



OFFICE OF INSPECTOR GENERAL

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DHS OIG Cites CBP for Misuse of Summons Power

A new management alert from the Department of Homeland Security (DHS) Office of Inspector General (OIG) Special Reviews Group (SRG) determined that U.S. Customs and Border Protection (CBP) lacked clear guidance on the use of its examination and summons authority under 19 U.S.C. § 1509, resulting in inconsistent and, occasionally, improper uses of such summonses to obtain records. CBP was found to have violated its own policy on the use of the summons on numerous occasions.

The review of CBP's policies and practices relating to Section 1509 summonses arose from an OIG investigation of a CBP summons issued to Twitter, Inc. in March 2017 requesting all records concerning the Twitter account @ALT_USCIS. Twitter responded by filing a complaint against CBP in federal court claiming the summons exceeded the scope of the agency's authority and accusing CBP of attempting to "unmask" the @ALT_USCIS anonymous speaker and infringing upon his or her First Amendment rights. CBP quickly withdrew the summons and Twitter dismissed its complaint.

The summons authority under Section 1509 is limited specifically to the collection and examination of records related to the importation of merchandise, including the assessment of customs duties. In the course of its review, SRG found numerous cases of Section 1509 summonses issued outside of this context. Based on data provided by CBP, between January 2015 and May 2017, CBP violated its own policy on the use of Section 1509 summonses at least 1 out of every 5 times.

DHS OIG made three recommendations to CBP aimed at ensuring CBP personnel are informed and trained on the use of Section 1509 summonses, and that such summonses are being used properly within the agency. CBP concurred with these recommendations and has taken, and continues to take, corrective actions to address the issues raised in the alert.

The alert is the first report by the SRG, a new DHS OIG initiative. The SRG is a multidisciplinary group of OIG employees that blends the skills of attorneys, investigators, and program analysts to conduct sensitive reviews and special investigations across DHS.

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