



DHS to regulate controversial Border Patrol teams

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The Department of Homeland Security (DHS) is developing plans to increase oversight of controversial quick response teams within the Border Patrol that immigration advocates say helped cover up incidents of abuse by agents.

The department is due to release a memo to address growing criticism of "critical incident teams" (CITs), issuing new standards while consolidating internal investigative power in the Office of Professional Responsibility (OPR), housed in Border Patrol's oversight agency, U.S. Customs and Border Protection (CBP).

Pressure has mounted on the Border Patrol to reform CITs, which are not formally codified in the CBP operations manual and which some border community advocates have characterized as "shadow police units."

Lawmakers in recent weeks have pointed to known instances of evidence tampering from CITs, casting doubt on the authority of the teams.

Allegations against CITs and other instances of Border Patrol self-policing go back decades, but the death of a migrant in Border Patrol custody in 2010 energized activists against the practice.

Congressional Democrats last week pushed DHS to clarify the role of CITs. They sent two letters, one from Reps. Carolyn Maloney (D-N.Y.) and Bennie Thompson (D-Miss.), chairs of the House Oversight and Reform Committee and the House Homeland Security Committee, to CBP Commissioner Chris Magnus and another from a bicameral group to the Government Accountability Office.

Maloney and Thompson questioned the existence of CITs, which were not authorized by Congress.

"Despite the apparent lack of authority to investigate agent misconduct, Border Patrol appears to have created special teams of agents to investigate and collect evidence following incidents that may create criminal or civil liability, including allegations of excessive use of force," they wrote.

While CITs are not officially part of Border Patrol doctrine, the federal government has recognized the existence of Border Patrol "teams with specialized evidence collection capabilities."

Lawmakers themselves have been facing pressure to rein in CITs.

“Without any federal authority, BPCITs investigate incidents of agent-involved use of force, and they work to mitigate and conceal their culpability. The actions of these Border Patrol units to withhold, destroy, and corrupt evidence and to tamper with witnesses have gone unchecked for decades,” the Southern Border Communities Coalition wrote to lawmakers serving on national security committees last October.

The DHS move to consolidate OPR's authority over internal investigations would not cut CITs from those actions but rather standardize their technical responsibilities in OPR's investigations.

Since its creation in 2016, OPR has been in charge of internal affairs investigations throughout CBP.

While CBP-wide termination rates for disciplinary causes did not significantly increase immediately after OPR's creation, termination and arrest rates for Border Patrol agents outpaced those of other CBP components three out of four years since the creation of OPR, according to research by the Cato Institute.

Immigration activists have long accused the Border Patrol of covering up agents' misdeeds, but their complaints for years fell on deaf ears.

But the Border Patrol has been under increased scrutiny since officers on patrol on horseback in Del Rio, Texas, were seen corralling Haitian migrants seeking to cross into the U.S.

The visibility of the incident renewed calls for improving misconduct investigations into officers.

DHS Secretary Alejandro Mayorkas said an investigation from OPR would be concluded in “days not weeks.”

But the office has also yet to release the conclusion of that investigation, raising questions about how swiftly OPR might address claims otherwise reviewed by CITs.

“The investigation is ongoing. The Department is committed to a thorough, independent, and objective process. We are also committed to transparency and will release the results of the investigation once it is complete,” a DHS spokesperson told The Hill in October shortly after missing Mayorkas’s self-imposed deadline.

CBP officials did not immediately respond to a request for comment on this story.