code of Federal Regulation (C.F.R.) Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch.

5.4 5 C.F.R. Part 735, Employee Responsibilities and Conduct.

5.5 6 C.F.R. Part 115, Sexual Abuse and Assault Prevention Standards.

5.6 Department of Homeland Security Policy Directive 045-06, Required Reporting of Off-Duty Contact with Law Enforcement by DHS Law Enforcement Personnel and the Suspension and/or Revocation of Authority to Carry a Firearm or Other Weapon and Perform Law Enforcement Duties (January 10, 2017).

5.7 CBP Policy on Zero Tolerance of Sexual Abuse and Assault (March 11, 2015).

5.8 Information Systems Security Policies and Procedures Handbook, HB 1400-05D (November 16, 2017).

5.9 Arrest of CBP Employees, Directive 51735-014A (December 9, 2020).

5.10 CBP Drug-Free Workplace Plan (October 1, 2017).

#### **6 RESPONSIBILITIES**



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6.1 The Commissioner of CBP is responsible for establishing the standards of professional and ethical conduct for all CBP employees.

6.2 The Assistant Commissioner, Office of Human Resources Management (HRM), is responsible for formulating CBP's policy and guidance on the standards of professional and ethical conduct.

6.3 The HRM Human Resources Policy and Programs Directorate (HRPPD) is responsible for the overall administration, interpretation, and application of the Standards of Conduct and applicable rules and regulations.

6.4 HRPPD is responsible for providing advice and guidance to supervisors and managers on the application of the Standards of Conduct; and for issuing a Standards of Conduct reminder to all employees, at least annually, to maximize employee awareness of the Standards.

6.5 CBP managers and supervisors are responsible for providing advice and guidance to employees under their supervision concerning conduct questions, and for providing clarification of the Standards of Conduct when needed.

6.6 The HRM Talent Management Directorate is responsible for providing the Standards of Conduct, as part of the initial orientation package, to each newly hired employee upon their initial entrance on duty.

6.7 Every CBP employee is required to: (1) know the Standards of Conduct and their application to his or her behavior; (2) seek clarification from his or her supervisor if unsure of the application of the Standards of Conduct; (3) adhere to the Standards of Conduct; and (4) be aware of the consequences of violation of the Standards of Conduct, applicable statutes, regulations, and rules regarding conduct.

6.8 Every CBP employee is required to immediately report allegations of misconduct using at least one of the following methods:

- Calling the toll-free Joint Intake Center Hotline at 1-877-2INTAKE (1-877-246-8253) or sending a fax to (202) 344-3390;
- Sending an e-mail message to [Joint.Intake@dhs.gov](mailto:Joint.Intake@dhs.gov);
- Writing to CBP Office of Professional Responsibility (OPR); P.O. Box 14475, 1200 Pennsylvania Avenue, NW, Washington, DC 20044;
- Calling the Office of Inspector General (OIG) at 1-800-323-8603;
- Accessing the online DHS OIG Complaint/Allegation Form at: <http://www.oig.dhs.gov/hotline/>;
- Writing to the Department of Homeland Security, Office of Inspector General, Attention: Office of Investigations - Hotline, Mailstop 0305, 245 Murray Lane SW, Washington, DC 20528; or



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- Notifying his or her immediate supervisor or other management official within his or her chain of command.

## 7 STANDARDS OF CONDUCT

7.1 CONDUCT PREJUDICIAL TO THE GOVERNMENT. Employees will not engage, on or off-duty, in criminal, infamous, dishonest, or notoriously disgraceful conduct, or any other conduct prejudicial to the government.

7.2 PROHIBITED ACTIONS. Employees will avoid any action, whether or not specifically prohibited by these Standards of Conduct, which might result in, or reasonably create the appearance of:

- Using public service for private gain;
- Giving preferential treatment to a private organization or individual in connection with official government duties and/or responsibilities;
- Impeding government efficiency or economy; or
- Engaging in activities which conflict with official government duties and/or responsibilities, or adversely interfere with the accomplishment of the mission of CBP.

7.3 INTEGRITY-RELATED MISCONDUCT. Integrity is one of CBP's Core Values, and is essential to the effective functioning of CBP. As an Agency charged with law enforcement activities, it is imperative that CBP employees demonstrate high standards of integrity. Only by each and every employee maintaining the highest standards of integrity and professionalism can CBP keep the public trust and confidence that are critical to the accomplishment of law enforcement, homeland security, and other missions. The list of integrity-related misconduct identified below is not intended to be a comprehensive list, but provides frequently addressed integrity-related misconduct. All CBP employees are encouraged to consult the CBP Table of Offenses and Penalties for additional guidance.

7.3.1 Employees will not directly or indirectly solicit or accept gifts, money, or anything of value for the performance of an official act or duty or for the failure to perform an official act or duty.

7.3.2 In addition to other requirements to report misconduct, employees will promptly report any offer of a gift, money, or anything of value, when the offer concerns, or is affected by, the performance of an official act or duty or the failure to perform an official act or duty.

7.3.3 Employees will not take any official act, or fail to do so, for personal benefit or gain to the employee, or any other individual or group.

7.3.4 Employees will not use the authority of their position in any way that might adversely affect public confidence in the integrity of CBP or the government.



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7.3.5 Employees will not use any CBP identification, or other form of identification associated with their employment, in a manner which may reasonably give the perception that they are using the identification for personal benefit, attempting to exert undue influence, or to obtain, directly or indirectly, a favor, reward, or preferential treatment for themselves or others, or to improperly enhance their own image.

7.3.6 Inappropriate Association. Employees will not, except as may be necessary in connection with official assignments or duties, or in connection with family obligations, knowingly associate with individuals or groups who are believed or known to be connected with criminal activities. This limitation on association applies to any social, sexual, financial, or business relationship with a source of information, a suspected or known criminal, or a known or suspected illegal alien, subject to being removed from the United States of America.

7.3.7 Arrests. CBP regards any violation of law by a CBP employee as being inconsistent with and contrary to the Agency's law enforcement mission. Therefore, employees will not engage in any activities which violate local, state, and/or Federal laws, which may result in their arrest or their receipt of a summons to appear in court on criminal charges. This prohibition also applies to activities which violate foreign laws, which may result in an employee's arrest.

7.3.8 In the event of an employee's arrest or receipt of a summons to appear in court on criminal charges, the employee must report the occurrence in accordance with the procedures outlined in the Arrest of CBP Employees Directive.

7.3.9 Procedures Unique to Employees who Exercise Law Enforcement Authority. CBP employees who exercise law enforcement authority who are off-duty and not acting in an official capacity and are questioned, interviewed, or detained as a subject of an enforcement action or investigation by a law enforcement agency during the course of the agency's official duties to determine if the CBP employee was a party to an alleged violation of law, must report this contact with law enforcement within 48 hours. These CBP employees must also report within 48 hours the known issuance of any protective order, temporary restraining order, or other court order restricting contact with another individual or ability to carry a firearm. This reporting excludes civil or traffic violations where there is no allegation of violence, threat of violence, or where the civil or traffic violation did not include the possession or use of alcohol or drugs.

#### 7.4 FALSE STATEMENTS.

7.4.1 Employees will not knowingly make false, misleading, incomplete, or ambiguous statements, whether oral or written, in connection with any matter of official interest.

7.4.2 When directed by proper authority, employees must truthfully and fully testify, provide information, and respond to questions (under oath when required) concerning matters of official interest that are being pursued administratively. Proper authority



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pursuant to an investigation refers to both internal law enforcement and external law enforcement authority (i.e. local, state or Federal law enforcement outside of the Agency). These examples are not all inclusive. The Agency expects employees not to knowingly make false, misleading, incomplete or ambiguous statements, whether oral or written, in connection with any matter of official interest.”

7.5 DISCLOSURE AND SAFEGUARDING OF OFFICIAL INFORMATION.

7.5.1 Employees will not disclose, use, or store official information without proper authority. Examples of official information include: information that is protected from disclosure by statute, Executive Order or regulation; proprietary business information; classified National Security Information; and sensitive information retrieved from CBP automated systems. Information not within these categories may also constitute official information for purposes of this section. Official information includes any information that an employee acquires in connection with CBP employment, that he or she knows, or reasonably should know, has not been made available to the general public.

7.5.2 CBP utilizes automated systems that are considered, "sensitive but unclassified." These systems include the TECS, Automated Commercial Environment, Automated Commercial System, the National Criminal Information Center, National Automated Immigration Lookout System, as well as others. They contain, for example, financial, law enforcement, trade-sensitive, and counter-narcotics information. Employees must safeguard all sensitive information against unauthorized access, disclosure, alteration, or loss. Unauthorized accessing of these systems, and use of these systems for unofficial purposes, including "browsing" (querying the systems for information for other than official reasons) is prohibited.

7.5.3 Employees will not access, conceal, alter, remove, mutilate, or destroy documents or data in the custody of CBP or the Federal Government without proper authority. Employees are required to care for and conserve such documents according to Federal law and CBP policy. Upon separation from CBP employment, employees are responsible for adhering to DHS and CBP standards governing the removal of official documents and/or data from the Agency.

7.5.4 Nothing in the Standards of Conduct should be construed or applied to interfere with an employee's right to communicate with their Congressional representatives and to engage in conduct protected by all Whistleblower Protection Acts, including the Whistleblower Protection Enhancement Act (WPEA) of 2012.

7.6 USE OF CONTROLLED SUBSTANCES. CBP is charged with the responsibility for interdicting illegal drugs that are being brought into the United States. Therefore, in accordance with the CBP Drug-Free Workplace Plan, CBP employees are prohibited from using, possessing, selling, or distributing illegal drugs. CBP employees are also prohibited from using illegal drugs in states or foreign countries where such use has been legalized. Users of illegal drugs will not



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be selected for employment in CBP, and removal action will be initiated with respect to any CBP employee who is found to use, possess, sell, or distribute illegal drugs.

7.7 GENERAL CONDUCT.

7.7.1 Pursuant to applicable policies and negotiated agreements, employees will be appropriately dressed for their workplace, business contacts, and duties, and will maintain a neat and professional appearance. All employees will be properly groomed. Unless otherwise authorized, uniformed employees will report for duty in proper uniform attire, and will comply with applicable uniform and grooming standards.

7.7.2 Employees are required to perform their duties to the government and the public conscientiously, respond readily to the lawful direction of their supervisors, and follow Agency policies and procedures.

7.7.3 Employees will be professional in their contact with supervisors, subordinates, co-workers, and members of the public. "Professional" for the purposes of this provision means being polite, respectful, and considerate. This requirement to be professional must be adhered to so long as it does not compromise employee safety or impede the performance of official duties.

7.7.4 Employees must observe designated duty hours and be punctual in reporting for work, including overtime assignments, and in returning from lunch and breaks.

7.7.5 Employees will use official duty time to perform official duties.

7.7.6 Employees assigned to inspectional, border protection, or other enforcement duties will not leave their assigned posts until properly relieved or otherwise authorized to depart. In all situations where employees are required to remain at their assigned posts beyond their normal tour of duty, they will be compensated in accordance with the appropriate compensation laws, rules, and/or regulations.

7.7.7 Leave is to be used in accordance with its intended purpose and must be approved in advance whenever possible, and in accordance with laws, rules, regulations, CBP policy, negotiated agreements, and local requirements.

7.7.8 CBP does not tolerate violence in the workplace. Therefore, employees will not provoke, participate in, or condone activities that may cause, lead to, or involve violence in the workplace. Such violence includes communicating a direct or indirect threat of physical, mental, or emotional harm. Threats can take the form of written or verbal statements, stalking activity, and/or physical gestures. This does not preclude the use of force in accordance with Agency policies regulating its use in the conduct of law enforcement activities.





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7.7.9 Domestic violence is strictly prohibited. In accordance with the Domestic Violence Policy, CBP does not tolerate any acts or threats of domestic violence, whether committed on or off-duty. Domestic violence is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. Domestic violence may include, but is not limited to, acts or threatened acts of: physical or sexual violence; emotional and/or psychological intimidation; verbal abuse; stalking; economic control; harassment; threats; physical intimidation; or injury.

7.7.10 CBP prohibits employees from committing acts of sexual abuse, coercion, and/or assault of any detainee under CBP custody. CBP also prohibits any form of retaliation against any person, to include detainees, who reports, files a complaint, or participates in an investigation into an allegation of sexual abuse or assault or participation in sexual activity as a result of force, coercion, threats, or fear of force.

7.8 CARE OF MONEY AND PROPERTY.

7.8.1 Employees who have access to, receive, or come into possession, custody, or control of property, money, or other items of value in relation to their employment with the Agency shall follow established procedures, and use standards of care that are reasonable under the circumstances, when they account for, conserve, protect, or dispose of such property, money, or items of value.

7.8.2 Employees must promptly report to their supervisors any loss, misplacement, theft, damage, or destruction of property, money, or other items of value that is (was) under the control of the Agency.

7.8.3 Upon separation, transfer, or reassignment, or on demand from the proper authority, employees will promptly return all government-owned or leased property, money, or other items of value issued to them for use in carrying out their official duties.

7.9 USE OF GOVERNMENT PROPERTY OR OTHER RESOURCES.

7.9.1 Computers and Other Office Equipment.

7.9.1.1 Pursuant to CBP's Directive concerning "Limited Personal Use of Government Office Equipment Including Information Technology," CBP employees may use government computers and office equipment for authorized purposes only. However, limited personal use of government computers and office equipment by employees during non-work time is considered to be an "authorized use" of



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government property if such use involves only minimal additional expense to CBP and does not: adversely affect the performance of official duties; interfere with the mission or operations of CBP; overburden any CBP information resources; or violate any standard of conduct herein. Permissible use of CBP computers or equipment does not include activities such as social networking, audio or video streaming, peer-to-peer networking, gaming, use of personal email accounts, or instant messaging. The privilege to use government-owned computers and office equipment for personal purposes may be revoked or limited by the employee's supervisor or other authorized official for inappropriate use. All such reasons will be in writing and promptly provided to the affected employee(s).

7.9.1.2 The use of government computers or other equipment to access, view, store, or transmit sexually explicit material is prohibited.

7.9.1.3 Employees will only use CBP authorized software or technology devices on CBP computers. All software use must comply with copyright laws and/or license agreements. Employees will adhere to security policies and procedures regarding the use and protection of their computer identification and passwords.

7.9.1.4 Employees will not use government documents for private or unofficial purposes, circulate them to audiences for which they were not intended, or in any way alter the intended distribution of such documents with respect to their limited organizational or other application. CBP employees may not use postage-paid official envelopes or letterhead for personal purposes.

7.9.2 Government-Sponsored Credit Cards.

7.9.2.1 Employees will safeguard government-sponsored credit cards under their care, including travel cards, phone cards, fleet cards, and purchase cards, and will promptly report the loss of such cards to their supervisors and to the issuing company. As cardholders, employees are responsible for using the credit card strictly in accordance with both the government requirements and those of the financial institution issuing the card.

7.9.2.2 Pursuant to the Federal Travel Regulations (41 C.F.R. § 301), government-sponsored travel (credit) cards may be used only for official travel and official travel-related expenses away from an employee's official duty station and may not be used for personal purposes. Only the employee whose name appears on the credit card may use the card. An employee who holds a government-sponsored travel card must pay all valid charges appearing on the credit card statement in full when due each month. Unusual and/or mitigating circumstances will be considered consistent with any collective bargaining agreements.

7.9.2.3 Fleet cards will be used only to pay for authorized goods and services for government-owned vehicles (GOVs).



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- 7.9.2.4 Purchase cards will be used only for authorized goods and services for CBP. When planning and making purchases, purchase cardholders are required to comply with officially designated mandatory sources of supply and funding limitations of their cards. Cardholders are responsible for being cognizant of the rules, policies, and procedures regarding the use of their cards and will not circumvent or disregard those rules, policies, or procedures (e.g., split-purchases, etc.). Cardholders are required to consult with a warranted contracting officer or the appropriate program official when any question arises about a potential source for purchase of a service or supply.
- 7.9.3 Government Identification. Badges, credentials, and identification cards are to be used by CBP employees only for official purposes. Employees will promptly report the loss of any badges, credentials, and/or identification cards to their supervisor.
- 7.9.4 Government-Owned Vehicles (GOVs).
- 7.9.4.1 GOVs are "passenger carriers" which include, but are not limited to: passenger motor vehicles; aircraft; boats; ships; snow mobiles; all-terrain vehicles; or other similar means of transportation that are owned, rented, or leased by the United States. Employees will not use, or authorize the use of, a GOV except for official purposes, i.e., those deemed essential to the successful completion of the official mission. The transportation of individuals in a GOV, including family members, is prohibited, unless officially authorized. Willful use of a GOV for other than official purposes carries a minimum statutory penalty of a 30-day suspension from duty and pay.
- 7.9.4.2 Employees will not consume alcoholic beverages while operating or occupying a GOV and will not consume alcoholic beverages for a reasonable period of time prior to operating a GOV. Driving a GOV while impaired by alcohol is prohibited under all circumstances.
- 7.9.4.3 Any employee operating a GOV must observe all applicable state and local traffic laws consistent with the flexibility required for the performance of law enforcement activities. Employees are responsible for exercising due caution to ensure the safe operation of their vehicle.
- 7.9.5 Firearms/Use of Force Weaponry. Unless firearms and other CBP-issued use of force weaponry are authorized and required in the performance of duty, employees will not carry firearms or other CBP-issued weaponry, either openly or concealed, while on government property or on official duty. Employees authorized to carry firearms and other CBP-issued use of force weaponry will do so strictly in accordance with applicable firearms and use of force related policies.



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7.10 USE OF ALCOHOLIC BEVERAGES.

