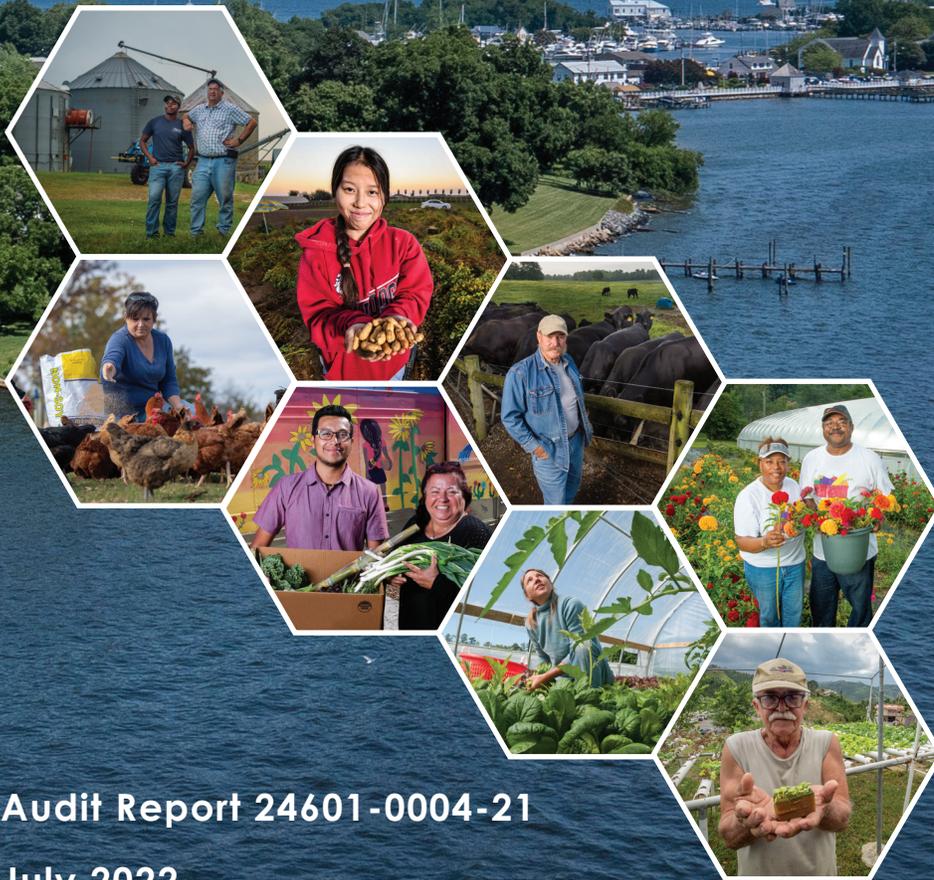




OFFICE OF INSPECTOR GENERAL  
U. S. DEPARTMENT OF AGRICULTURE

# Initiatives to Address Workplace Misconduct



Audit Report 24601-0004-21

July 2022

# Initiatives to Address Workplace Misconduct

## Audit Report 24601-0004-21

We determined whether FSIS' actions taken in response to complaints of sexual misconduct and harassment in the workplace, received October 1, 2019, through May 31, 2021, were in accordance with Departmental and agency policy.

### OBJECTIVE

To determine whether FSIS' actions taken in response to complaints of sexual misconduct and harassment in the workplace were in accordance with Departmental and agency policy.

### WHAT OIG FOUND

The United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) is the public health agency responsible for protecting the public's health by ensuring the safety of the Nation's commercial supply of meat, poultry, and processed egg products.

In June 2018, FSIS adopted and implemented the USDA Anti-Harassment Policy to maintain a harassment free workplace. The USDA Anti-Harassment Policy reinforces FSIS' commitment to ensure a harassment free workplace. FSIS utilizes various methods to inform employees of their rights and responsibilities pursuant to USDA's anti-harassment policies, including but not limited to: training, webinars, workplace postings, and brochures.

### REVIEWED

We reviewed the applicable laws, regulations, and Departmental and agency policies that FSIS implemented to review and respond to allegations of sexual harassment. Additionally, we selected a non-statistical sample of 8 of the 67 reports of sexual misconduct and harassment that FSIS received from October 1, 2019, through May 31, 2021.

