

Attachment 2

In March 2014, IJC emailed the CBP NGO liaison with a request to conduct an interview regarding use of force issues and lack of accountability. After follow-up emails and phone calls, the liaison asked IJC to provide a list of topic questions in order for the liaison to direct IJC to the relevant CBP official for an interview. The six following questions were provided:

1. The CBP Use of Force Handbook provides guidelines for the appropriate amount of force agents should use in a given situation. What policies does the CBP have in place to determine that agents are informed of these guidelines? Are agents tested on these guidelines routinely?

Can you comment on the Department of Homeland Security Inspector General report criticizing that the agents are not informed? The DHS report provided that field audits findings suggested that some trainings did not satisfy the required hours, did not administer writing portion, etc. According to the report, an audit of Border Patrol training showed that “many agents and officers do not understand use of force and the extent to which they may or may not use force.”

2. The CBP Use of Force Handbook provides that there are specific procedures for investigations of the use of force incidents. We would like to know what the policy is in determining which incidents get investigated. It is our understanding that it is in the CBP's discretion whether to pursue the investigation or not.

3. How are investigations conducted and what information other than that provided by the agents involved in the incident is considered?

4. Who determines what disciplinary action is appropriate for an officer who used excessive force? Our understanding is that the UFPD Incident Review Committee is authorized to review any incident in which use of force is employed, whether by a CBP employee or directed at such an employee. The UFPDIRC's primary role is to allow qualified experts an opportunity to internally analyze these incidents but it will not provide recommendations concerning disciplinary or adverse actions.

5. We mentioned that we are working on the shadow report for the monitoring body of the Convention on Elimination of All Forms of Racial Discrimination (CERD), to which the U.S. is a party. In 2008 the CERD Committee reviewed the U.S. compliance with CERD obligations and the domestic implementation of the treaty. The CERD Committee voiced its concern over the pervasive use of police brutality at the U.S.-Mexico border against persons belonging to racial, ethnic or national minorities. The Committee provided its recommendations for the U.S. to increase its efforts to eliminate police brutality and excessive force against persons belonging to racial, ethnic or national minorities, as well as undocumented migrants crossing the U.S.-Mexico border. Additionally, the Committee urged the U.S. to establish adequate systems for monitoring police abuses and develop further training opportunities for law enforcement officials.

The Committee requested the U.S. to ensure that reports of police brutality and excessive use of force are independently, promptly and thoroughly investigated and that perpetrators are prosecuted and appropriately punished.

Were these recommendations communicated to the CBP personnel? If so by which means?

6. In preparation for drafting our shadow report, we spent quite a bit of time researching and gathering information relevant to the CBP. We came across a few articles and NGO reports that claim the CBP lacks transparency in its operations. For example, some organizations and reporters are saying that they are having hard time acquiring information related to use of force incidents from the CBP officials. How would you address their claims?

After about a month, IJC was provided the name of the individual to interview. IJC provided the official with the same list of questions and was told that an interview was being scheduled. However, a week later, IJC received an email response answering only question one and was told to contact the liaison again to have the other questions answered. The answer stated:

All CBP officers/agents sign Appendix I of the Use of Force Policy Handbook acknowledging that they have read and understand the Handbook. On a quarterly basis, CBP officers/agents are required to attend a minimum of four hours of firearms training and a minimum of 4 hours of intermediate force training. This requirement is outlined in Chapter 6 of the Handbook. During these blocks of training officers/agents are tested through various methods their comprehension of use of force. These means include, but are not limited to, classroom discussion, written tests, and scenario based training.

IJC followed up with the liaison but has not heard back. At no point was IJC provided an interview despite repeated promises of one.