7.10.1 Employees will not report for duty or remain on duty under the influence of alcohol.

7.10.2 Unless specifically authorized, employees may not consume alcoholic beverages while on official duty.

7.10.3 Under no circumstances will employees operate a GOV, on-or-off duty, while under the influence of alcohol.

7.10.4 As a law enforcement organization, it is important that CBP maintains credibility with the public it serves. An employee's arrest for driving under the influence of alcohol (DUI), driving while intoxicated (DWI), or reckless driving and endangerment, on or off-duty, could reflect negatively upon the Agency. Therefore, employees must not operate motorized conveyances, on or off-duty, while impaired.

7.10.5 Uniformed employees will not purchase or consume alcoholic beverages, on-or-off-duty, while in uniform.

7.10.6 Members of aircrews will not consume alcoholic beverages within eight hours prior to their performing scheduled flight duties. Any member of an aircrew who is found to have done so will be considered impaired for duty. Even if a member of an aircrew has not consumed an alcoholic beverage during the eight-hour period immediately preceding flight duties, he or she may be considered impaired for duty if he or she, upon reporting for duty, is found to be suffering the residual effects of alcohol consumption.

7.11 BIAS-MOTIVATED CONDUCT.

7.11.1 Employees will not act or fail to act on an official matter in a manner which improperly takes into consideration an individual's race, color, age, sexual orientation, religion, sex, national origin, disability, union membership, or union activities.

7.11.2 Employees will not make abusive, derisive, profane, or harassing statements or gestures, or engage in any other conduct evidencing hatred or invidious prejudice to or about another person or group on account of race, color, religion, national origin, sex, sexual orientation, age, or disability.

7.11.3 Employees will not engage in sexual harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with



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an individual's work performance or creating an intimidating, hostile, or offensive working environment.

7.12 **GAMBLING.** CBP employees will not engage in any gambling activity on government premises, and/or using government equipment, including an office pool or any game with financial stakes. This prohibition also covers gambling on the Internet.

7.13 **FINANCIAL MATTERS.**

7.13.1 **Lending and Borrowing Money.**

7.13.1.1 An employee cannot give, make a donation to, or ask for contributions for a gift to his or her supervisor (immediate or in the chain of command). A gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. In addition, an employee cannot accept a gift from another employee who earns less pay, unless the person giving the gift is not a subordinate and the gift is based on a strictly personal relationship. There are exceptions to these prohibitions. There is an exception for voluntary gifts worth more than \$10 on a special occasion such as marriage, illness, or retirement. Gifts valuing less than \$10 may be given and received on occasions when gifts are traditionally given or exchanged. An employee may give and/or receive items of food and refreshments to be shared at work among employees.

7.13.1.2 Supervisors will not request or require an employee under their supervision to act as a co-maker, co-signer, or endorser in financial matters. In addition, supervisors will not act as co-makers, co-signers, or endorsers in financial matters for employees under their supervision.

7.13.2 **Financial Disclosures.** Employees who occupy certain positions are required to file statements of employment and financial interests within 30 days of their entrance on duty and are further required to file annual supplemental statements. Affected employees will be notified of their requirement to file such statements.

7.13.3 **Fund Raising Campaigns.** Employees may refuse to participate in government-sponsored fund raising campaigns. Supervisors will not exert pressure on employees to participate in such fund raising campaigns.

7.13.4 **Gifts.** Except as provided in the Standards of Ethical Conduct for Employees of the Executive Branch, an employee will not directly or indirectly solicit or accept a gift from a prohibited source, or a gift given because of the employee's official position.

7.13.5 **Just Financial Obligations.** Employees will satisfy all just financial obligations in a timely manner, especially Federal, state, or local taxes that are imposed by law.



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7.13.6 Prohibition on Purchase of Certain Assets. Employees will not purchase, directly or indirectly, property owned by the government and under the control of CBP or sold under the direction or incident to the functions of CBP, except items sold generally to the public at fixed prices.

7.14 SAFETY. Employees will observe safe practices as well as all safety regulations in the performance of their duties. Employees will promptly report to their supervisors any injury, accident, or illness that occurs in connection with the performance of their official duties by the most expeditious means available.

7.15 OUTSIDE/FAMILY MEMBER EMPLOYMENT.

7.15.1 Employees must complete and submit the appropriate form through their supervisor for approval before entering into any outside employment or business activity. As a general rule, employees may, with prior approval, engage in outside employment or business activity, provided such employment or activity is not prohibited and does not interfere or conflict with performance of their official duties. No CBP employee will work for a Customs broker, international carrier, bonded warehouse, foreign-trade zone, cartman, or law firm engaged in the practice of customs or immigration law, any businesses or service organizations which assist aliens, or other companies engaged in services related to Customs or Immigration matters. This prohibition includes employment in the importation department of a business, employment in any private capacity related to the importation or exportation of merchandise or agricultural products requiring inspection, and employment related to immigration.

7.15.2 Any employee, who has a family member (spouse, child, or other relative, by marriage or blood, who is dependent upon the employee and/or resides in the employee's household) employed in one of the above listed categories, must file an annual report through their supervisor to Office of Chief Counsel, for a determination as to whether the employment constitutes a conflict of interest or the appearance of a conflict of interest with the CBP employee's performance of official duties.

7.16 POLITICAL ACTIVITY. NOTE: CBP recognizes that it does not have authority to define permitted and prohibited political activity under the Hatch Act and that the Office of Special Counsel has the sole authority to enforce such statutory and regulatory provisions. As such, the following information is provided for informational purposes. Hatch Act violations can have serious consequences up to and including removal from Federal service.

7.16.1 Employees may take an active part in political management or in political campaigns to the extent permitted by law (5 U.S.C. §§ 7321-7325), vote as they choose, and openly express their opinions on political subjects and candidates. Employees may not use their official authority or influence to interfere with or affect election results. Employees may be disqualified from employment for knowingly supporting or advocating the violent overthrow of our constitutional form of government.



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7.16.2 The following list contains examples of permissible activities for CBP employees who are not members of the Senior Executive Service (SES). *See* 5 C.F.R. Part 734, Subpart B.

- Stand as candidates for public office in nonpartisan elections.
- Register and vote as they choose.
- Assist in voter registration drives.
- Express opinions about candidates and issues.
- Contribute money to political organizations.
- Attend political fund-raising functions.
- Campaign for or against candidates in partisan elections.
- Make campaign speeches for candidates in partisan elections.
- Distribute campaign literature in partisan elections.
- Hold office in political clubs or parties.
- Attend and participate in political rallies and meetings.
- Join and be active members of a political party or club.
- Sign nominating petitions.
- Campaign for or against referendum questions, constitutional amendments, and municipal ordinances.

7.16.3 The following list contains examples of prohibited activities for CBP employees who are not members of the SES. *See* 5 C.F.R. Part 734, Subpart C.

- Engage in political activity (an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group) while on duty, in a government office, wearing an official uniform, or driving a GOV.
- Use official authority or influence to interfere with an election.
- Solicit or discourage political activity on the part of anyone with business before CBP.
- Solicit or receive political contributions from any person except in certain limited situations as specified in 5 U.S.C. § 7323 (a)(2).
- Be candidates for public office in partisan elections.
- Wear partisan political buttons while on duty.

7.16.4 Career employees who are members of the SES are subject to greater restrictions than those identified above. These individuals should refer to 5 C.F.R. Part 734, Subpart D, or consult the Office of Chief Counsel.

7.16.5 Employees who reside in localities (designated by the Office of Personnel Management) where the majority of voters are employed by the Federal Government are covered by additional provisions (*See* 5 C.F.R. Part 733).



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CBP DIRECTIVE

DEC 11 2020

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Mark A. Morgan

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Date

Chief Operating Officer and  
Senior Official Performing the Duties of the Commissioner  
U.S. Customs and Border Protection



**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 33**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**



# CBP Use of Force Policy

Law Enforcement Safety and Compliance Directorate  
Operations Support  
4500-002A



U.S. Customs and  
Border Protection

## FOREWORD FROM THE COMMISSIONER

U.S. Customs and Border Protection (CBP) is entrusted with the critical responsibility of protecting our nation's borders. This mandate carries with it the authority to use force up to and including the use of deadly force. The following policy provides guidance and parameters under which force may be used. It also provides the levels of oversight when force is used, and the ongoing training and demonstration of decision-making and skill surrounding the use of force.

A respect for human life and the safety of the communities we serve, as well as CBP's officers and agents, is paramount and shall guide all employees in the performance of their duties. In all instances, covered in this policy or not, Authorized Officers/Agents shall only use objectively reasonable and necessary force to effectively bring an incident under control, while minimizing the risk of injury for all involved parties.

The use of excessive force by CBP law enforcement personnel is strictly prohibited.

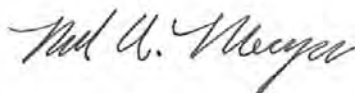
As CBP employees, this *Policy*, in conjunction with the *Administrative Guidelines and Procedures Handbook*, serves as your authoritative reference for firearms procedures and use of force related issues. By conforming to standard use of force policies, procedures, training, and equipment, Authorized Officers/Agents can more effectively protect themselves and the public they serve.

This *Policy* establishes the minimum CBP policy standards regarding the use of force. CBP offices may establish additional policy guidance where they deem necessary, in accordance with the minimum standards articulated in this *Policy*.

CBP adheres to the *DHS Policy on the Use of Force* and the *Department of Homeland Security Commitment to Nondiscriminatory Law Enforcement and Screening Activities* policy statement.

Violation of the *CBP Use of Force Policy* may constitute grounds for disciplinary action.

This document sets forth policy and training guidance for CBP employees, while meeting the requirements of the *DHS Policy on the Use of Force*, and does not create or confer any right, privilege, or benefit for any person, party or entity. United States v. Caceres, 440 U.S. 741 (1979).



Mark A. Morgan  
Senior Official Performing the Duties of Commissioner  
U.S. Customs and Border Protection

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This *Policy* is consistent with the *DHS Policy on the Use of Force*, and supersedes the *U.S. Customs and Border Protection Use of Force Policy, Guidelines and Procedures Handbook* (HB 4500-01C) dated May 2014, and any prior CBP policy or directive to the extent that it is inconsistent with the content of this *Policy*.

## Chapter 1: General Guidelines

### A. Use of Force By Authorized Officers/Agents

1. A respect for human life and the safety of the communities we serve, as well as CBP's officers and agents, is paramount and shall guide all employees in the performance of their duties.
2. Among other duties, CBP has the responsibility to deter, prevent, detect, respond to, and interdict the unlawful movement or illegal entry of terrorists, drug smugglers and traffickers, human smugglers and traffickers, aliens, and other persons who may undermine the security of the United States.<sup>1</sup>
3. CBP policy on the use of force by Authorized Officers/Agents is derived from constitutional law, as interpreted by federal courts in cases such as Graham v. Connor, 490 U.S. 386 (1989) and Tennessee v. Garner, 471 U.S. 1 (1985), federal statutes and applicable DHS and CBP policies.
4. Authorized Officers/Agents may use "objectively reasonable" force only when it is necessary to carry out their law enforcement duties.
5. The "reasonableness" of a particular use of force is based on the totality of circumstances known by the officer/agent at the time of the use of force, and weighs the actions of the officer/agent against the rights of the subject, in light of the circumstances surrounding the event.<sup>2</sup> Reasonableness will be judged from the perspective of a reasonable officer/agent on the scene rather than with the 20/20 vision of hindsight.
6. The calculus of reasonableness embodies an allowance for the fact that law enforcement officers/agents are often forced to make split-second decisions - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation.
7. A use of force is "necessary" when it is reasonably required to carry out the Authorized Officer's/Agent's law enforcement duties in a given situation, considering the totality of facts and circumstances of such particular situation.

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<sup>1</sup> 6 U.S.C. §211; 8 U.S.C. § 1357 (INA § 287).

<sup>2</sup> The Supreme Court has further determined that a Fourth Amendment "seizure" of a person occurs when an officer, "by means of physical force or show of authority, terminates or restrains his freedom of movement *through means intentionally applied* (emphasis in original)." Brendlin v. California, 551 U.S. 249, 254 (2007)(citations omitted).

A use of deadly force is “necessary” when the officer/agent has a reasonable belief that the subject of such force poses an imminent danger of death or serious bodily injury to the officer/agent or to another person.

8. An Authorized Officer/Agent may have to rapidly escalate or de-escalate through use of force options, depending on the totality of facts and circumstances of the particular situation. Once used, physical force<sup>3</sup> must be discontinued when resistance ceases or when the incident is under control.
9. Based on the totality of circumstances, different officers/agents may have different responses to the same situation, any of which may be both reasonable and necessary.
  - a. CBP Authorized Officers/Agents are permitted to use force that is objectively reasonable and necessary in light of the totality of the circumstances. This standard does not require Officers/Agents to meet force with equal or lesser force.
  - b. CBP Authorized Officers/Agents do not have a duty to retreat to avoid the reasonable use of force, nor are they required to wait for an attack before using reasonable force to stop a threat.
10. When feasible, prior to the application of force, an Authorized Officer/Agent must attempt to identify him- or herself and issue a verbal warning to comply with the officer/agent’s instructions. In determining whether a warning is feasible under the circumstances, an officer/agent may be guided by a variety of considerations including, but not limited to, where the resulting delay by issuing the warning is likely to:
  - a. Increase the danger to the officer/agent or others, including any victims and or bystanders;
  - b. Result in the destruction of evidence;
  - c. Allow for a subject’s escape; or
  - d. Result in the commission of a crime.

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<sup>3</sup> Department of Homeland Security, *Department Policy on the Use of Force*, Policy Statement #044-05 (2018) FN 5. “Other than the force reasonably required to properly restrain a subject and safely move him or her from point to point. That is, once a subject is secured with restraints, a LEO may maintain physical control of the subject via the use of a ‘come along or other control techniques’ to safely and securely conclude the incident.”

In the event that an officer/agent issues such a warning<sup>4</sup>, where feasible, the officer/agent should afford the subject a reasonable opportunity to voluntarily comply before applying force.

11. Following any incident involving the use of force, Authorized Officers/Agents shall seek medical assistance for any person who appears, or claims to be injured, or as otherwise required by subsections of this policy.

## B. Objectively Reasonable and the Totality of Circumstances

1. The reasonableness inquiry for an application of force is an objective one: the question is whether the officer's/agent's actions are objectively reasonable in light of the totality of facts and circumstances confronting him or her, without regard to underlying intent or motivation.
2. In determining whether a use of force is "objectively reasonable," an Authorized Officer/Agent must give careful attention to the totality of facts and circumstances of each particular case, including:
  - a. Whether the subject poses an imminent threat to the safety of the officer/agent or others;
  - b. The severity of the crime at issue;
  - c. Whether the subject is actively resisting seizure or attempting to evade arrest by flight;
  - d. Whether the circumstances are tense, uncertain, and rapidly evolving; and
  - e. The foreseeable risk of injury to involved subjects and others.
3. "Totality of circumstances" refers to all factors existing in each individual case. In addition to those listed in Subsection B.2 above, these factors may include (but are not limited to):
  - a. The training, age, physical build, and strength of the officer/agent(s);
  - b. The training, mental attitude, age, physical build, and strength of the subject(s);
  - c. Disproportionate number of subjects present;

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<sup>4</sup> Officers/agents should have a reasonable basis to believe that the subject can comprehend the warning.

- d. Subject's demonstrated propensity for violence;
- e. Statements of intent from subject(s);
- f. Weapon(s) involved; present, or in proximity;
- g. Prior intelligence;
- h. National security;
- i. The presence of other officers/agents, subjects, vehicle passengers, or bystanders;
- j. Subject vehicle speed and type; and
- k. Environmental conditions and/or road conditions.

#### C. Use of Safe Tactics

1. Authorized Officers/Agents should seek to employ tactics and techniques that effectively bring an incident under control while promoting the safety of the officer/agent and the public, and that minimize the risk of unintended injury or serious property damage.
2. Except where otherwise required by inspections or other operations, Authorized Officers/Agents should avoid standing directly in front of or behind a subject vehicle. Officers/agents should not place themselves in the path of a moving vehicle or use their body to block a vehicle's path.
3. Authorized Officers/Agents should avoid intentionally and unreasonably placing themselves in positions in which they have no alternative to using deadly force.
4. Authorized Officers/Agents shall not discharge their firearms in response to thrown or launched projectiles unless the officer/agent has a reasonable belief, based on the totality of circumstances, that the subject of such force poses an imminent danger of serious bodily injury or death to the officer/agent or to another person. Officers/agents may be able to obtain a tactical advantage in these situations through measures such as seeking cover or distancing themselves from the immediate area of danger. Officers/agents do not have a duty to retreat to avoid the reasonable use of force, nor are they required to wait for an attack before using reasonable force to stop a threat.

#### D. De-Escalation

1. De-escalation tactics and techniques seek to minimize the likelihood of the need to use force, or minimize force used during an incident, to increase the probability of voluntary compliance.



2. Authorized Officers/Agents shall employ de-escalation tactics and techniques, when safe and feasible, that do not compromise law enforcement priorities.

#### E. Emergency Situations<sup>5</sup>

1. An emergency situation is an unplanned event or exigent circumstance that occurs with no advanced warning, rapidly evolves, and which requires a reactive response to address an imminent threat.

In such threatening and emergent situations, Authorized Officers/Agents are authorized to use any available weapon, device, or technique in a manner that is reasonable and necessary for self-defense or the defense of another person.

#### F. Duty to Intervene In and Report Improper Use of Force

1. CBP is committed to carrying out its mission with honor and integrity, and to fostering a culture of transparency and accountability. As such, this *Policy* ensures that CBP law enforcement personnel fully understand and adhere to the following:

The use of excessive force is unlawful and will not be tolerated. Those who engage in such misconduct, and those who fail to report such misconduct, will be subject to all applicable administrative and criminal penalties.

2. CBP law enforcement personnel have a duty to intervene to prevent or stop a perceived use of excessive force by another officer/agent - except when doing so would place the observing/responding officer/agent in articulable, reasonable fear of death or serious bodily injury.
3. Any CBP employee with knowledge of the improper use of force by law enforcement personnel shall, without unreasonable delay, report it to his or her chain of command and/or the Office of Professional Responsibility.
4. Failure to intervene in and/or report such violations is, itself, misconduct that may result in disciplinary action, with potential consequences including removal from federal service, civil liability, and/or criminal prosecution.