Overall, we determined that the actions taken by FSIS in response to reported allegations of sexual misconduct and harassment in the workplace during the period audited were in accordance with Departmental and agency policy. Further, we determined that FSIS' adoption and implementation of the USDA Anti-Harassment Policy assisted in its ability to ensure reported allegations of sexual misconduct and harassment in the workforce were addressed in a timely, efficient, and effective manner. Lastly, FSIS' program area processes, policies, and directives, which detail the required actions to be implemented when an allegation of sexual misconduct or harassment is reported, were in line with Departmental policy, which requires that immediate appropriate corrective action be taken upon receiving a report of a harassment allegation. Because the actions taken by FSIS in response to reported allegations of sexual misconduct and harassment in the workplace during the period audited were in accordance with Departmental and agency policy, we are not making any recommendations in this report.

### RECOMMENDS

We made no recommendations in this report.

We did not identify any issues that would warrant recommendations; therefore, we are not making any recommendations in this report.





## OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



**DATE:** July 14, 2022

**AUDIT**

**NUMBER:** 24601-0004-21

**TO:** Paul Kiecker  
Administrator  
Food Safety and Inspection Service

**ATTN:** Cara LeConte  
Chief Financial Officer  
Food Safety and Inspection Service

**FROM:** Gil H. Harden  
Assistant Inspector General for Audit

**SUBJECT:** Initiatives to Address Workplace Misconduct

This report presents the results of the subject review. We do not have any recommendations in the report and, therefore, no further response to this office is necessary.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<https://usdaoig.oversight.gov/>) in the near future.



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# Background and Objectives

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## Background

The United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) is the public health regulatory agency responsible for protecting the public's health by ensuring the safety of the Nation's commercial supply of meat, poultry, and processed egg products. FSIS has a workforce of approximately 9,600 employees, the majority of whom work on the frontlines in establishments across the country to ensure food production is safe. FSIS personnel include: food, consumer safety, and import inspectors; public health veterinarians; enforcement, investigations, and analysis officers; chemists, microbiologists, and epidemiologists; and a range of other public health professionals.

In June 2018, FSIS adopted and implemented the USDA Anti-Harassment Policy to maintain a harassment free workplace.<sup>1</sup> The USDA Anti-Harassment Policy reinforces FSIS' commitment to ensure a harassment free workplace. FSIS utilizes various methods to inform employees of their rights and responsibilities pursuant to USDA's anti-harassment policies, including, but not limited to: training, webinars, workplace postings, and brochures. USDA's anti-harassment policies include the following principles:<sup>2</sup>

- Harassment is unwelcome conduct based on race, color, national origin, religion, sex, disability, age, genetic information, sexual orientation, marital status, familial and parental status, income derived from a public assistance program, political beliefs, or gender identity.
- Harassment becomes unlawful when tolerating the offensive conduct becomes a condition of continued employment, or the conduct is sufficiently severe or pervasive to create a work environment a reasonable person would consider intimidating, hostile, or abusive.
- Individuals will not be subject to retaliation for reporting harassment or involvement in a harassment inquiry.

USDA policy defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, which constitutes sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment.
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.<sup>3</sup>

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<sup>1</sup> USDA, *USDA Anti-Harassment Policy* (May 25, 2018).

<sup>2</sup> USDA, *USDA Anti-Harassment Policy* (May 2020 and April 2021).

<sup>3</sup> USDA, *USDA Anti-Harassment Policy* (May 2018, May 2020, and April 2021).

FSIS employees are responsible for reporting workplace violence incidents of assault, harassment, interference, intimidation, or threats against employees while performing, or as a result of performing, their official duties and responsibilities. Whether instigated by internal or outside sources, FSIS employees must immediately report all workplace violence incidents.<sup>4</sup> Agency officials are to document all reported incidents and implement appropriate actions, including investigations, enforcement actions, and referrals for prosecution.<sup>5</sup>

## FSIS Program Areas

The USDA Anti-Harassment Policy applies to all USDA employees who believe they have been subjected to sexual misconduct or harassment in the workplace. FSIS has four program areas that provide oversight and guidance of its anti-harassment policy through processes, procedures, and controls to process reports of sexual misconduct and harassment in the workplace. The four program areas are:



\* FSIS Directive 8021.1 Rev. 2, *Investigative Methodology for Conducting Misconduct, Office of Inspector General Hotline, and other Investigations*, May 11, 2020.

\*\* FSIS Directive 4735.3 Rev. 1, *Employee Responsibilities and Conduct*, June 7, 2007.

\*\*\*USDA – FSIS, *Workplace Violence Prevention and Response: Anti-Harassment* (March 24, 2022), <https://www.fsis.usda.gov/employees/environmental-safety-and-health/workplace-violence>.