#### G. Procurement, Instruction, and Devices

1. The Executive Director of the LESC is responsible for the approval of firearms and less-lethal device Instructor Guide Books, training materials, and certification standards.

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<sup>5</sup> See [Appendix V](#): Use of Force Policy Clarification - Emergency Situations.

2. Firearms and less-lethal devices, systems, and associated equipment shall only be purchased through contracts and procedures established or approved by the LESC. Additional information regarding the procurement of less-lethal devices and equipment may be found on the CBP Authorized Equipment List.
3. The LESC shall be responsible for the periodic review of the usage of firearms and less-lethal devices, systems, and associated equipment, in order to evaluate compliance with policy, as well as to assess their overall safety and effectiveness.

#### H. DHS Commitment to Nondiscriminatory Law Enforcement and Screening Activities

1. The DHS *Commitment to Nondiscriminatory Law Enforcement and Screening Activities* policy statement ([Appendix II](#)) is applicable to all situations in which officers/agents exercise their use of force authority.

## Chapter 2: Use of Deadly Force

### A. General Guidelines and Responsibilities

1. Deadly force is force likely to cause serious bodily injury or death of a person.
2. Authorized Officers/Agents may use deadly force only when necessary; that is, when the officer/agent has a reasonable belief that the subject of such force poses an imminent danger of serious bodily injury or death to the officer/agent or to another person.
  - a. Serious Bodily Injury - Physical injury that involves protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death.
3. Discharging a firearm at a person shall be done only with the intent of stopping that person from continuing the threatening behavior that justifies the use of deadly force.
4. Discharging a firearm as a warning is prohibited except for the limited circumstances described in Chapter 3.C.
5. Discharging a firearm as a distress signal is permitted in emergency situations.<sup>6</sup>
6. Deadly force shall not be used solely to prevent the escape of a fleeing subject. However, deadly force is authorized to prevent the escape of a fleeing subject where the officer/agent has a reasonable belief that the subject poses a significant threat of death or serious physical harm to the officer/agent or others and such force is necessary to prevent escape.<sup>7</sup>
7. Authorized Officers/Agents shall not discharge their firearms at the operator of a moving vehicle, vessel, or aircraft unless deadly force is necessary, that is, when the officer/agent has a reasonable belief that the operator poses an imminent danger of serious bodily injury or death to the officer/agent or to another person.

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<sup>6</sup> An unplanned event or exigent circumstance that occurs with no advanced warning, rapidly evolves, and which requires a reactive response to address an imminent threat. See Appendix IV Use of Force Policy Clarification – Emergency Situations.

<sup>7</sup> See Tennessee v. Garner, 471 U.S. 1, 11-12 (1985). To further illustrate a “threat of serious physical harm,” the Garner Court explained: “if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.” The Court has further explained that this “necessity” refers not to preventing the flight, itself, but rather the larger context: the need to prevent the suspect’s potential or further serious physical harm to the LEO or other persons.

- a. Such deadly force may include a moving vehicle aimed at officers/agents or others present, but would not include a moving vehicle merely fleeing from officers/agents unless the vehicle or the escape of the subject poses an imminent threat of serious bodily injury or death to the officer/agent or to another person.
  - b. The hazard of an uncontrolled conveyance shall be taken into consideration prior to the use of deadly force.
8. Firearms shall not be fired solely to disable motor vehicles, vessels, aircraft, or other conveyances. The only exception is that Authorized Officers/Agents, when conducting maritime law enforcement operations, may use specifically authorized firearms and ammunition to disable moving vessels or other maritime conveyances (See Chapter 3.C).
9. A firearm may be used in self-defense or in defense of another person to prevent an imminent attack by an animal. A firearm may also be used to euthanize an animal that appears to be seriously injured or diseased. This discharge does not constitute a use of deadly force.
10. The act of establishing a grip, drawing a weapon, or pointing a weapon does not constitute the use of deadly force.

## Chapter 3: Use of Less-Lethal Force<sup>8</sup>

### A. General Guidelines and Responsibilities

1. Less-lethal force is force not likely or intended to cause serious bodily injury or death.
2. Any use of less-lethal force must be both objectively reasonable and necessary in order to carry out the Authorized Officer's/Agent's law enforcement duties.
3. Less-lethal devices/weapons may be used in situations where empty-hand techniques are not sufficient, practical, or appropriate to control disorderly or violent subjects.
4. Authorized Officers/Agents may use objectively reasonable and necessary force to address a threat posed from the degradation of the International Boundary Barriers (IBB).<sup>9</sup> Officers/Agents should seek to employ tactics and techniques that effectively prevent the threat posed by the activity while minimizing any unintended injury.
5. In order to fulfil the national security obligation to protect its borders, the United States employs IBB at and between Ports of Entry, capable of controlling the flow of people and goods crossing its border. The degradation of such capabilities may facilitate the unimpeded access of unknown subjects and materials into the United States.<sup>10</sup>
  - a. An individual cutting, destroying, or attempting to destroy IBB is committing, or has committed, one or more crimes.<sup>11</sup> Authorized Officers/Agents shall make all reasonable efforts to apprehend the individual for a violation of applicable federal criminal law.
  - b. When feasible, prior to the application of force, Authorized Officers/Agents who encounter an individual engaging in degradation of the IBB shall issue a

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<sup>8</sup> Referenced in prior versions of CBP policy or applicable regulations as "intermediate force" or "non-deadly force" and used herein with the same purpose and effect.

<sup>9</sup> The International Boundary Barrier (IBB), as defined in this policy, is the physical barrier at or between Ports of Entry and placed along the international boundary.

<sup>10</sup> 6 U. S. C. §211(c)(5); Hernandez v. Mesa, 140 S. Ct. 735, 746 (2020); United States v. Flores-Montano, 541 U.S. 149, 152-53 (2004).

<sup>11</sup> See, e.g., 18 U.S.C. § 1361 (willful government property depredation), 8 U.S.C. § 1325 (improper entry by an alien), 19 U.S.C. § 1459 (requirement to report arrival in the United States).

- verbal warning<sup>12</sup> to direct the subject(s) to cease the criminal activity and should afford the subject a reasonable opportunity to voluntarily comply.
- c. While every use of force scenario is unique, officers/agents should consider a number of factors in determining whether to employ a reasonable amount of force when dealing with IBB destruction: whether the subject refuses to comply following a verbal warning; whether the individual continues to engage in federal criminal activity; lack of other law enforcement options to prevent the continued criminal activity; potential use of a weapon or tool used to degrade IBB; imminence of any threat posed by the IBB degradation; and the unlawful entry of goods/contraband or persons.
- d. If Authorized Officers/Agents determine that a reasonable amount of force is necessary to address a threat posed by IBB degradation, they may use authorized less-lethal devices for area saturation, or any lesser degree of force, to effect arrest and/or prevent the continued commission of federal criminal activity.
- (1) Prior to deploying such force, Authorized Officers/Agents must give reasonable consideration to any factors which may counsel against the use of such force, such as the presence of vulnerable subjects including small children, the elderly, those who are visibly pregnant, or individuals who lack the ability to quickly disperse from the area.<sup>13</sup>
- (2) Authorized Officers/Agents must cease application of force, and seek medical assistance where feasible, when criminal activity ceases or when the incident is under control.
- (3) Authorized Officers/Agents may not use deadly force solely in defense of the IBB unless there is an imminent threat of death or serious bodily injury to the officer/agent or others.
- e. The guidance provided in this subsection is a baseline by which to assess commonly occurring scenarios regarding destruction of IBB. Every incident is unique, and additional facts, intelligence, information, etc. may warrant a different response. Nothing in this section prohibits, limits, or restricts the ability of Authorized Officers/Agents to use reasonable force, and authorized use of force devices, to carry out their law enforcement duties.

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<sup>12</sup> Officers/agents should have a reasonable basis to believe that the subject can comprehend the warning.

<sup>13</sup> Nelson v. City of Davis, 685 F.3d 867, 877 (9th Cir. 2012).

6. As part of a mass unlawful entry event, if individuals enter the United States using acts of violence, or threats of violence, a reasonable amount of force may be used to effect arrests, or to protect Authorized Officers/Agents and others from an imminent threat.
  - a. Authorized Officers/Agents may utilize chemical area saturation, or any lesser degree of force, to effect an arrest or to defend self or others against imminent threats caused by mass unlawful entries when:
    - (1) There is probable cause to believe that multiple individuals in the group are using force or threatening to use force to effect an unlawful entry; and
    - (2) The criminal actions of the group have continued after the issuance of lawful commands and verbal warnings to cease the criminal activity; and
    - (3) Reasonable consideration has been given to any factors which may counsel against the use of such force, such as the presence of vulnerable subjects including, small children, the elderly, those who are visibly pregnant, or individuals who lack the ability to quickly disperse from the area.<sup>14</sup>
  - b. The guidance provided in this subsection is a baseline by which to assess commonly occurring incidents regarding mass unlawful entries. Every incident is unique, and additional facts, intelligence, information, etc. may warrant a different response. Nothing in this section prohibits, limits, or restricts the ability of Authorized Officers/Agents to use reasonable force, and authorized use of force devices, to carry out their law enforcement duties or to protect officers/agents and others from an imminent threat.
  - c. When arrests of individuals involved in a mass entry event are not feasible, the use of chemical munitions is authorized only in defense of self or others. Officers/agents do not have a duty to retreat to avoid the reasonable use of force, nor are they required to wait for an attack before using reasonable force to stop a threat.
7. Authorized Officers/Agents who are trained and LESC-certified in their use may use the following less-lethal options:
  - a. Empty-Hand Strikes;
  - b. Oleoresin Capsicum (OC) Spray;

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<sup>14</sup> Nelson v. City of Davis, 685 F.3d 867, 877 (9th Cir. 2012).

- c. Collapsible Straight Batons (CSB);
  - d. Electronic Control Weapons (ECW);
  - e. Compressed Air Launchers (e.g., Pepperball® Launching System (PLS), FN303);
  - f. Munition Launchers (e.g., 40mm);
  - g. Less-Lethal Specialty Impact - Chemical Munitions (LLSI-CM);
  - h. Vehicle Immobilization Devices (VID); or
  - i. Other less-lethal devices or techniques (e.g. Controlled Noise and Light Distraction Devices (CNLDDs), etc.) authorized by the Executive Director of the LESC and approved for use by the Designated Official (DO).
8. While performing uniformed law enforcement duties, Authorized Officers/Agents who carry firearms are also required to carry one or more of the following: OC Spray, an ECW, or a CSB.
- a. Officers/agents may only be issued and carry devices in which they are certified.
  - b. Responsible Officials (ROs) may require that Authorized Officers/Agents carry additional less-lethal devices (that the Authorized Officer/Agent is certified to carry) while performing uniformed law enforcement duties.
9. ROs may establish requirements for non-uniformed carriage of less-lethal devices based on operational needs.
10. A less-lethal device or technique may be used in self-defense, or in defense of another person, to prevent an imminent attack by an animal. This use shall not constitute a use of less-lethal force.

## B. Use of Less-Lethal Devices/Techniques

### 1. Guidelines and Responsibilities

The following guidelines and responsibilities apply to all CBP less-lethal techniques, devices, systems, and associated equipment. Additional device-specific guidelines are contained in following subsections.

- a. The use of choke-holds, neck restraints, and/or any other restraint technique that applies prolonged pressure to the neck that may restrict blood flow or air passage, are strictly prohibited, absent circumstances where deadly force would be objectively reasonable.



- b. Only Authorized Officers/Agents may discharge a CBP less-lethal device, except during CBP-authorized training, events, or activities.

Non-CBP personnel who wish to use CBP less-lethal devices during joint operations should receive CBP-approved training in the use of the less-lethal device(s) prior to use.

- c. The use of less-lethal devices/techniques (or any other weapon) as deadly force (i.e., in a manner that could reasonably cause death or serious bodily injury) is not precluded if the use of deadly force would otherwise be objectively reasonable.
- d. Only less-lethal devices, systems, and associated equipment authorized by LESC shall be carried and deployed by Authorized Officers/Agents.
- e. Less-lethal devices, systems, and associated equipment shall not be altered in any way without the written authorization of the Executive Director of the LESC.

## 2. Contact Controls

- a. Contact Controls such as strategic positioning, escort holds, joint manipulation or immobilization, or touch pressure point stimulation may be utilized as a compliance technique on a subject offering, at a minimum, passive resistance.

## 3. Empty-Hand Strikes

- a. Strike Pressure Point Techniques may be utilized as a compliance tool on a subject offering, at a minimum, active resistance.
- b. Other strikes (e.g., punches, kicks, etc.) may be utilized as a defensive tactic on a subject offering, at a minimum, assaultive resistance.
- c. Authorized Officers/Agents shall not intentionally target the throat or spine when using Empty Hand Strikes.

## 4. Oleoresin Capsicum (OC) Spray

- a. OC Spray may be utilized as a compliance tool on a subject offering, at a minimum, active resistance.
- b. Authorized Officers/Agents may only use chemical agents authorized by the Executive Director of the LESC. Officers/agents may not carry personally-owned OC devices for duty use.

- c. Authorized Officers/Agents should not use OC, and should consider other force options, with respect to subjects who are: small children; visibly pregnant; and operators of motor vehicles.
- d. Authorized Officers/Agents shall decontaminate subjects in custody that have been exposed as soon as practicable.
- e. Authorized Officers/Agents are responsible for advising their supervisors when the devices issued to them are approaching the end of their useable life so that the devices may be replaced prior to their expiration date.
- f. The Transportation Security Agency (TSA) and Federal Aviation Administration (FAA) do not permit any chemical agents in the cabin of a commercial aircraft. As provided by 49 C.F.R. § 175.10, self-defense spray (mace or pepper spray) may be carried in checked baggage, provided the container does not exceed four fluid ounces and has a positive means to prevent accidental discharge. All CBP employees will comply with this regulation. Chemical agents shall be carried aboard CBP aircraft only in accordance with *CBP Air Operations Handbook (AOH)* guidelines.

#### 5. Collapsible Straight Baton (CSB)

- a. A CSB may be utilized as a defensive tool on a subject offering, at a minimum, assaultive resistance.
- b. Authorized Officers/Agents may only use CSBs authorized by the Executive Director of the LESC. Officers/agents may not carry personally-owned batons for duty use.
- c. The following acts and techniques with the CSB are prohibited when using less-lethal force:
  - (1) Use of a baton to apply “come-along” holds to the neck area; and
  - (2) Intentional strikes with the baton to the head, the neck, the face, the groin, the solar plexus, the kidneys, or the spinal column.

#### 6. Electronic Control Weapon (ECW)

An ECW is a less-lethal weapon which is designed to deliver short duration electronic pulses (Drive-Stun Mode), or Neuro-Muscular Incapacitation/NMI (Probe Deployment Mode), with minimal risk of serious bodily injury or death.

- a. An ECW may be utilized as a compliance tool on a subject offering, at a minimum, active resistance in a manner that the Authorized Officer/Agent reasonably believes may result in injury to themselves or to another person.

- b. An ECW should be deployed for one standard device cycle and then the situation should be evaluated to determine if additional cycles are both reasonable and necessary.
- c. If the use of the ECW is unsuccessful, the Authorized Officer/Agent should transition to another reasonable force option.
- d. CBP personnel should not use an ECW, and should consider other force options, with respect to subjects who are: small children; elderly; visibly pregnant; low body mass index (BMI) persons; near known flammable materials; on elevated surfaces; operating conveyances; adjacent to traffic; in water sufficient to drown; running; or handcuffed.
  - (1) Authorized Officers/Agents should use an ECW on a subject who is running only when the officer/agent has reasonable belief that the subject presents an imminent threat of injury to an officer/agent or another person. The threat presented by the subject must outweigh the risk of injury to the subject that might occur as a result of an uncontrolled fall while the subject is running.
- e. Authorized Officers/Agents should not intentionally expose a subject to more than one ECW at a time.
- f. Authorized Officers/Agents shall not intentionally target the head, neck, groin, or female breast.
- g. When practical and when other officers/agents are present, Authorized Officers/Agents should verbalize "TASER, TASER, TASER" prior to deployment to notify fellow officers/agents of the imminent use of an ECW. This will alert fellow officers/agents to prepare to control a subject under the power of an ECW.
- h. ECWs shall be carried with a cartridge installed, on the non-gun side in a cross-draw manner.
- i. Any subject in CBP custody who has been exposed to an ECW shall, as soon as possible, be seen by an Emergency Medical Technician or other trained medical professional.
- j. CBP personnel trained and certified in the use of an ECW may remove probes embedded in a person's skin, provided the probes are not embedded in a sensitive area like the head, neck, genitals, or female breast tissue. Probe removals in those instances shall be performed by a trained medical professional.

- k. ECW probes are considered a biohazard and shall be disposed of according to established biohazard disposal protocol.
- l. Each ECW shall have all stored utilization data downloaded quarterly. ROs shall ensure that all downloaded ECW data is securely stored and maintained for a minimum of three years.
- m. After each ECW deployment, data related to that deployment shall be downloaded and saved. If the deployment was the result of a reportable use of force a copy of the data report shall be attached to the use of force report in the CBP Enforcement Action Statistical Analysis and Reporting System (E-STAR).

7. Compressed Air Launchers (e.g., PLS and FN303)

Compressed air launchers are less-lethal impact/chemical irritant delivery systems that are powered by compressed air. The launchers can deliver a variety of less-lethal projectiles including kinetic impact, PAVA pepper powder, and non-toxic marking rounds.