\*\*\*\*USDA – FSIS, *Civil Rights: Employee* (March 24, 2022), <https://www.fsis.usda.gov/employees/civil-rights>.

<sup>4</sup> All Federal and non-Federal employees who experience sexual misconduct and harassment while performing official duties or responsibilities, whether outside the employee’s tour of duty or away from the worksite, must report incidents of sexual misconduct and harassment.

<sup>5</sup> FSIS Directive 4735.4 Rev. 3, *Reporting Assault, Harassment, Interference, Intimidation or Threat* (Apr. 22, 2005).

Once FSIS personnel receive a report of sexual misconduct or harassment, management officials will:

- immediately contact Human Resources (HR) and their mission area or agency Civil Rights (CR) Director regarding all reports of harassment. Reports of harassment must be investigated and addressed in a prompt, impartial, and—to the extent allowed by law—confidential manner;
- promptly and impartially initiate a management inquiry of the report of harassment within 10 calendar days<sup>6</sup> of the initial report;<sup>7</sup> and
- report allegations of sexual assault or sexual violence to law enforcement, as required by Departmental regulation.<sup>8, 9</sup>

## Objective

Our objective was to determine whether FSIS' actions taken in response to complaints of sexual misconduct and harassment in the workplace were in accordance with Departmental and agency policy.

We found FSIS' responses to reports of allegations of sexual misconduct and harassment in the workplace during the period audited were in accordance with Departmental and agency policy. Please see the next section of the report for a more detailed explanation.

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<sup>6</sup> During our scope period, October 1, 2019, through May 31, 2021, USDA's 2020 Anti-Harassment Policy states that it is 10 business days. However, in 2021 USDA updated its Anti-Harassment Policy to require action within 10 calendar days.

<sup>7</sup> In accordance with the USDA Anti-Harassment Policy, issued May 2020 and April 2021, if the management official receiving the report of harassment is not in the alleged perpetrator's chain of command, the management official will refer the report to the official within the chain of command. The management official may need to undertake immediate measures before completing the inquiry to ensure that further harassment does not occur.

<sup>8</sup> USDA, *USDA Anti-Harassment Policy* (May 2020 and April 2021).

<sup>9</sup> USDA Departmental Regulation 4200-001, *Workplace Violence Prevention and Response Program* (Apr. 17, 2013).

## **Section 1: FSIS' Actions Taken in Response to Reports of Sexual Misconduct and Harassment in the Workplace from October 2019 through May 2021 were in Accordance with Departmental and Agency Policy**

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In June 2018, FSIS adopted and implemented the USDA Anti-Harassment Policy to maintain a harassment-free workplace.<sup>10</sup> To determine whether FSIS' actions taken in response to complaints of sexual misconduct and harassment in the workplace, during the scope period, were in accordance with Departmental and agency policy, we reviewed the applicable laws, regulations, and Departmental and agency policies FSIS implemented to review and respond to allegations of sexual harassment.<sup>11, 12</sup> Additionally, we selected a sample of 8 of the 67 reports of sexual misconduct and harassment that FSIS received from October 1, 2019, through May 31, 2021. (See Exhibit A).<sup>13</sup> Based on our review, we determined that FSIS followed Departmental and agency policy to review and respond to reports of sexual misconduct and harassment in the workplace.

The USDA Anti-Harassment Policy states that allegations of harassment are considered to be very serious.<sup>14</sup> According to this policy, allegations of harassment should be immediately reported to management officials. Upon receiving a report alleging harassment, management officials are required to take immediate, appropriate action, including: contacting Human Resources, CR Director, or anti-harassment coordinator; initiating a management inquiry within 10 calendar days; taking immediate measures to ensure further harassment does not occur; and reporting any allegations of sexual assault or violence to law enforcement. Individuals reporting EEO-based harassment, including EEO-based sexual harassment, have 45 days after the alleged incident to file an EEO complaint.<sup>15</sup>

Through a review of sample cases from each of the four FSIS program areas that provide oversight and guidance of the USDA Anti-Harassment Policy,<sup>16</sup> we determined that each of the program areas had established its own processes, procedures, and controls to comply with the USDA Anti-Harassment Policy, and to ensure that reports of sexual misconduct and harassment are submitted, processed, and resolved in a timely, efficient, and appropriate manner. To make our determination, we reviewed the case file documentation for eight reports alleging sexual misconduct and harassment. The case file documentation included the initial allegation

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<sup>10</sup> On May 25, 2018, the Secretary of Agriculture issued the USDA Anti-Harassment Policy.

<sup>11</sup> USDA, *USDA Anti-Harassment Policy* (May 2018, May 2020, and April 2021).

<sup>12</sup> FSIS Directive 4735.4 Rev. 3, *Reporting Assault, Harassment, Interference, Intimidation or Threat* (Apr. 22, 2005); FSIS Directive 8021.1 Rev. 2, *Investigative Methodology for Conducting Misconduct, Office of Inspector General Hotline, and other Investigations* (May 11, 2020); and FSIS Directive 4735.3 Rev. 1, *Employee Responsibilities and Conduct* (June 7, 2007).

<sup>13</sup> We non-statistically selected 8 of the 67 allegations the program areas (CRS, IA, WVPRP, and LERD) received.

<sup>14</sup> The USDA Anti-Harassment Policy states that sexual harassment includes unwelcome sexual advances, requests for sexual favors or dates, unwelcomed remarks about an individual's appearance, discussions or jokes of a sexual nature, and other verbal or physical harassment of a sexual nature.

<sup>15</sup> USDA, *USDA Anti-Harassment Policy* (May 2020 and April 2021).

<sup>16</sup> FSIS has four program areas that receive, review, and determine the course of action to be taken on reports alleging sexual misconduct and harassment in the workplace: CRS, WVPRP, IA, and LERD.

submission documents, e-mails, interview reports, and case resolution documentation. We identified that, for the allegations of sexual misconduct and harassment we reviewed, FSIS initiated immediate and appropriate actions—in compliance with both Departmental and agency policy—to review and respond to the allegations. Specifically, the actions taken by the program areas either met or were conducted prior to the 10-day timeframe established in Departmental policy. Additionally, FSIS took immediate measures to ensure further harassment did not occur, and FSIS reported allegations of sexual assault or violence to law enforcement.<sup>17</sup> Overall, FSIS ensured that these reported allegations of sexual misconduct and harassment were appropriately responded to and processed in compliance with Departmental and agency policies.

### *FSIS Reporting Requirements*

The United States Equal Employment Opportunity Commission (EEOC) requires FSIS to annually report: FSIS' compliance with EEO policies, FSIS' training requirements, evaluations of FSIS program's effectiveness, and the number of allegations received by FSIS, as a whole.<sup>18, 19</sup> FSIS complies with this requirement by issuing annual Management Directive (MD) 715 reports. According to FSIS' fiscal year (FY) 2020 MD 715 report, the agency identified no issues specific to the implementation of the USDA Anti-Harassment Policy. Specifically, FSIS identified that it had adopted and implemented the USDA Anti-Harassment Policy. EEOC, through their FY 2021 review, also found that there were no issues identified specific to FSIS' implementation of the USDA Anti-Harassment Policy.<sup>20</sup>

In addition to MD 715 reviews, FSIS conducts internal Compliance, Assistance, Review, and Evaluation (CARE) reviews to: (1) determine the extent of program compliance with controlling EEO authorities; (2) measure employees' knowledge of, involvement with, and perception of how EEO/CR programs are operating within their workplace; and (3) provide recommendations to address any identified areas of concern.<sup>21</sup>

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<sup>17</sup> Reports of physical acts of sexual misconduct and harassment are to be reported to available security personnel, local law enforcement, and/or OIG.

<sup>18</sup> EEOC, *EEO MD 715* (Oct. 1, 2003).

<sup>19</sup> At the time of our audit, FSIS had not issued its FY 2021 report.

<sup>20</sup> As an oversight control, EEOC conducts periodic assessments of FSIS to review and determine whether the agency complied with Federal EEO laws and regulations.

<sup>21</sup> EEOC MD 715 requires that Federal agencies periodically assess the effectiveness and efficiency of their EEO programs under Title VII of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973.

The CARE reviews are comprised of: (1) an analysis of the workforce based on race/ethnicity, sex, and disability; (2) an employee climate assessment survey;<sup>22</sup> (3) an analysis of the work unit's EEO allegation activity for a 3-year period; (4) a review of relevant documents provided by the work unit;<sup>23</sup> and (5) a facility assessment to determine the work unit's accessibility for individuals with disabilities and whether required EEO/CR postings or any inappropriate information is being displayed in the workplace. As a result of these reviews, FSIS can implement necessary measures to address or correct weaknesses identified.<sup>24</sup>

Based on our review of FSIS CARE reports completed in FYs 2020 and 2021, there were no significant weaknesses identified that directly related to FSIS' implementation of its sexual misconduct and harassment policy.