- a. A compressed air launcher may be used for area saturation against subject(s) who, at a minimum, demonstrate active resistance.
- b. A compressed air launcher may be used as a kinetic impact delivery system on subject(s) who, at a minimum, demonstrate assaultive resistance, with exceptions during maritime operations outlined in Chapter 3.C.3 of this *Policy*.
- c. Authorized Officers/Agents may use a compressed air launcher to mark a conveyance for identification purposes in situations where a conveyance has failed to comply with another officer's/agent's lawful attempt to stop it, in situations where the use of a vehicle immobilization device would not be reasonable, or if an involved vehicle is leaving the scene of an enforcement action without authorization. When deploying a compressed air launcher for marking and identification purposes, officers/agents may not intentionally target the conveyance's windows.
- d. Authorized Officers/Agents should not use a compressed air launcher, and should consider other force options, on subjects who are: small children; elderly; visibly pregnant; or operating a conveyance.
- e. Authorized Officers/Agents shall not use a PLS for kinetic impact on subjects less than 3 feet away unless the use of deadly force is reasonable and necessary.
- f. The FN303 shall not be deployed if the officer/agent is less than 10 feet from the subject unless the use of deadly force is reasonable and necessary.

- g. The intentional targeting of areas where there is a substantial risk of serious bodily injury or death is considered a use of deadly force. Authorized Officers/Agents shall not intentionally target the head, neck, spine, or groin of the intended subject, unless the use of deadly force is reasonable.

8. Mmunition Launchers (e.g., 40mm) and Less-Lethal Specialty Impact and Chemical Munitions (LLSI-CM)

Mmunition Launchers are a delivery system for less-lethal specialty impact/chemical munitions (LLSI-CM) that are designed to deliver an impact projectile, a chemical irritant projectile, or a combination projectile with more accuracy, higher velocity, and longer range than a projectile deployed by hand.

LLSI-CM can also be delivered by means of a device that is designed to be hand-thrown by an Authorized Officer/Agent.

- a. Subject to the exceptions described in subsection c below, a Less-Lethal Chemical Munition (LLCM) may be utilized as a compliance tool on a subject offering, at a minimum, active resistance.
- b. Subject to the exceptions described in subsection c, below, a Less-Lethal Specialty Impact (LLSI) munition may be utilized as a compliance tool on a subject offering, at a minimum, assaultive resistance.
- c. Authorized Officers/Agents should not use an LLSI-CM and should consider other force options with respect to subjects who are: small children; elderly; visibly pregnant; near known flammable materials (when using a pyrotechnic device); or operating conveyances.
- d. Authorized Officers/Agents shall not intentionally target the head, neck, groin, spine, or female breast.
- e. Any subject in CBP custody who has been exposed to an LLSI-CM shall, as soon as practicable, be seen by an Emergency Medical Technician or other trained medical professional.
- f. The (FAA) prohibits the transportation of LLCMs and LLSI-CM combinations (e.g., CS (O-Chlorobenzylidene-malononitrile), Stingball) onboard commercial aircraft. All CBP employees will comply with this regulation. Transportation of LLSI-CM munitions will be accomplished by the use of a CBP vehicle/vessel and/or an authorized commercial ground carrier.
- g. The transportation of LLSI-CM onboard CBP vessels shall conform with the appropriate safety standards such as storage and transportation of the devices in insulated, water-proof containers to prevent damage or unintended discharge.

- h. Approval from the Executive Director of the LESC is required prior to each individual purchase of LLSI-CM.

9. Controlled Noise and Light Distraction Devices (CNLDD)

A CNLDD is a pyrotechnic device that, once activated, emits a bright light and loud noise to momentarily disorient and confuse subjects giving officers/agents a brief tactical advantage.

- a. CNLDDs may be utilized with supervisory approval during pre-planned law enforcement operations when actionable intelligence of pre-assault indicators or other relevant intelligence information has been identified which requires their use to gain a tactical advantage.
- b. In all other instances, CNLDDs may be used as a compliance tool on a subject offering, at a minimum, assaultive resistance.
- c. Authorized Officers/Agents should not use a CNLDD, and should consider other force options, on subjects who are: small children; elderly; visibly pregnant; or near known flammable materials.
- d. Responsible Supervisory personnel shall ensure that ATF regulations and guidelines are known and followed by all subordinate personnel involved in the handling, storage, or use of CNLDDs.
- e. The RO (or his or her designee) shall ensure that CNLDDs are only issued to trained and certified officers/agents with an articulated need for a CNLDD.

- C. Warning Shots and Disabling Fire

1. Warning Shots - Warning shots are not permitted except as follows:

- a. Maritime Law Enforcement Operations: Authorized Officers/Agents conducting maritime law enforcement operations may use warning shots only as a signal to a vessel to stop, and only after all other available means of signaling have failed. Such warning shots are classified as less-lethal force.
- b. Aviation Law Enforcement Operations: Authorized Officers/Agents conducting aviation law enforcement operations may use warning shots only as a signal to an aircraft to change course and follow direction to leave airspace, and only after all other available means of signaling have failed. Such warning shots are classified as less-lethal force.

2. Disabling Fire - Firearms may not be used solely to disable moving vehicles, vessels, aircraft, or other conveyances, except when Authorized Officers/Agents are conducting maritime law enforcement activities against maritime conveyances.

- a. When a pursued vessel fails to comply with an order to stop, and warning shots have been deployed, the CBP Vessel or Aircraft Commander may elect to authorize disabling fire.
  - b. The authority to commence disabling fire rests with the Vessel or Aircraft Commander. The decision to fire, however, ultimately rests with the shooter. It is the shooter's responsibility to ensure the safe deployment of the disabling rounds.
3. Authorized Officers/Agents may use CBP less-lethal devices specifically approved by the LESC for use against subjects who are intentionally preventing the deployment of marine disabling fire (e.g., by blocking access to or covering the engine of a vessel) if the failure to stop the vessel would pose an imminent threat to the safety of the officer/agent or others.
4. Warning shots and disabling fire shall be deployed with adherence to CBP-approved programs, policies, procedures, and directives.
5. Only ordnance approved by the Executive Director of the LESC, shall be authorized for use in conducting warning and/or disabling fire.
6. Only those Authorized Officers/Agents who have successfully completed LESC-approved training are authorized to utilize warning shots and/or disabling fire.
7. Warning shots and/or disabling fire pose a potential hazard; therefore, good judgment shall be exercised at all times. They cannot be fired where there is a reasonable belief that personal injury, death, or unintended property damage will occur. Safety shall always be the first consideration when utilizing warning shots and/or disabling fire.
8. The use of warning shots and/or disabling fire is considered less-lethal force, and shall be reported in accordance with the requirements of this chapter.

## Chapter 4: Vehicular Immobilizations and Pursuit Intervention

### A. General Guidelines and Responsibilities

1. Vehicular Immobilization Devices (VIDs) and Offensive Driving Techniques (ODT) are specialized devices and techniques designed and deployed with the intended result of causing a vehicle to stop through the controlled deflation of a vehicle tire, intentional vehicular contact, or other means of restraint.
2. Any use of VID's and/or ODT must be both objectively reasonable and necessary in order to carry out the Authorized Officer's/Agent's law enforcement duties.
3. VID's and ODT may be used in situations where the law enforcement benefit and the need to immobilize the subject vehicle and/or otherwise end a vehicle pursuit outweighs the immediate or foreseeable risk of injury to involved subjects and others created by the deployment of a VID or use of an ODT.
  - a. While every use of force scenario is unique, factors to consider in determining the reasonableness of a contemplated deployment of a VID or ODT include, but are not limited to:
    - (1) Vehicle Speed;
    - (2) Proximity of Population Centers;
    - (3) Traffic Flow;
    - (4) Weather or Road Conditions; and
    - (5) Availability of Alternative Measures.
4. The direction contained within this chapter, regarding the use of VID's and ODT's are not to supersede the direction found within the *Emergency Driving, Including Vehicular Pursuits by U.S. Customs and Border Protection Personnel Directive* (CBP Directive 4510-26).

### B. Vehicle Immobilization Devices (VID)

1. VID's (including Controlled Tire Deflation Devices or CTDD's) are specialized less-lethal devices whose deployment is intended to result in the controlled deflation of a vehicle tire or otherwise cause a vehicle to stop.



2. The immediate or potential danger to the public created by the deployment of the VID should be less than the immediate or potential danger to the public should the suspect vehicle be allowed to proceed without deployment of the VID. The VID shall be deployed in a manner that minimizes risk of injury to persons or damage to property.
3. Authorized Officers/Agents will announce the use of a VID on the service radio. A supervisor can deny (terminate) the deployment. Preapproval for the use of a VID is not required.
4. When otherwise objectively reasonable a VID may be deployed:
  - a. When an Authorized Officer/Agent directs a motor vehicle to stop and the vehicle fails to comply with the officer's/agent's order;
  - b. When a vehicle attempts to avoid inspection at a primary or secondary inspection area of a checkpoint or port of entry (POE);
  - c. When a vehicle unlawfully crosses the border between POEs;
  - d. When an Authorized Officer/Agent, acting within the guidelines set forth in this *Handbook*, is trying to prevent a suspect vehicle from leaving the area where a warrant is being served or where officers/agents have determined, or developed at least reasonable suspicion, that a crime is being or may have been committed that the officer/agent has the authority to enforce;
  - e. When another law enforcement agency requests deployment of the VID in an emergency. Supervisory approval is required unless exigent circumstances can be articulated; or
  - f. When the configuration at checkpoints, or Ports of Entry, allows for the placement of the VID on stationary vehicles for safety of the officers/agents and others. Placement of a VID in this manner does not constitute a reportable use of force unless accompanied by an attempt to flee.
5. The road where an Authorized Officer/Agent is considering the deployment of a VID should provide an unimpeded view of vehicular traffic from all directions. The VID may be used only in areas where topography, roadway surfaces, and vehicular conditions indicate that deployment can be accomplished with reasonable safety.

6. The Authorized Officer/Agent who deploys the VID should:
  - a. During deployment of a VID, remain in visual contact and control of the VID unless the deploying officer/agent can articulate why visual contact and control are not safe and/or practical;
  - b. Prior to deploying the VID, ensure that all CBP and other agency personnel involved are notified of the pending deployment via available communication methods. Communication shall be maintained between officers/agents in the deployment area unless exigent circumstances preclude such communication;
  - c. Remove or deactivate the VID before becoming involved in the apprehension of the subject(s) unless exigent circumstances preclude such removal or deactivation; and
  - d. Remember that safety is paramount. The officer/agent retains the discretion not to deploy the VID.
7. Authorized Officers/Agents shall not deploy a VID in school zones when children are present or traveling to or from the school, or in cases when the danger to the public outweighs the enforcement benefit.
8. Authorized Officers/Agents conducting enforcement operations on CBP aircraft are permitted to overtake a pursued vehicle in order to deploy a VID. Authorized Officers/Agents operating on the ground shall not overtake a pursued vehicle without prior authorization from a supervisor in order to deploy a VID.
9. Authorized Officers/Agents shall not deploy a VID to stop the following types of vehicles, except where an immediate danger to life makes it reasonable to deploy the VID:
  - a. Two or three-wheeled vehicles;
  - b. Vehicles known or reasonably believed to be transporting hazardous materials; or
  - c. Vehicles that are believed to pose an unusual hazard to officers/agents or the public.
10. When a VID causes *unintentional* damage to a vehicle:
  - a. The involved officer/agent will immediately report the incident to the duty supervisor;

- b. The duty supervisor shall provide a tort claim form (SF-95) to the driver of the vehicle for the damages to the vehicle that may have been caused by the VID along with instructions on how to complete the form and where to send the claim; and
- c. In cases when the vehicle is rendered immobile, procedures shall be in place to assist the driver in making the vehicle mobile.

### C. Offensive Driving Techniques (ODT)

1. ODTs are any driving technique that is consistent with CBP training and is intended to end a pursuit through intentional vehicle-to-vehicle impact.
2. ODT are uses of force that may be considered less-lethal force or deadly force depending on a number of variables. As such, ODTs are classified in two different classes; Class 1 and Class 2.
  - a. Class 1 ODTs are techniques performed at low speeds, under good road/environmental conditions, resulting in a low foreseeable risk of injury to the subject; therefore Class 1 ODTs are considered less-lethal applications of force.
  - b. Class 2 ODTs are techniques used when the risk of injury to the subject is elevated due to excessive speeds and/or other known circumstances. Class 2 ODTs should only be authorized when the actions of the subject driver presents an imminent threat of death or serious bodily harm; Class 2 ODTs are considered applications of deadly force.
  - c. Officers/agents and supervisors must consider all the factors above and presented in Chapter 1, Subsection B, of this policy, as well all material presented during ODT training to determine the appropriate class.
3. ODTs may be utilized to end a vehicular pursuit when:
  - a. A supervisor that is currently certified and trained by CBP to manage/authorize the use of ODT has given authorization to employ the technique (this requirement is a must absent an articulable, exigent circumstance that warrants the use of deadly force after considering the all the factors presented in Chapter 1.B of this policy);
  - b. The officers/agents employing the ODT has been certified and trained by CBP to perform the technique;

- c. The immediate or potential danger to the public created by the use of the ODT is less than the immediate or potential danger to the public created by allowing the vehicle to proceed without deployment of the ODT or ending the pursuit via other means is less safe or has been determined impossible or ineffective; and,
  - d. The ODT is employed in a manner consistent with CBP ODT training that minimizes risk of injury to all involved parties and/or damage to property.
4. Remember that safety is paramount. The officer/agent retains the discretion not to employ an ODT.
5. Authorized Officers/Agents shall not employ ODT in school zones when children are present or traveling to or from the school, or in cases when the danger to the public outweighs the enforcement benefit.
6. Authorized Officers/Agents shall not employ ODT to stop the following types of vehicles, except where an immediate danger to life makes it reasonable to employ an ODT:
  - a. Two or three-wheeled vehicles;
  - b. Vehicles known or reasonably believed to be transporting hazardous materials; or
  - c. Vehicles that are believed to pose an unusual hazard to officers/agents or the public.

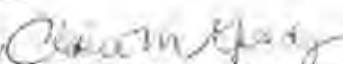
## Appendix I: DHS Policy on the Use of Force



Issue Date: September 7, 2018

Policy Statement 044-05

MEMORANDUM FOR: Component Heads

FROM: Claire M. Grady   
Acting Deputy Secretary of Homeland Security and  
Under Secretary for Management

SUBJECT: **Department Policy on the Use of Force**

### I. Purpose

Pursuant to the Secretary's authority under Title 6, United States Code (U.S.C.) § 112, this policy articulates Department-wide standards and guidelines related to the use of force by Department of Homeland Security (DHS) law enforcement officers and agents (LEOs) and affirms the duty of all DHS employees to report improper uses of force. All DHS Components employing LEOs are directed to implement this guidance, including investigation and documentation practices, through Component-specific policy, procedure, and training.

This memorandum supersedes the Memorandum from Secretary Tom Ridge, "Department of Homeland Security Policy on the Use of Deadly Force" (June 25, 2004).

### II. Use of Force Standard

#### A. Introduction

In determining the appropriateness of a particular use of force, the Department is guided by constitutional law, as interpreted by the U.S. Supreme Court.<sup>1</sup> The Fourth Amendment supplies a constitutional baseline for permissible use of force by LEOs in the course of their official duties; law enforcement agencies may adopt policies that further constrain the use of force. This policy describes the governing legal framework and articulates additional principles to which the Department will adhere.

#### B. General Statement

Unless further restricted by DHS Component policy, DHS LEOs are permitted to use force to control subjects in the course of their official duties as authorized by law, and in defense of themselves and others. In doing so, a LEO shall use only the force that is **objectively reasonable** in light of the facts and circumstances confronting him or her at the time force is applied.

<sup>1</sup> See, e.g., *Graham v. Connor*, 490 U.S. 386 (1989), and *Tennessee v. Garner*, 471 U.S. 1 (1985).

### C. Discussion: The Fourth Amendment “Reasonableness” Standard

1.The Supreme Court has ruled that “all claims that law enforcement officers have used excessive force—deadly or not—in the course of an arrest, investigatory stop, or other ‘seizure’ of a free citizen should be analyzed under the Fourth Amendment and its ‘reasonableness’ standard.”<sup>2</sup> This standard is an objective one that, in the context of use of force policy and practice, is often referred to as “objective reasonableness.”

2.Because this standard is “not capable of precise definition or mechanical application,” its “proper application requires careful attention to the facts and circumstances of each particular case.”<sup>3</sup> The reasonableness of a LEO’s use of force must be judged “from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”<sup>4</sup> In determining whether the force a LEO used to effect a seizure was reasonable, courts allow for the fact that LEOs are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving.

3.Consequently, there may be a range of responses that are reasonable and appropriate under a particular set of circumstances.

4.Once used, physical force<sup>5</sup> must be discontinued when resistance ceases or when the incident is under control.

## III. General Principles

### A. Respect for Human Life

All DHS personnel have been entrusted with a critical mission: safeguarding the American people, our homeland, and our values. In keeping with this mission, respect for human life and the communities we serve shall continue to guide DHS LEOs in the performance of their duties.

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<sup>2</sup> *Graham*, 490 U.S. at 396. The Court has further determined that a Fourth Amendment “seizure” of a person occurs when an officer, “by means of physical force or show of authority, terminates or restrains his freedom of movement *through means intentionally applied* (emphasis in original).” *Brendlin v. California*, 551 U.S. 249, 254 (2007)(citations omitted).

<sup>3</sup> *Graham*. (citing *Garner*, 471 U.S. at 8-9: “[T]he question is ‘whether the totality of the circumstances justify[es] a particular sort of . . . seizure’”). The “totality of the circumstances” refers to all factors surrounding a particular use of force. In *Graham*, the Court lists three factors, often referred to as the “*Graham* factors,” that may be considered in assessing reasonableness: the severity of the crime/offense at issue, whether the subject poses an immediate threat to the safety of the LEO or others, and whether the subject is actively resisting arrest or attempting to evade arrest by flight. Other factors include, but are not limited to: the presence and number of other LEOs, subjects, and bystanders; the size, strength, physical condition, and level of training of the LEO(s); the apparent size, strength, physical condition, and level of training of the subject(s); whether an individual is forcibly assaulting, resisting, opposing, impeding, intimidating, or interfering with a LEO while the LEO is engaged in, or on account of the performance of, official duties; proximity and type of weapon(s) present; criminal or mental health history of the subject(s) known to the LEO at the time of the use of force; and the perceived mental/emotional state of the subject.

<sup>4</sup> *Id.*

<sup>5</sup> Other than the force reasonably required to properly restrain a subject and safely move him or her from point to point. That is, once the subject is secured with restraints, a LEO may maintain physical control of the subject via the use of “come-along or other control techniques” to safely and securely conclude the incident.

B. De-escalation

To ensure that DHS LEOs are proficient in a variety of techniques that could aid them in appropriately resolving an encounter, DHS Components shall provide use of force training that includes de-escalation tactics and techniques.

C. Use of Safe Tactics

DHS LEOs should seek to employ tactics and techniques that effectively bring an incident under control while promoting the safety of LEOs and the public, and that minimize the risk of unintended injury or serious property damage. DHS LEOs should also avoid intentionally and unreasonably placing themselves in positions in which they have no alternative to using deadly force.

D. Additional Considerations

1. DHS LEOs are permitted to use force that is reasonable in light of the totality of the circumstances. This standard does not require LEOs to meet force with equal or lesser force.

2. DHS LEOs do not have a duty to retreat to avoid the reasonable use of force, nor are they required to wait for an attack before using reasonable force to stop a threat.

E. Warnings

1. When feasible, prior to the application of force, a DHS LEO must attempt to identify him- or herself and issue a verbal warning to comply with the LEO's instructions. In determining whether a warning is feasible under the circumstances, a LEO may be guided by a variety of considerations including, but not limited to, whether the resulting delay is likely to:

- a. Increase the danger to the LEO or others, including any victims and/or bystanders;
- b. Result in the destruction of evidence;
- c. Allow for a subject's escape; or
- d. Result in the commission of a crime.

2. In the event that a LEO issues such a warning, where feasible, the LEO should afford the subject a reasonable opportunity to voluntarily comply before applying force.

F. Exigent Circumstances

In an exigent situation, for self-defense or the defense of another, DHS LEOs are authorized to use any available object or technique in a manner that is reasonable in light of the circumstances.

G. Medical Care

As soon as practicable following a use of force and the end of any perceived public safety threat, DHS LEOs shall obtain appropriate medical assistance for any subject who has visible or apparent injuries, complains of being injured, or requests medical attention. This may include rendering first aid if properly trained and equipped to do so, requesting emergency medical services, and/or arranging transportation to an appropriate medical facility.

H. Duty to Intervene In and Report Improper Use of Force

1. The Department is committed to carrying out its mission with honor and integrity, and to fostering a culture of transparency and accountability. As such, DHS law enforcement Components will ensure that their policies and procedures unambiguously underscore the following:

**The use of excessive force is unlawful and will not be tolerated. Those who engage in such misconduct, and those who fail to report such misconduct, will be subject to all applicable administrative and criminal penalties.**

2. DHS LEOs have a duty to intervene to prevent or stop a perceived use of excessive force by another LEO—except when doing so would place the observing/responding LEO in articulable, reasonable fear of death or serious bodily injury.

3. Any DHS employee with knowledge of a DHS LEO's improper use of force shall, without unreasonable delay, report it to his or her chain of command, the internal affairs division, the DHS Office of Inspector General, and/or other reporting mechanism identified by Component policy or procedure.

4. Failure to intervene in and/or report such violations is, itself, misconduct that may result in disciplinary action, with potential consequences including removal from federal service, civil liability, and/or criminal prosecution. DHS Components shall ensure that all personnel are aware of these obligations, as well as the appropriate mechanism(s) by which such reports should be made.



#### IV. Less-Lethal Force and Less-Lethal Devices

A. All DHS Components employing LEOs shall have appropriate written policies and procedures regarding the use of authorized control tactics or techniques; authorized less-lethal devices; and necessary training and certifications—both initial and recurring.

B. DHS Components shall conduct less-lethal use of force training no less than every two years and incorporate decision-making and scenario-based situations in these training programs.

C. DHS LEOs are prohibited from carrying any unauthorized less-lethal device for duty use.

D. LEOs shall demonstrate proficiency, in accordance with established Component standards, for each less-lethal device that they are authorized and certified to carry. If a certification or valid waiver expires, a LEO is prohibited from carrying that device for duty use until he or she meets the requirements for recertification on that device.

#### V. Warning Shots and Disabling Fire

##### A. General Prohibition

Except in the limited circumstances described in Section V.B., “Exceptions,” DHS LEOs are prohibited from discharging firearms solely:

1. As a warning or signal (“warning shots”) or
2. To disable moving vehicles, vessels, aircraft, or other conveyances (“disabling fire”).

##### B. Exceptions

1. Warning Shots
  - a. Maritime Law Enforcement Operations: Authorized U.S. Coast Guard (USCG), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE) personnel conducting maritime law enforcement operations may use warning shots only as a signal to a vessel to stop, and only after all other available means of signaling have failed. Such warning shots are classified as less-lethal force.

b. Aviation Law Enforcement Operations: Authorized USCG, CBP, and ICE personnel conducting aviation law enforcement operations may use warning shots only as a signal to an aircraft to change course and follow direction to leave the airspace, and only after all other available means of signaling have failed. Such warning shots are classified as less-lethal force.

2. Disabling Fire

a. Maritime Law Enforcement Operations: Authorized USCG, CBP, and ICE personnel, when conducting maritime law enforcement operations, may discharge firearms to disable moving vessels or other maritime conveyances. Such disabling fire is classified as less-lethal force.

b. Physical Protection: Authorized United States Secret Service (USSS) personnel exercising USSS's protective responsibilities, and other authorized and appropriately trained DHS LEOs assigned to assist USSS in exercising these responsibilities, may discharge firearms to disable moving vehicles, vessels, and other conveyances, and such disabling fire is classified as less-lethal force—EXCEPT: Aircraft in Flight: Disabling fire against an aircraft in flight is permitted only if the use of deadly force against the occupants of the aircraft, or in response to the threat posed by the aircraft, itself, is otherwise authorized under this policy. This is classified as a use of deadly force.<sup>6</sup>

C. Safety Considerations

1. Warning shots and disabling fire are inherently dangerous and, when authorized under this policy, should be used with all due care. DHS LEOs must exercise good judgment at all times and ensure that safety is always the primary consideration.

2. When authorized LEOs deem warning shots or disabling fire warranted, each shot must have a defined target.

VI. Deadly Force

A. General Guidelines

1. As with any use of force, a LEO's use of deadly force must be reasonable in light of the facts and circumstances confronting him or her at the time force is applied.

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<sup>6</sup>As a use of deadly force, this is not mere "disabling fire," which by definition is not intended to cause bodily injury.

2.A DHS LEO may use deadly force only when the LEO has a reasonable belief that the subject of such force poses an imminent threat of death or serious bodily injury to the LEO or to another person.<sup>7</sup>

a.Fleeing Subjects: Deadly force shall not be used solely to prevent the escape of a fleeing subject. However, deadly force is authorized to prevent the escape of a fleeing subject where the LEO has a reasonable belief that the subject poses a significant threat of death or serious physical harm to the LEO or others and such force is necessary to prevent escape.<sup>8</sup>

B. Discharge of Firearms

1. General Guidelines

a.Discharging a firearm against a person constitutes the use of deadly force and shall be done only with the intent of preventing or stopping the threatening behavior that justifies the use of deadly force.

b.The act of establishing a grip, unholstering, or pointing a firearm does not constitute a use of deadly force.

2. Moving Vehicles, Vessels, Aircraft, or other Conveyances

a.DHS LEOs are prohibited from discharging firearms at the operator of a moving vehicle, vessel, aircraft, or other conveyance unless the use of deadly force against the operator is justified under the standards articulated elsewhere in this policy.<sup>9</sup> Before using deadly force under these circumstances, the LEO must take into consideration the hazards that may be posed to law enforcement and innocent bystanders by an out-of-control conveyance.

b.Firearms shall not be discharged solely as a warning or signal or solely to disable moving vehicles, vessels, aircraft, or other conveyances, except under the limited circumstances described in Section V., Warning Shots and Disabling Fire.

<sup>7</sup> For more detailed discussion of the use of force standard and the “reasonableness” determination, see Section II., Use of Force Standard.

<sup>8</sup> See *Garner*, 471 U.S. at 11-12. To further illustrate a “threat of serious physical harm,” the *Garner* Court explained: “...if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.” *Id.* The Supreme Court has further explained that this “necessity” refers not to preventing the flight, itself, but rather the larger context: the need to prevent the suspect’s potential or further serious physical harm to the LEO or other persons.

<sup>9</sup> Here, a distinction is drawn between firing at the operator, i.e., targeting the operator with the intent to cause serious physical injury or death, and firing at a moving vehicle or other conveyance solely as a warning or signal or to disable the vehicle, and with no intent to injure (see section V., Warning Shots and Disabling Fire).

## VII. Reporting Requirements and Incident Tracking

A. Uses of force shall be documented and investigated pursuant to Component policies.

B. It is a Department priority to ensure more consistent Department-wide reporting and tracking of use of force incidents. More consistent data will enable both the Department and Components to more effectively assess use of force activities, conduct meaningful trend analysis, revise policies, and take appropriate corrective actions.

C. DHS Components employing LEOs shall establish internal processes to collect and report accurate data on Component use of force activities. At a minimum, Components shall report the following as a "use of force incident" when resulting from a use of force:

1. A less-lethal device is utilized against a person (except when the device is deployed in a non-striking control technique);
2. Serious bodily injury occurs;
3. Deadly force is used against a person, to include when a firearm is discharged at a person; or
4. Death occurs.

D. Components shall report this data to the Deputy Secretary, through the Deputy Assistant Secretary for Law Enforcement Policy, on no less than an annual basis (in accordance with a process and timeline to be determined) and to others as required for official purposes.

## VIII. Departmental Review and Oversight

A. Each DHS Component employing LEOs will establish and maintain a use of force review council or committee to perform internal analysis of use of force incidents from the perspective of training, tactics, policy, and equipment; to identify trends and lessons learned; and to propose any necessary improvements to policies and procedures.

B. The Office of Strategy, Policy, and Plans, working in consultation with DHS Components employing LEOs, shall establish the DHS Use of Force Council to provide a forum by which Components can share lessons learned regarding use of force policies, training, and oversight. The DHS Use of Force Council will be chaired by the Office of Strategy, Policy, and Plans and comprised of one executive-level representative from each of the following DHS Components:

1. Office of the Under Secretary for Management
2. National Protection and Programs Directorate

3. United States Customs and Border Protection
4. United States Coast Guard
5. United States Secret Service
6. Federal Emergency Management Agency
7. Transportation Security Administration
8. United States Immigration and Customs Enforcement
9. Office of the General Counsel
10. Federal Law Enforcement Training Centers
11. Office for Civil Rights and Civil Liberties
12. Privacy Office

C. Representatives of affected DHS Components will be responsible for reporting on use of force-related trends, developments, and lessons learned within their respective Components.

#### **IX. Military Activities**

This policy shall not apply to the United States Coast Guard when operating under the Standing Rules of Engagement, or to other DHS personnel when they fall under Department of Defense control as civilians accompanying the force.

#### **X. No Right of Action**

This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

#### **XI. Definitions**

***A. Deadly Force:*** Any use of force that carries a substantial risk of causing death or serious bodily injury (see “Use of Force” and “Serious Bodily Injury”). Deadly force does not include force that is not likely to cause death or serious bodily injury, but unexpectedly results in such death or injury. In general, examples of deadly force include, but are not limited to, intentional discharges of firearms against persons, uses of impact weapons to strike the neck or head, any strangulation technique, strikes to the throat, and the use of any edged weapon.

***B. De-Escalation:*** The use of communication or other techniques during an encounter to stabilize, slow, or reduce the intensity of a potentially violent situation without using physical force, or with a reduction in force.

***C. Disabling Fire:*** Discharge of a firearm for the purpose of preventing a non-compliant moving vehicle, vessel, aircraft, or other conveyance from operating under its own power, but not intended to cause bodily injury.

***D. Less-Lethal Device:*** An instrument or weapon that is designed or intended to be used in a manner that is not likely to cause death or serious bodily injury (see “Serious Bodily Injury”). Examples include, but are not limited to, conducted electrical weapons/electronic control weapons, impact weapons, and certain chemical agents. These are also commonly referred to as “intermediate force” or “less-than-lethal” weapons or devices.

***E. Less-Lethal Force:*** Any use of force that is neither likely nor intended to cause death or serious bodily injury (see “Use of Force” and “Serious Bodily Injury”). Also known as “non-deadly,” “intermediate,” or “less-than-lethal” force.

***F. Lessons Learned:*** Information gleaned through internal review and analysis of use of force incidents that is sufficiently significant or critical to consider a change to policies, procedures, or training standards. Lessons learned may include, for example, information that can enhance law enforcement personnel skills; identify gaps in current training; identify current unique criminal trends being experienced in the field; provide information on new equipment recommendations or gaps; identify concerns with standard less lethal equipment/tactics; or any information that can prevent harm to the community, law enforcement, or arrestees.

***G. Serious Bodily Injury:*** Physical injury that involves protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death.

***H. Use of Force:*** The intentional application by law enforcement of any weapon, instrument, device, or physical power in order to control, restrain, or overcome the resistance, or gain compliance or custody, of another.

I. ***Warning Shot:*** Discharge of a firearm as a warning or signal, for the purpose of compelling compliance from an individual, but not intended to cause bodily injury.

Distribution:

Under Secretary for Science and Technology  
Under Secretary for Management  
Under Secretary for National Protection and Programs Directorate  
Under Secretary of Intelligence and Analysis  
Commissioner, U.S. Customs and Border Protection  
Commandant, United States Coast Guard  
Director, United States Secret Service  
Director, U.S. Citizenship and Immigration Services  
Administrator, Federal Emergency Management Agency  
Administrator, Transportation Security Administration  
Assistant Secretary, U.S. Immigration and Customs Enforcement  
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Assistant Secretary for Legislative Affairs  
Assistant Secretary for Public Affairs  
Assistant Secretary for Partnership and Engagement  
Director, Operations Coordination  
Officer for Civil Rights & Civil Liberties  
Chief Privacy Officer  
Citizenship and Immigration Services Ombudsman  
Military Advisor to the Secretary  
Director, Community Partnerships  
Executive Secretary

## Appendix II: DHS Commitment to Nondiscriminatory Law Enforcement and Screening Activities

Secretary


U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

April 26, 2013

### MEMORANDUM FOR COMPONENT HEADS

FROM: Secretary Napolitano 

Subject: The Department of Homeland Security's Commitment to Nondiscriminatory Law Enforcement and Screening Activities

The Department of Homeland Security's mission is to ensure that the Nation remains a safe, secure, resilient place where the American way of life can thrive. As former Secretary Ridge explained in the predecessor to this policy, "In all we do to secure America, our strategies and our actions must be consistent with the individual rights and civil liberties protected by the Constitution and the rule of law."

The Department of Homeland Security's policy is to prohibit the consideration of race or ethnicity in our investigation, screening, and enforcement activities in all but the most exceptional instances. The following is the Department's official policy on this issue:

*"Racial profiling" is the invidious use of race or ethnicity as a criterion in conducting stops, searches, and other law enforcement, investigation, or screening activities. It is premised on the erroneous assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity. The Department of Homeland Security (DHS) has explicitly adopted the Department of Justice's "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies," issued in June 2003. It is the policy of DHS to prohibit the consideration of race or ethnicity in our daily law enforcement and screening activities in all but the most exceptional instances, as defined in the DOJ Guidance. DHS personnel may use race or ethnicity only when a compelling governmental interest is present, and only in a way narrowly tailored to meet that compelling interest. Of course, race- or ethnicity-based information that is specific to particular suspects or incidents, or ongoing criminal activities, schemes or enterprises, may be considered, as stated in the DOJ Guidance.*

*Except as noted below, it is DHS policy, although not required by the Constitution, that tools, policies, directives, and rules in law enforcement and security settings that consider, as an investigative or screening criterion, an individual's simple connection to a particular country, by birth or citizenship, should be reserved for situations in which such consideration is based on an assessment of intelligence and risk, and in which alternatives do not meet security needs, and*



*such consideration should remain in place only as long as necessary. These self-imposed limits, however, do not apply to antiterrorism, immigration, or customs activities in which nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order, or in individualized discretionary use of nationality as a screening, investigation, or enforcement factor).*

All Components should include the DHS policy stated above in all manuals, policies, directives, and guidelines regarding any activity in which the use of race, ethnicity, or nationality may arise as a security screening, enforcement, or investigative criterion. Each Component, in coordination with the Department's Office for Civil Rights and Civil Liberties, should implement Component-specific policy and procedures to implement this guidance for law enforcement, investigation, and security activities. Moreover, all Components should ensure that all law enforcement personnel, including supervisors and managers, are trained to the standards set forth in the DOJ Guidance and the DHS policy stated above, and are held accountable for meeting those standards.

## Appendix III: DHS Policy Statement #045-06

FOR OFFICIAL USE ONLY

Deputy Secretary

U.S. Department of Homeland Security  
Washington, DC 20528Homeland  
Security

January 10, 2017

## MEMORANDUM FOR DEPARTMENT COMPONENT HEADS

FROM:

Russell C. Deyo  
Acting Deputy Secretary

SUBJECT:

**Required Reporting of Off-Duty Contact with Law Enforcement by DHS Law Enforcement Personnel and the Suspension and/or Revocation of Authority to Carry a Firearm or other Weapon and Perform Law Enforcement Duties**

Secretary Johnson and I greatly appreciate that every day, Department of Homeland Security (DHS or the Department) law enforcement personnel put their lives on the line in protection of our homeland. We recognize that law enforcement is a challenging occupation, characterized by high risks and inherent dangers. At the same time, DHS maintains an expectation that its law enforcement personnel will uphold the highest standards of conduct in both their personal and professional lives. To account for those occasions when a DHS law enforcement officer is involved in a situation where their conduct brings them into contact with, and places them under the scrutiny of law enforcement or the judiciary, this memorandum outlines the Department's policy for reporting such contact, and the potential implications on the law enforcement officer's authority to carry a firearm or other weapon and perform law enforcement duties.

Policy

This policy requires that DHS Components shall, at a minimum:

*Expand or Ensure DHS Law Enforcement Officers' Notification Requirements Include All Off-Duty Reportable Law Enforcement Officer/Agency or Judicial Contact*

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To ensure officer behavior is consistent with the Department's law enforcement mission, responsibilities, and values, the Department requires all law enforcement officers report to their supervisor all off-duty reportable contact with a law enforcement officer/agency as defined in Appendix A. DHS law enforcement officers must immediately report their arrest to their supervisor. DHS law enforcement officers must report all other off-duty reportable contact to their supervisor within 48 hours of the incident.

*Require Quarterly Advisement to DHS Law Enforcement Officers of their Duty Regarding Notification of Reportable Contact, the Lautenberg Amendment's Prohibitions on Carriage of Firearms, and Annual Lautenberg Certification*

As part of the Department's strong stand against crimes of domestic violence, DHS requires that all law enforcement officers receive a quarterly verbal advisement, during quarterly firearms qualifications, of their duty to notify management of any off-duty reportable contact with a law enforcement officer/agency, to include convictions for misdemeanor crimes of domestic violence and issuance of protective or temporary restraining orders, as well as notification of the Lautenberg Amendment's prohibitions on carriage of firearms. DHS also requires all law enforcement officers complete, on an annual basis, Lautenberg Amendment certifications regarding no conviction of a misdemeanor crime of domestic violence, as defined in Appendix A.

*Notification of Lautenberg Amendment Convictions Shall Result in the Immediate Suspension and Subsequent Revocation of Authority to Carry a Firearm or Perform Law Enforcement Duties*

The Lautenberg Amendment requires that a law enforcement officer convicted of a misdemeanor crime of domestic violence may not possess a firearm or ammunition. DHS law enforcement officers convicted of such crimes, including pleas of no contest or sentences of probation before judgment, will no longer be authorized to carry a firearm or perform law enforcement functions. When a Component is initially notified of a potentially qualifying conviction, the Component is required to suspend the law enforcement officer's authority to carry a weapon and perform law enforcement duties within 24 hours of such notification. Once the Component is able to confirm the existence of a qualifying conviction, in consultation with the Component's legal counsel as appropriate, the authority to carry a weapon and perform law enforcement duties must be revoked. Subsequently, Components will pursue reassignment from a law enforcement position, an adverse action for failure to meet a condition of employment, or an adverse action based on the underlying misconduct.

*DHS Law Enforcement Officer's Mandatory Notification of the Issuance of Protective Orders, Temporary Restraining Orders or any Other Court Order*

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*Restricting a DHS Law Enforcement Officer's Contact with Another Individual or Ability to Possess a Firearm*

Consistent with DHS's law enforcement mission, the Department requires all law enforcement officers report to their supervisor all protective and temporary restraining orders restricting their contact with another individual or their ability to possess a firearm, about which they are aware. Notification is required to be made within 48 hours of the law enforcement officer becoming aware of the protective order, temporary restraining order, or any other court order restricting the employee's contact with another individual or ability to possess a firearm. Upon notification of the issuance of protective or restraining orders, DHS Components must implement a process by which supervisors make an initial determination of the appropriate course of action, in consultation with Component leadership, Component counsel, the Component's Office of Professional Responsibility (or equivalent) and the Component's Office of Employee and Labor Relations (or equivalent) as appropriate.

*Mandatory Suspension of Authority to Carry a Firearm or other Weapon and to Perform Law Enforcement Duties Following Notification of Law Enforcement Officer/Agency Contact Involving an Allegation of Off-Duty Violence by a DHS Law Enforcement Officer and/or Issuance of a Protective or Temporary Restraining Order Related to an Allegation of Domestic Violence or Other Alleged Violent Behavior*

To best protect the interests of the public, the Department, the officer involved, and the alleged victim(s), this policy mandates the immediate suspension of an officer's authority to carry government-issued or otherwise authorized weapon(s) and to perform law enforcement duties upon notification of (1) an off-duty DHS law enforcement officer's contact with a law enforcement officer/agency where the allegation contains a component of unlawful or unjustified violence by the law enforcement officer; or (2) the issuance of a protective or temporary restraining order against a DHS law enforcement officer related to an allegation of domestic violence or based on some other form of alleged violent behavior, or the officer's ability to possess a firearm.

This policy requires that Components provide verbal notice to the officer at the time of suspension, with formal written documentation of the suspension of these authorities within five (5) business days after the date of verbal notification. This policy coincides with Component obligations to report all allegations of criminal misconduct and all allegations of serious, noncriminal conduct in accordance with DHS Management Directive 0810.1, dated June 10, 2004.

- For all circumstances requiring the formal reporting of misconduct in accordance with DHS Management Directive 0810.1, further assessments pertaining to the suspension of an officer's authority to carry government-issued or otherwise

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authorized weapon(s) and to perform law enforcement duties will be coordinated with the appropriate DHS internal investigative entity (Office of Inspector General and/or the Component Office of Professional Responsibility, or equivalent).

- For all circumstances that do not require the formal reporting of misconduct in accordance with DHS Management Directive 0810.1, Components will develop procedures to determine if continued suspension of an officer's authority to carry government-issued or otherwise authorized weapon(s) and to perform law enforcement duties is warranted. This will include an assessment into the facts and circumstances conducted by Component leadership (not less than a second-line supervisor) to determine whether continued suspension is warranted. In conducting such assessments, Component managers will consider both the law enforcement contact, action or order issued and the conduct of the officer involved. Even if a state or local court or law enforcement agency declines to take action, a review by Component managers may reveal that the officer's conduct is inconsistent with the continued authority to carry a firearm or other weapon or perform federal law enforcement duties.

In all situations where a Component suspends or revokes an officer's law enforcement authority to carry a firearm, DHS requires that Components immediately take custody of any government-issued firearms or other weapons, and where applicable, rescind, in writing, any previous authorizations to utilize a personally-owned firearm in the performance of the officer's duties.

*Take Prompt Remedial Action for Failure to Report Law Enforcement and Judicial Contact*

In accordance with this directive, upon awareness of an off-duty reportable contact that was not reported by a DHS law enforcement officer as required by this policy, DHS Components will review the situation, the factors underlying the failure to report, and take appropriate actions based on the information received, including discipline for misconduct as appropriate and in a manner consistent with law and regulation. DHS Components' policies will include penalties for a failure to report off-duty reportable contact.

*Mandatory Biannual Reporting of All Suspensions or Revocations of DHS Law Enforcement Officer's Authority to Carry a Firearm and Perform Law Enforcement Duties*

To promote greater transparency and accountability, DHS mandates that Department Components track and report to the Deputy Assistant Secretary for Law Enforcement Policy the number of law enforcement officers who have had their authorities suspended or revoked following off-duty contact with a law enforcement

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officer/agency or the issuance of a protective or temporary restraining order, and those who have subsequently had their authorities reinstated following internal agency review and assessment.

*Require Annual Training for all Department Supervisors of Law Enforcement Officers on Federal Law, Regulations, and Department Policy Regarding the Suspension or Revocation of an Officer's Law Enforcement Authorities*

As part of the Department's effort to establish sound policy and consistent practice regarding the suspension or revocation of a law enforcement officer's authorities, annual training will be provided to managers regarding the decision-making process associated with this policy.

*Require Annual Domestic Violence Awareness Training for all Department Law Enforcement Officers*

As part of the Department's strong stand against crimes of domestic violence, annual training will be provided to all Department law enforcement officers regarding these crimes to reinforce Department values and assist in preventing domestic violence.

Within 60 days from the date of this policy, each DHS Component shall designate an executive-level point of contact at the Component's headquarters office who will be responsible for the implementation of this policy, and for promoting compliance with its provisions, within his or her area of responsibility and who will consult with their Component privacy office to ensure appropriate Privacy Act coverage for the collection of this information. Upon designating a POC for this policy, DHS Components will provide DHS Law Enforcement Policy with their designee's contact information. In addition, within 60 days from the date of this policy, each DHS Component shall provide to DHS Law Enforcement Policy their plan to implement the policy, ensuring that responsibilities under labor relations statutes and union agreements are fulfilled, as applicable.

All questions regarding the scope and implementation of this policy should be directed to the Deputy Assistant Secretary for Law Enforcement Policy, Office of Policy.

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APPENDIX A

**Required Reporting of Off-Duty Contact with Law Enforcement by DHS Law Enforcement Personnel and the Suspension and/or Revocation of Authority to Carry a Firearm or other Weapon and Perform Law Enforcement Duties**

For the purposes of this policy, the following terms have the definitions set forth below:

*Convicted of a Misdemeanor Crime of Domestic Violence:* a law enforcement officer who has been found guilty under federal, state or tribal law of a crime defined by 18 U.S.C. § 921(a)(33)(A), provided that the law enforcement officer “was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case,” and, if the law enforcement officer was entitled to a trial by jury, the case was, in fact, tried by jury or the law enforcement officer “knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise,” 18 U.S.C. § 921(a)(33)(B). Convictions include no contest pleas and sentences of probation.

*Government-Authorized Personally Owned Weapon:* A firearm or other weapon that is not government-owned, but is authorized by the government for use by a law enforcement officer in performance of their official duties.<sup>1</sup>

*Government-Owned Weapon:* A firearm or other weapon owned by the government and assigned to a law enforcement officer for use in performance of their official duties.

*DHS Law Enforcement Officer:* For the purpose of this policy, a law enforcement officer is any employee within the Department who is duly sworn and authorized by law to carry a weapon, make arrests, or execute search and arrest warrants.

*Lautenberg Amendment:* Specifically refers to 18 U.S.C. § 922(g)(9), which prohibits anyone who has been convicted in any court of a misdemeanor crime of domestic violence from possessing any firearm or ammunition.

*Off-Duty Reportable Contact:* All instances where a DHS law enforcement officer is off-duty and not acting in an official capacity and is questioned, interviewed, detained, or arrested as a subject of an enforcement action or investigation by a law enforcement agency (either internal to DHS or external) during the course of said agency’s official duties to determine if the DHS law enforcement officer was a party to an alleged violation of law. Reportable contact also includes the known

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<sup>1</sup> Nothing in this policy shall be construed as interfering with the right of law enforcement officers to carry privately owned firearms for personal use as private citizens. Law enforcement officers are expected to comply with all applicable federal, state, and local laws when exercising this right.

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issuance of any protective order, temporary restraining order, or other court order restricting a DHS law enforcement officer's contact with another individual. Reportable contact excludes instances when a DHS law enforcement officer is contacted for civil violations or traffic violations where there was no allegation of violence, threat of violence, or where the civil or traffic violation did not include the possession or use of alcohol or drugs.

*Suspend Law Enforcement Authorities:* an affirmative management action, in writing and pursuant to any procedures which have been or may be established, which temporarily removes a law enforcement officer's authority to perform law enforcement duties and carry a government-issued firearm or other weapon, as well as the authority granted through their law enforcement position to carry a personally-owned or off-duty weapon as a result of alleged misconduct (including self-reported misconduct) or disciplinary action. The action results in the law enforcement officer's surrender of all DHS-issued firearms or other weapons, badges and credentials, and temporary removal of the authorization to carry a firearm in the performance of the officer's official duties and perform law enforcement duties, to include the authorization of home-to-work privileges.

*Revoke Law Enforcement Authorities:* an affirmative management action, in writing and pursuant to any procedures which have been or may be established, which permanently terminates a law enforcement officer's authority to perform law enforcement duties and carry a government-issued firearm or other weapon, as well as any authority previously granted through their law enforcement position to carry a personally-owned firearm while on duty. This action results in the law enforcement officer's surrender of all DHS-issued firearms or other weapons, badges and credentials, and termination of the authorization to carry a firearm in the performance of the officer's official duties, to include the authorization of home-to-work privileges. In accordance with law, regulation, and policy, a permanent revocation of firearms credentials may be grounds for reduction in grade, reassignment, or removal.

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**Appendix IV: CBP Domestic Violence Policy**



DEPARTMENT OF HOMELAND SECURITY  
 U.S. CUSTOMS AND BORDER PROTECTION  
 CBP DIRECTIVE

<b>DIRECTIVE NUMBER:</b> 51000-004	<b>EFFECTIVE DATE:</b> December 9, 2020
<b>SUPERSEDES:</b> N/A	<b>OFFICE:</b> Enterprise Services
<b>SUBJECT CODE:</b>	<b>SUB OFFICE:</b> Human Resources Management
<b>DISTRIBUTION:</b>	<b>PROGRAM OFFICE:</b> Human Resources Policy and Programs Directorate/Human Resources Policy and Regulatory Affairs Division

**U.S. CUSTOMS AND BORDER PROTECTION  
 DOMESTIC VIOLENCE POLICY**

**1 PURPOSE**

1.1 U.S. Customs and Border Protection (CBP) strives to promote a safe and healthy work environment for all employees, and to sustain a workforce that is free from the harmful effects of domestic violence.

**2 POLICY**

2.1 It is the policy of CBP to provide assistance to employees who are victims of domestic violence. It is also the policy of CBP to prohibit employees from committing domestic violence, and to ensure domestic violence offenders are held accountable for their actions.

**3 AUTHORITIES / REFERENCES**

- 3.1 Presidential Memorandum, Establishing Policies for Addressing Domestic Violence in the Federal Workforce (April 18, 2012);
- 3.2 Office of Personnel Management, Guidance for Agency-Specific Domestic Violence, Sexual Assault, and Stalking Policies (February 2013);
- 3.3 Title 5, Code of Federal Regulations, Part 735, Employee Responsibilities and Conduct;
- 3.4 Title 18, United States Code § 922(g)(9);
- 3.5 Department of Homeland Security Policy Directive 045-06, Required Reporting of Off-Duty Contact with Law Enforcement by DHS Law Enforcement Personnel and the Suspension and/or Revocation of Authority to Carry a Firearm or Other Weapon and Perform Law Enforcement Duties (January 10, 2017);
- 3.6 CBP Standards of Conduct, Directive 51735-013B (December 9, 2020);



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- 3.7 CBP Table of Offenses and Penalties (December 9, 2020);
- 3.8 Arrest of CBP Employees, Directive 51735-014A (December 9, 2020);
- 3.9 CBP Use of Force Policy, Guidelines and Procedures Handbook, HB 4500-01C (May 2014);
- 3.10 Delegation of Authority for Disciplinary and Adverse Actions, Delegation Order Number 20-017 (October 6, 2020).

#### 4 SCOPE

4.1 This Directive applies to all CBP employees. Where there are differences in this Directive and a negotiated union agreement, the negotiated union agreement shall govern over those matters concerning bargaining unit employees.

#### 5 RESPONSIBILITIES

5.1 Executive Assistant Commissioners; Chief, U.S. Border Patrol; Assistant Commissioners; and headquarters office executive leadership are responsible for ensuring compliance with the provisions of this Directive within their respective program offices, and for ensuring the necessary support and resources are available to supervisors and managers in their efforts to address employee and workplace issues caused by domestic violence.

5.2 The Assistant Commissioner, Office of Human Resources Management, is responsible for ensuring the provisions of this Directive are compliant with Federal regulations and OPM guidance, for providing administrative advice and support to supervisors and managers on domestic violence matters affecting the workplace, and promoting employee awareness of CBP's domestic violence policies.

5.3 The Office of Professional Responsibility (OPR) is responsible for investigating allegations of domestic violence and any workplace incidents related to acts of domestic violence, whether an employee is a victim or offender, and for serving as a CBP liaison with outside law enforcement entities.

5.4 Supervisors and managers are responsible for ensuring employees are aware of the provisions of this Directive, for maintaining a safe and non-threatening work environment, for offering assistance through the Employee Assistance Program (EAP) to employees who either commit or are affected by domestic violence, for following Agency policies and procedures, and for promptly initiating administrative action against employees who are domestic violence offenders.

5.5 Employees at all levels of CBP are responsible for upholding CBP's integrity and professionalism standards. With exception of employee victims, who are urged, all CBP



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employees are responsible for reporting any acts, suspected acts, or threats of domestic violence through their supervisory chain of command and OPR, and for considering use of the EAP and other resources that are available to improve personal health, wellness and safety.

## 6 DEFINITIONS

6.1 Domestic Violence – Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

6.2 Domestic Violence Offender – An individual who commits or threatens to commit an act of domestic violence.

6.3 Protection or Restraining Order – A protection order, also called a restraining order or stay-away order, is an order issued by a court to protect a victim from a perpetrator. Protection orders may be issued in criminal cases as a condition of probation or condition of release, particularly in a domestic violence, sexual assault, or stalking related crime.

6.4 Workplace – An employee's official duty station or alternative work location that is associated with the employee's established tour of duty (working hours). The employee is considered to be in the workplace while in or using the resources of CBP, or anywhere that he or she is conducting CBP business, or while on work-related travel.

6.5 Workplace-related incidents – Refers to incidents of domestic violence affecting the employee outside the workplace, including acts, attempted acts, or threatened acts by or against the employee and/or against the employee's family or property that are brought into the workplace, or that occur outside the workplace but have an impact on the workplace, or that occur inside the workplace.

## 7 STATEMENT OF CONFIDENTIALITY

7.1 CBP recognizes an employee's right to privacy and the need for confidentiality of all incidents of domestic violence. CBP will maintain the confidentiality of employee disclosures of domestic violence, both orally and in writing, received from both victims and perpetrators, to the extent permitted by law. In the event information must be disclosed to protect the safety of the disclosing employee or for the protection of others, CBP will limit such disclosure to that which is minimally necessary for protection and safety. CBP will attempt to provide advance notice to the disclosing employee that the information minimally necessary will be disclosed, to whom it will be disclosed, the reasons for the disclosure and the information being disclosed. Written disclosures must be kept in a confidential and separate file from employee personnel records.



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## 8 PROCEDURES

### 8.1 General Awareness

8.1.1 Supervisors must ensure their employees are aware of the policies and provisions of this Directive, and the Agency's prohibition against domestic violence.

8.1.2 Supervisors and managers are required to complete agency-sponsored training on how to manage and respond to employee victims or employee offenders of domestic violence, and any workplace-related incidents stemming from domestic violence.

8.1.3 CBP employees who exercise law enforcement authority,

8.1.3.1 CBP employees are required to receive a quarterly verbal advisement, during quarterly firearms qualifications (normally), of their duty to notify management of any off-duty reportable contact, as outlined in 8.3.4, with a law enforcement officer/agency, to include convictions for misdemeanor crimes of domestic violence and issuance of protective or temporary restraining orders, as well as notification of the Lautenberg Amendment's prohibitions on carriage of firearms. These employees are also required to complete an annual Lautenberg Amendment certification which certifies they have no convictions of a misdemeanor crime of domestic violence.

8.1.4 CBP employees are required to complete annual domestic violence awareness training.

### 8.2 Employee Victims of Domestic Violence

8.2.1 Reporting Requirements – Employees who are victims of domestic violence are urged, but are not required to immediately report the incident to their first-line supervisor, and/or to the Office of Professional Responsibility through the toll-free Joint Intake Center Hotline at 1-877-2INTAKE (1-877-246-8253) or [Joint.Intake@dhs.gov](mailto:Joint.Intake@dhs.gov).

8.2.1.1 Supervisors and managers are to act promptly and in accordance with applicable Agency procedures upon receiving a report of an employee victim of domestic violence. Relevant facts must be assessed to properly address any immediate effects on the employee and the workplace. Supervisors should consult with their senior management officials and contact the EAP for guidance.

8.2.2 Workplace Flexibilities – Various workplace flexibilities may be extended to employee victims of domestic violence, to the greatest extent permissible by law, and in accordance with CBP policies. Workplace flexibilities may include: various forms of paid, unpaid, and advanced leave, telework arrangements, and flexible work schedules. All possible leave options should be considered for employee victims of domestic violence. Employees must be sure to comply with procedural requirements of workplace



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flexibilities programs. The employee must disclose sufficient details about a domestic violence incident to enable the supervisor to make workplace flexibilities approval decisions. When the need for time off is foreseeable, an employee must provide reasonable advance notice to the agency.

8.2.3 Proof/Evidence – In making workplace flexibilities considerations, a supervisor may use an employee’s credible statements as proof of a domestic violence incident. Supervisors may request additional proof or verification, such as police or court reports, a service provider’s statement, a protection order, medical verification, or other forms of credible evidence, but employee-victims shall not be required to provide this information. If a supervisor believes that more information is needed before making a workplace flexibility decision, but more information is not provided by the employee-victim, then the agency will make a decision based on evidence already in the agency’s possession from the employee-victim.

8.2.4 Employee Autonomy – Supervisors must not request or require an employee victim of domestic violence to report the domestic violence incident to law enforcement authorities. To do so could ultimately place victims of domestic violence in greater danger. Furthermore, filing a report with law enforcement authorities should not be a condition for approving requests for leave or other workplace flexibilities.

8.2.5 Work Status – An employee can be charged absent without leave (AWOL) if the employee is absent from work without supervisory approval. Employee victims of domestic violence may later request to have charges of AWOL substituted by another form of leave, as permitted by Agency leave policies. AWOL substitutions are subject to supervisory approval, and based on the circumstances of each individual case.

8.2.6 Employee Referrals – Employees who are victims of domestic violence are encouraged to seek assistance through professional services (see Appendix A). In all instances, supervisors must refer employees to the EAP. Employee victims of domestic violence are advised to utilize EAP support services, although use of the EAP is not mandatory.

### 8.3 Employee Offenders of Domestic Violence

8.3.1 Workplace Incidents – Employees who commit acts of domestic violence in the workplace will be removed from the premises, reported to OPR, subject to arrest and/or prosecution, and subject to disciplinary/adverse action, up to and including removal from Federal service.

8.3.2 Employee Reporting Requirements – An employee who (whether on or off-duty) is arrested, receives a summons or citation to appear in court on criminal charges, is indicted or convicted of domestic violence, or is the subject of a protection or restraining order must report the incident to their first line supervisor (or other manager within their chain of command) and to OPR (1-877-2INTAKE) as soon as possible. If arrested, an



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employee must report the arrest immediately, or as soon as possible, but not more than 24 hours after the arrest. If reporting the arrest within the prescribed timeframe is precluded by circumstances of the arrest, then it must be reported as soon as circumstances allow, along with a full explanation of the reason the arrest was not reported immediately.

8.3.3 Arrest Notification – Upon receiving notification of an employee arrest/incarceration for domestic violence, supervisors must promptly follow Agency procedures as outlined in the Arrest of CBP Employees Directive (#51735-014A).

8.3.4 Law Enforcement and Judicial Contact Notification – CBP employees who exercise law enforcement authority who are off-duty and not acting in an official capacity and are questioned, interviewed, or detained as a subject of an enforcement action or investigation by a law enforcement agency during the course of the agency's official duties to determine if the CBP employee was a party to an alleged violation of law, must report this contact with law enforcement within 48 hours to their first-line supervisor. These CBP employees must also report the known issuance of any protective order, temporary restraining order, or other court order restricting contact with another individual or ability to carry a firearm. This reporting excludes civil violations or traffic violations where there is no allegation of violence, threat of violence, or where the civil violations or traffic violations did not include the possession or use of alcohol or drugs.

8.3.5 Work Status (Arrest/Incarceration) – Leave requests will be handled consistent with negotiated agreements, Directives, and Federal regulations.

8.3.6 Administrative Action – In accordance with the CBP Standards of Conduct and Table of Offenses and Penalties, employees who commit or threaten to commit acts of domestic violence will have administrative action taken against them. Both on and off duty acts of domestic violence can result in administrative action, i.e., disciplinary action ranging up to removal from Federal service, even for a first offense. Supervisors should contact their servicing LER Specialist early in the process for advice, and initiate swift and immediate administrative action for domestic violence offenses.

8.3.6.1 Indefinite Suspension – Where a nexus exists, an employee will be placed on indefinite suspension when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. Indefinite suspension places an employee in a temporary non-duty/non-pay status pending investigation, inquiry, or further Agency action, in accordance with Agency procedures and consistent with Federal regulations. Supervisors should immediately consult with their LER Specialist to ensure employees are placed on indefinite suspension expeditiously, as circumstances warrant.

8.4 CBP Firearms/Defensive Equipment – Employees with authority to carry a firearm, ammunition, and other CBP defensive equipment in the performance of their duties will normally have their authority revoked following an arrest or charge of domestic violence for thirty days following the arrest or charge. After 30 days, CBP will follow the procedures set



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forth in the Collective Bargaining Agreement (if applicable), and decide whether under all of the circumstances the Officer's firearm carriage authority should be reinstated. In rare circumstances, if no nexus exists, management will reinstate the officer's authority to carry a firearm and return the service-issued firearm as soon as practicable, within the initial 30 days. The revocation of authority to carry a firearm will continue throughout the disposition or proceedings of a domestic violence case. An employee who commits domestic violence will have all law enforcement authority revoked during the pendency of the matter, in accordance with Agency procedures.

**8.5 Conviction of Domestic Violence (Lautenberg Amendment)** – Under certain provisions of the Federal Gun Control Act, employees who are subject to a protective order related to domestic violence or convicted of a qualifying misdemeanor crime of domestic violence are prohibited from possessing or carrying firearms or ammunition (18 U.S.C. 922(g)). The provision regarding misdemeanor crimes of domestic violence is known as the "Lautenberg Amendment," which does not afford an exemption for those who carry firearms in the performance of their official duties. Within 24 hours of receiving notification of a potentially qualifying conviction, CBP will temporarily rescind and may subsequently revoke the employee's authority to carry a firearm and perform law enforcement duties. Therefore, any employee who must carry a firearm or ammunition in the performance of their duties as a condition of employment may face disciplinary action, up to and including removal from Federal service, if impacted by the Lautenberg Amendment. In the cases where the conviction has been expunged, consult the collective bargaining agreement. Absent other outstanding misconduct issues, an authorized officer who has had a domestic violence conviction (i.e., Lautenberg Amendment) expunged will be treated as if the conviction had never occurred, e.g. the authorized officer will be permitted to carry a firearm in accordance with the provisions of the CBP Use of Force Policy, Guidelines and Procedures Handbook, HB 4500-01C.

**8.6 Self-Help Referrals** – Employees who commit domestic violence are encouraged to seek self-help through professional services, to include services offered by the EAP. However, appropriate disciplinary action may still be imposed for committing an act of domestic violence even if an employee seeks self-help. The employee's supervisor should remind the employee of the availability of EAP services, although use of the EAP is not mandatory.

## **9 WORKPLACE SAFETY AND PRECAUTIONS**

**9.1 Office Security** – Supervisors should be prepared to follow their local safety procedures with regards to threats or emergencies related to acts of domestic violence. Workplace safety plans should be properly executed. Supervisors and security personnel should ensure office safety precautions are administered to protect employees against impermissible entry into a work environment by unauthorized individuals.

**9.2 Workplace-Related Incidents** – Supervisors should appropriately address any employee circumstances that may lead to domestic disturbances in the workplace. In some instances, both a domestic violence victim and offender may be assigned to the same work unit or locale, and may need to be separated during work hours. If an employee has a protective order against



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another employee, and the order allows the alleged offender to report to a nearby or same work location, consideration should be given to changing the alleged offender's duty location or the employee-victim's duty location (if more feasible and the employee-victim requests/or agrees to the change), granting telework options, or changing tours of duty as preventive and protective measures. Impacted employees should be directed to avoid contact while on duty.

## 10 NON-DISCRIMINATION

10.1 CBP is committed to treating all individuals in a non-discriminatory manner, without regard to their protective status under Federal law, Executive Order, regulation, or policy in all employment programs and management decisions, to include those involved in or affected by domestic violence. CBP policy strictly prohibits any form of unlawful discrimination. Any employee, applicant for employment, or former employee who believes he or she has been discriminated against because of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age, physical or mental disability, status as a parent, genetic information, or experienced retaliation for prior EEO involvement, and wishes to file an EEO complaint, must seek informal EEO counseling within 45 calendar days of the alleged discriminatory event by: emailing the CBP EEO Complaint Filing Mailbox at [cbpeocomplaintfiling@dhs.gov](mailto:cbpeocomplaintfiling@dhs.gov); calling 1-877-MY-EEO-HELP (1-877-693-3643); or contacting the servicing EEO Specialist.

10.2 CBP is committed to ensuring domestic violence communications, resources, assistance, and workplace flexibilities are afforded to all employees, including those with limitations or disabilities.

DEC 11 2020

Mark A. Morgan  
Chief Operating Officer and  
Senior Official Performing the Duties of the Commissioner  
U.S. Customs and Border Protection

Date





DEPARTMENT OF HOMELAND SECURITY  
U.S. CUSTOMS AND BORDER PROTECTION  
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APPENDIX

**DOMESTIC VIOLENCE ASSISTANCE AND RESOURCES**

Local law enforcement – Dial 911 in case of an emergency

CBP Office of Professional Responsibility – Joint Intake Center  
877-246-8253

CBP Employee Assistance Program  
800-755-7002

National Coalition Against Domestic Violence  
[www.ncadv.org](http://www.ncadv.org)

National Domestic Violence Hotline  
1-800-799-SAFE  
[www.thehotline.org](http://www.thehotline.org)

U.S. Office of Personnel Management  
[www.opm.gov](http://www.opm.gov)

U.S. Department of Justice  
[www.doj.gov](http://www.doj.gov)

## Appendix V: Use of Force Policy Clarification - Emergency Situations

440 Koonce Road  
Harpers Ferry, WV 25425



**U.S. Customs and  
Border Protection**

AUG 12 2019

MEMORANDUM FOR: See Distribution

THROUGH: William A. Ferrara  
Executive Assistant Commissioner  
Operations Support *William A. Ferrara*

FROM: Christopher A. Bishop *Chris A. Bishop*  
Acting Director  
Law Enforcement Safety and Compliance Directorate

SUBJECT: Use of Force Policy Clarification – Emergency Situations

Generally, prior to being issued any U.S. Customs and Border Protection (CBP) authorized use of force device or firearm, the CBP Use of Force Policy mandates that all CBP law enforcement personnel receive training and demonstrate an acceptable level of proficiency on each of the devices or firearms they are issued. Failure to ensure the proper training of its personnel and/or require its personnel to demonstrate proficiency exposes the agency to allegations of negligent or inadequate training, judgment or supervision. Furthermore, officers and agents that carry or deploy use of force devices or firearms on which they have not received the appropriate training or demonstrated the required level of proficiency may also be found negligent. In either of the above cases, the agency may be liable under relevant tort law statutes. However, understanding the often unpredictable nature of law enforcement encounters, the CBP Use of Force Policy contains specific exceptions for emergency situations. The purpose of this memorandum is to clarify what constitutes an emergency situation.

An emergency situation can be defined as an unplanned event or exigent circumstance that occurs with no advanced warning, rapidly evolves, and which requires a reactive response to address an imminent threat. In such threatening and emergent situations, authorized officers and agents may use any available weapon in a manner that is reasonable, and necessary for self-defense or the defense of another person.<sup>1</sup> In these situations officers and agents must remember that the manner in which any less-lethal device or firearm is used must still comply with the objectively reasonableness analysis to which all law enforcement uses of force are subjected. For instance, deadly force must not be used unless there is a reasonable belief that the subject of such force poses an imminent threat of death or serious physical injury.

<sup>1</sup> CBP Use of Force Policy, Guidelines and Procedures Handbook, Office of Training and Development, HB 4500-01C, Chapter 4: *Guidelines and Procedures on the Use of Less Lethal Force*, at 37.

## Use of Force Policy Clarification – Emergency Situations

Page 2

In contrast, an emergency situation does not exist when the agency has advance notice, with time to plan operations and prepare for incidents that may occur in the near future. As a proactive measure to address potential threats, officers or agents must not be issued, carry, or use a less-lethal device or firearm for which they have not met the minimum training and proficiency standards.

In addition to the training and proficiency requirements listed above, CBP law enforcement personnel may only be issued and carry use of force devices or firearms that are listed on the Authorized Equipment List.

Please feel free to contact me if you have any questions. If members of your staff have any questions, they may contact Christopher A. Bishop, Acting Director, LESC, at (304) 724-5922 or email Christopher A. Bishop@cbp.dhs.gov.

Distribution: Commissioner  
Deputy Commissioner  
Executive Assistant Commissioners  
Chief, U.S. Border Patrol  
Assistant Commissioners

## Appendix VI: Glossary

Active Resistance - A type of resistance where physical attributes are being used to resist an officer/agent's control efforts. The efforts are not directed toward the officer/agent but rather appear intended to thwart an officer's/agent's control efforts.

Authorized Officers/Agents - CBP Officers, Border Patrol Agents, Air and Marine Officers and Agents, OPR Special Agents and Investigators, and other qualified CBP personnel as designated by the Commissioner of CBP.

### Assault

Reportable Assault (Reportable in E-STAR) - Any action which meets the definition of Assault, Assaultive Resistance (Physical Injury, Serious bodily injury), or Transferred Intent regardless of whether or not the subject was apprehended, identified, or the prosecutorial disposition.

Assault - A physically manifested attempt or threat to inflict injury on CBP personnel, whether successful or not, which causes a reasonable apprehension of imminent bodily harm.

Assaultive Resistance (Physical Injury) - Resistance characterized by a level of aggression or violence that causes or has the potential to cause physical injury to the officer/agent, others, or self. This includes a subject's attempts (or apparent intent) to make physical contact in an attempt to control or assault the officer/agent.

Assaultive Resistance (Serious Bodily Injury/Death) - Resistance characterized by a level of aggression or violence that causes or has the potential to cause serious bodily injury or death to the officer/agent, others, or self.

Transferred Intent - When an intent to cause harm to one person results in harm or damage to another person or a thing instead of the intended human target. (e.g., when a launched or thrown projectile strikes an officer or agent's vehicle, but misses the area in which an officer/agent is sitting).

Authorized Equipment List (AEL) - A list of equipment that the LESC has tested, evaluated, and authorized for use within CBP. All equipment must be approved for field use by the DO. The AEL can be found on the LESC section of CBPnet.

Body Armor Coordinator (BAC) - A designated employee who is responsible for ordering and issuing body armor as required.

Carry - Carry (of a handgun) refers to any manner of carry that implies the handgun is ready to be drawn and fired if necessary. Carry (of a shoulder-fired weapon) refers to any manner of carry that implies the firearm is ready to be utilized for law enforcement operations.

CBP Firearm (as referenced in this Handbook) - A firearm that has been authorized by the Executive Director of the LESC, and approved for use by a Designated Official.

Co-Authority (COA) - An individual designated by the Responsible Official to act in his/her stead in all functions in the Firearms, Armor and Credentials Tracking System (FACTS).

Collapsible Straight Baton (CSB) - A less-lethal device composed of cylindrical shafts that lock into each other when expanded. The shafts are usually made of steel, but lightweight baton models may have shafts made from aluminum alloy.

Compliance Techniques - Actions taken by an Authorized Officer/Agent on a subject to establish and maintain control. Examples of compliance techniques include the use of Oleoresin Capsicum (OC) spray, strike pressure points, stunning techniques, takedowns, joint manipulations and use of an Electronic Control Weapon (ECW).

Compressed Air Launcher - A less-lethal impact/chemical irritant delivery system that is powered by compressed air. The launcher can deliver a variety of less-lethal projectiles including, PAVA pepper powder, non-toxic marking rounds, and those designed for kinetic impact.

Contact Controls - Actions taken by an Authorized Officer/Agent on a subject to establish and maintain control. Contact controls may include measures such as strategic positioning, escort holds, joint manipulation or immobilization, or touch pressure point stimulation.

Controlled Noise and Light Distraction Device (CNLDD) - A pyrotechnic less-lethal device designed to emit a bright light and loud noise to momentarily disorient and confuse subjects.

Cooperative Controls - Actions taken by an Authorized Officer/Agent on a subject to establish and maintain control. Cooperative controls may include verbal commands.

Counter Assault Techniques - Actions taken when a subject has either assaulted the officer/agent or is displaying a willingness and intent to do so. Examples of counter assault techniques are concentrated strikes involving the use of empty-hand techniques (e.g., the use of body parts as weapons), the CSB and the ECW.

Deadly Force - Any use of force that carries a substantial risk of causing death or serious bodily injury (see “Use of Force” and “Serious Bodily Injury”). Deadly force does not include force that is not likely to cause death or serious bodily injury, but unexpectedly results in such death or injury. In general, examples of deadly force include, but are not limited to, intentional discharges of firearms against persons, uses of impact weapons to strike the neck or head, any strangulation technique, strikes to the throat, and the use of any edged weapon.

Designated Official - Executive Assistant Commissioners and Chief, United States Border Patrol (or their Headquarters designees); Assistant Commissioner, Office of Professional Responsibility; and the Executive Director, Law Enforcement Safety and Compliance Directorate.

Disabling Fire - Discharge of a firearm for the purpose of preventing a non-compliant moving vehicle, vessel, aircraft, or other conveyance from operating under its own power, but not intended to cause bodily injury.

Electronic Control Weapon (ECW) - A less-lethal device which is designed to use short-duration electronic pulses to cause Neuro-Muscular Incapacitation (NMI) and/or pain, with minimal risk of serious bodily injury or death.

Emergency Situation - An unplanned event or exigent circumstance that occurs with no advanced warning, rapidly evolves, and which requires a reactive response to address an imminent threat.

Employee Assistance Program (EAP) - A CBP program established to provide assistance and guidance to employees.

Empty Hand Strikes - Strikes delivered by a body part (e.g. palm heel strike, jab, cross, elbow strike, snap kick, or knee strike).

Enforcement Action Statistical Analysis and Reporting System (E-STAR) - A CBP computer system for recording assaults, reportable uses of force, pursuits, reportable firearms discharges, and other related data.

Field Armorer (FA) - A CBP-certified firearms instructor who has been LESC trained and certified to conduct limited maintenance and repair of CBP firearms.

Firearms Coordinator (FCO) - A designated employee who is responsible for receiving, controlling and issuing CBP firearms and associated equipment to CBP personnel within their duty area.

Firearms Instructor (FI) - An Authorized Officer/Agent who has been LESC trained and certified to conduct firearms training, tactics, and proficiency evaluations for CBP Authorized Officers/Agents.

Firearms, Armor, and Credential Tracking System (FACTS) - A CBP computer system that provides oversight and lifecycle accountability for specified law enforcement assets and equipment (including firearms, body armor, ECWs, and munition launchers).

FN303 - A less-lethal launcher, powered by compressed air, that delivers frangible, plastic projectiles filled with capsaicin powder. The projectiles are designed to burst upon impact and disperse the capsaicin powder either into the environment (area saturation) or onto the subject(s) (kinetic impact).

International Boundary Barrier (IBB) - A physical barrier at or between Ports of Entry and placed along the international boundary, which has been designed, manufactured and/or constructed with the capability of controlling the flow of people and goods crossing the border.

The Law Enforcement Safety and Compliance Directorate (LESC) - A division of CBP Operations Support responsible for development of CBP use of force policy, procurement of CBP firearms and tactical equipment, and the development and oversight of use of force training for CBP.

Less-Lethal Coordinator (LLCO) - A designated employee who is responsible for receiving, controlling, and issuing CBP less-lethal use of force equipment to CBP personnel within their duty area.

Less-Lethal Force: Any use of force that is neither likely nor intended to cause death or serious bodily injury (see “Use of Force” and “Serious Bodily Injury”). Also known as “non-deadly,” “intermediate,” or “less-than-lethal” force.

Less-Lethal Instructor (LLI) - An Authorized Officer/Agent who has been LESOC trained and certified to conduct less-lethal training, tactics, and proficiency evaluations for CBP Authorized Officers/Agents.

Less-Lethal Training Safety Officer (LLTSO) - An officer/agent trained in less-lethal safety procedures to augment safety requirements during authorized less-lethal training.

Less-Lethal Specialty Impact and Chemical Munition (LLSI-CM) - Less-lethal munitions that are designed to deliver impact, chemical irritant, or both. LLSI-CM can be delivered by means of designated hand thrown munitions or by a munitions launcher.

Mechanical Resistance - A type of active resistance where an object external to physical attributes is used to increase the effectiveness of resistance to an officer/agent’s control efforts. The efforts are not directed toward the officer/agent but rather appear intended to thwart an officer’s/agent’s control efforts by physically securing or holding another object.

Munition Launcher - A less-lethal specialty impact/chemical munition (LLSI-CM) delivery system that is designed to deliver an impact projectile, a chemical irritant projectile, or a combination projectile with more accuracy, higher velocity, and longer range than a projectile deployed by hand.

Non-Standard Firearm - A firearm that is not on the CBP Authorized Equipment List.

O-Chlorobenzylidenemalononitrile (CS) - The active ingredient in CS gas or spray.

Offensive Driving Techniques (ODT) - ODTs are any driving technique that is consistent with CBP training and is intended to end a pursuit through intentional vehicle-to-vehicle impact.

Oleoresin Capsicum (OC) - The active ingredient in OC spray, derived from cayenne pepper.

OC Spray - A hand held aerosol less-lethal device that disperses the inflammatory agent capsaicin in a conical mist, stream, gel or foam.

Passive Resistance - A type of resistance that is not believed to represent an immediate threat or flight risk, and which is not physical resistance to an Authorized Officer's/Agent's control efforts, but is not cooperative.

Pepperball Launching System (PLS) - A less-lethal launcher, powered by compressed air, that typically delivers frangible, plastic projectiles filled with capsaicin powder. The projectiles are designed to burst upon impact and disperse the capsaicin powder either into the environment (area saturation) or onto the subject(s) (kinetic impact).

Personal Property Management Oversight Board (PPMOB) - A board composed of representatives from all CBP offices that determines the disposition of lost or stolen CBP assets.

Range Safety Officer (RSO) - An officer/agent trained in range safety procedures and utilized as a safety officer.

Reportable Use of Force (Reportable in E-STAR) - Any use of deadly force; any intentional deployment of a CBP less-lethal device; or any use of a vehicle, weapon, physical tactic or technique that delivers (or is intended to deliver) a kinetic impact to a subject.

Responsible Officials (RO) - Executive Assistant Commissioners (EACs), Chief, U.S. Border Patrol (USBP); Assistant Commissioners (ACs); Chief Patrol Agents (CPA); Directors, Field Operations (DFO); Directors, Air Operations and Marine Operations (DAO, DMO); Executive Director of the Law Enforcement Safety and Compliance Directorate (LESC); Executive Directors, Office of Professional Responsibility (OPR);



Division Directors, Office of Training and Development (OTD); and other officials designated in writing by the Commissioner.

Serious Bodily Injury - Physical injury that involves long-term and obvious disfigurement; long-term loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death.

Shoulder-Fired Weapon (SFW) - A CBP rifle, shotgun, or other long arm.

Totality of Circumstances - The consideration of all facts and circumstances applicable in a particular law enforcement encounter.

Uniformed Law Enforcement Officer/Agent - Authorized Officers/Agent wearing the official uniform of the three uniformed components of CBP: Air and Marine Operations, Office of Field Operations, or United States Border Patrol.

Use of Force - When a law enforcement tactic, technique, less-lethal device or weapon is used to arrest a subject, address a potential threat, or ensure compliance with a lawful order.

Use of Force Device - Any item designed or marketed as a device which is intended to cause pain or discomfort to modify the behavior of an individual or group. This includes, but is not limited to, devices that may modify an individual's behavior through:

1. Acoustics;
2. Focused or Directed Light;
3. Electrical Current;
4. Directed Energy;
5. Kinetic Impact; or
6. Chemicals.

Vehicle Immobilization Device (VID) - A specialized device whose deployment is intended to result in the controlled deflation of a vehicle tire or otherwise cause a vehicle to stop.

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

**202112280**



**EXHIBIT - 34**

**DEPARTMENT OF HOMELAND SECURITY  
U. S. CUSTOMS AND BORDER PROTECTION  
OFFICE OF PROFESSIONAL RESPONSIBILITY**

 <p style="text-align: center;"><b>DEPARTMENT OF HOMELAND SECURITY</b> <b>Customs and Border Protection</b></p> <p style="text-align: center;"><b>REPORT OF INVESTIGATION</b></p>		<p><b>1. CASE NUMBER</b> 202112280</p>
		<p><b>PREPARED BY</b> [REDACTED]</p>
		<p><b>2. REPORT NUMBER</b> 033</p>
<p><b>3. TITLE</b> EMPLOYEE, UNKNOWN/Unknown/1905 Detainee/Alien - Humanitarian Issues/DEL RIO, VAL VERDE, TX</p>		
<p><b>4. FINAL RESOLUTION</b></p>		
<p><b>5. STATUS</b> Interim Report</p>	<p><b>6. TYPE OF REPORT</b> Memo of Interview</p>	<p><b>7. RELATED CASES</b> [REDACTED]</p>
<p><b>8. TOPIC</b> Interview of USBP Chief [REDACTED]</p>		
<p><b>9. SYNOPSIS</b></p> <p>On September 20, 2021, U.S. Customs and Border Protection (CBP), Office of Professional Responsibility (OPR), Del Rio, Texas, received information concerning an incident involving Border Patrol Agents (BPAs) from the U.S. Border Patrol (USBP), Carrizo Springs Station (CAR) Horse Patrol Unit (HPU), Carrizo Springs, Texas. The incident occurred at an area commonly known as "the boat ramp," approximately three to four tenths of a mile east of the Del Rio Port of Entry (Del Rio POE), Del Rio, Texas, located in the Western District of Texas.</p> <p>On April 7, 2022, Resident Agent in Charge (RAC) [REDACTED] [REDACTED] and Senior Special Agent (SSA) [REDACTED] [REDACTED] interviewed USBP Chief [REDACTED]. The interview was video and audio recorded with StarWitness equipment and uniquely identified by Authentication Code [REDACTED].</p>		
<p><b>10. CASE OFFICER (Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>11. COMPLETION DATE</b> 08-APR-2022</p>	<p><b>14. ORIGIN OFFICE</b> CBP OPR RAC DEL RIO</p>
<p><b>12. APPROVED BY(Print Name &amp; Title)</b> [REDACTED] - CBP OPR Special Agent Supervisor</p>	<p><b>13. APPROVED DATE</b> 08-APR-2022</p>	<p><b>15. TELEPHONE NUMBER</b> [REDACTED]</p>
<p>THIS DOCUMENT IS LOANED TO YOU [REDACTED] AND REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, DEPARTMENT OF HOMELAND SECURITY, TOGETHER WITH A COPY OF THE DOCUMENT.</p>		
<p>THIS DOCUMENT CONTAINS INFORMATION REGARDING CURRENT AND ON-GOING ACTIVITIES OF A SENSITIVE NATURE. IT [REDACTED] REMAINS THE PROPERTY OF THE DEPARTMENT OF HOMELAND SECURITY IT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF THE DEPARTMENT OF HOMELAND SECURITY. DISTRIBUTION OF THIS DOCUMENT HAS BEEN LIMITED AND FURTHER DISSEMINATION OR EXTRACTS FROM THE DOCUMENT MAY NOT BE MADE WITHOUT PRIOR WRITTEN AUTHORIZATION OF THE ORIGINATOR.</p>		

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

033

**10. NARRATIVE**

Chief [REDACTED] was present at the Del Rio POE during the migrant surge that occurred in September of 2021. He arrived on either Friday, September 17, or Saturday, September 18. In response to the large population of migrants accumulated underneath and around the Del Rio POE, Chief [REDACTED] ordered Del Rio Sector (DRT) horse patrol units (HPU) to respond to the Del Rio POE.

Chief [REDACTED] made the decision to deploy HPU personnel to the POE based on his experience working as a HPU member in San Diego in 1994 through 1996. HPU training at the time included instruction on crowd control. Training programs for the HPU, at that time, were not standardized across the USBP but were instead individual local programs with their own training standards. Since that time, HPU training has become standardized as a part of national program with a curriculum of instruction that is consistently taught to all HPU units.

Upon his arrival in Del Rio, Chief [REDACTED] observed USBP personnel overwhelmed by the number of migrants in the area. Not having enough BPAs and interagency partners, Chief [REDACTED] was concerned about potential unrest amongst the migrant population and about the safety of law enforcement personnel on scene as well as civilian support personnel assisting with the migrant surge response.

Chief [REDACTED] asked the local management personnel, [REDACTED] and Incident Commander (IC) [REDACTED], to make sure as many USBP personnel as possible were brought into the area to help control and manage the situation and minimize injury or civil unrest.

Chief [REDACTED] observed several aggravating factors that contributed to an increased danger to the safety of the migrants and to USBP personnel. These factors included the heat and the lack of life necessities, such as food and water, available to the migrant population inside the encampment. Local USBP leadership personnel explained to Chief [REDACTED] that this shortage of food and water resulted in numerous migrants traveling back and forth into Mexico by crossing the Rio Grande River to obtain these necessities and bring them to the encampment.

On Saturday, September 18, 2021, Chief [REDACTED] observed the overall situation and sought means to shrink the population of the migrant encampment. He asked [REDACTED] what local resources were available to augment manpower. HPU personnel from the Del Rio station had already been on site during the week. Chief [REDACTED] decided to mobilize the CAR HPU.

When the CAR HPU arrived, Chief [REDACTED] spoke to them, realizing they were not familiar with the area or the overall situation occurring at the Del Rio POE. Chief [REDACTED] instructed them to use their

## DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION  
CONTINUATION

## 1. CASE NUMBER

202112280

## PREPARED BY

## 2. REPORT NUMBER

033

**10. NARRATIVE**

vantage point from horseback to observe the crowds and ensure the safety of the migrants and BPAs on the ground. Specifically, he instructed them to "eyes and ears" for any situation that may be cause for a safety concern and to report any concerning situation to USBP leadership. This was to be done in support of the overall operational objective of consolidating the population from areas around the Del Rio POE into the centralized location underneath the bridge.

Chief [REDACTED] was concerned the single adult population of migrants could become frustrated and restless. Chief [REDACTED] believed the presence of mounted BPAs could serve to pacify the crowds through the physical presence of the horse.

Chief [REDACTED] gave the order to mobilize the CAR HPU to Patrol Agent in Charge (PAIC) [REDACTED]

During the interview, OPR investigators asked Chief [REDACTED] about the current national horse patrol training curriculum. Chief [REDACTED] said the curriculum has portions that address mounted operations in and around crowds, although this section of training does not constitute a large portion of the overall training program.

Chief [REDACTED] said, in hindsight, he would have focused more efforts to improve overall command and control of operations during the migrant surge in September of 2021. Further, as the senior law enforcement officer on the scene, he said he should have communicated clear "rules of engagement" and then deconflicted those rules of engagement within the unified command of all law enforcement personnel on the scene. Chief [REDACTED] said that after the incident with the horse patrol on September 19, 2021, he instructed IC [REDACTED] and [REDACTED] to begin holding daily unified command briefings with the leaders from the other law enforcement entities present at the scene.

Chief [REDACTED] said, in hindsight, he would have integrated the newly arriving members of the CAR HPU with members of the Del Rio HPU, who had been on scene prior to the event, so the CAR HPU members would have a clearer understanding of their role and what was expected of them. He also said communications amongst USBP leadership and with the other law enforcement agencies on the scene could have been improved during the event.

**DEPARTMENT OF HOMELAND SECURITY**

**1. CASE NUMBER**

202112280

**PREPARED BY**

[REDACTED]

**2. REPORT NUMBER**

033



**REPORT OF INVESTIGATION  
Exhibit List**

None



June 28, 2022

## MEMORANDUM

### Modification of report 202112280 due to clerical error

The purpose of this memorandum is to memorialize a clerical error identified in report 202112280 and the steps taken to correct the error.

During the redaction process of report 202112280 the CBP Office of Professional Responsibility (OPR) identified a clerical error beginning on page 14/510. Within paragraph three of this page, the sentence, "*The interview was audio and video recorded using Star Witness equipment and is uniquely identified by Authentication Code: [REDACTED] (Exhibit 8),*" incorrectly identifies the audio/video recording of the interview as Exhibit 8 instead of Exhibit 9. On the previous page, 13/510, Exhibit 8 is already used to identify the referenced document, "*Class Action Complaint – 1:21-cv-03317.*"

This error caused the numerical order of Exhibits 9 through 33, within the text of the main report (pages 2/510 – 51/510), to be incorrect by one number (i.e., Where 9 should be 10, 10 should be 11, etc.).

The list of exhibits found on page 52/510 correctly lists the numerical order of exhibits for report 202112280. CBP OPR corrected the error by adjusting the exhibit numbers, within the narrative, beginning on page 14/510 and ending on page 51/510 of the main report of investigation. No other changes were made.

**DANIEL P ALTMAN**

Digitally signed by DANIEL P  
ALTMAN  
Date: 2022.06.28 10:24:14 -04'00'

Daniel P. Altman  
Executive Director  
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