Overall, we determined that the actions taken by FSIS in response to reported allegations of sexual misconduct and harassment in the workplace, during the period audited, were in accordance with Departmental and agency policy. Further, we determined FSIS' adoption and implementation of the USDA Anti-Harassment Policy assisted in its ability to ensure reported allegations of misconduct and sexual harassment in the workforce, during the period audited, were addressed in a timely, efficient, and effective manner. Lastly, FSIS' program area processes, policies, and directives, which detail the required actions to be implemented when an allegation of sexual misconduct or harassment is reported, during the period audited, were in line with Departmental policy, which requires that immediate appropriate corrective action be taken upon receiving a report of a harassment allegation. Accordingly, we are making no recommendations in this report.

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<sup>22</sup> The employee climate assessment survey is an electronic survey sent to a random sample of FSIS employees to gauge the employees' perceptions of their work unit as they relate to EEO/CR and various employment actions. The survey covers five topics that are aligned with the EEOC's six essential elements of a model EEO program.

<sup>23</sup> FSIS conducts a review of documentation, such as workforce data, race/ethnicity, sex, disability status, employment trends, and complaint activity, to determine the types of personnel-related actions or activities that have occurred within the district and whether those actions or activities were consistent with applicable regulations, policies, and procedures. Based on this review, a coordinator will determine whether the district conducted all of its personnel and EEO/CR-related functions in accordance with applicable Federal, Departmental, and agency laws, regulations, and policies.

<sup>24</sup> FSIS, *FY 2020 Management Directive 715 Report* (Jan. 19, 2021)

## Scope and Methodology

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We conducted this audit to determine whether FSIS' actions taken in response to allegations of sexual misconduct and harassment in the workplace were in accordance with Departmental and agency policies. We performed fieldwork from June 2021 through June 2022. We conducted virtual interviews, meetings, and status updates with responsible FSIS officials throughout our audit.

According to FSIS-provided data, the agency received a total of 229 allegations of sexual misconduct and harassment from October 1, 2015, through May 31, 2021.<sup>25</sup> We non-statistically selected 8 of the 67 allegations of sexual misconduct and harassment received from October 1, 2019, through May 31, 2021, to validate FSIS' allegation processes and procedures and determine FSIS' compliance with Departmental and agency requirements to review and respond to claims of sexual misconduct and harassment in the workplace.<sup>26, 27, 28</sup>

To accomplish our audit objective, we:

- Obtained and reviewed laws, regulations, directives, and policies that provide requirements and guidance for sexual misconduct and harassment in the workplace.
- Interviewed FSIS officials responsible for the administration and oversight of sexual misconduct and harassment allegations and disciplinary actions.
- Reviewed FSIS' reporting requirements related to allegations of sexual misconduct and harassment in the workplace.

We assessed internal controls that were deemed significant to our audit objectives, including, but not limited to, controls defined in United States Government Accountability Office (GAO) Standards for Internal Control in the Federal Government.<sup>29</sup> For specific controls we reviewed, see the table on the following page:

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<sup>25</sup> The original scope of the audit was October 1, 2015 (FY 2016), through May 31, 2021. However, the scope was narrowed to focus on recent allegations FSIS received and FSIS' implementation of recent versions of both Departmental, issued May 2020 and April 2021, and agency policies.

<sup>26</sup> We non-statistically selected two allegations received by each program area: CRS, IA, WVPRP, and LERD.

<sup>27</sup> Non-statistical sample taken from October 1, 2019, through May 31, 2021, to assess current allegations FSIS received, as well as the implementation of the most recent versions of both Departmental, issued May 2020 and April 2021, and agency policies.

<sup>28</sup> To determine the non-statistically sample we generated random numbers and selected the top two cases based on the largest random numbers from each program area.

<sup>29</sup> GAO, *Standards for Internal Control in the Federal Government* (Sept. 2014).

<b>Internal Control Standards</b>	<b>GAO Definition</b>
<b>Risk Assessment Principle 6</b>	Management should define objectives clearly to enable the identification of risks and define risk tolerances
<b>Control Activities Principle 12</b>	Management should implement control activities through policies
<b>Information and Communication Principle 14</b>	Management should internally communicate the necessary quality information to achieve the entity's objectives
<b>Information and Communication Principle 15</b>	Management should externally communicate the necessary quality information to achieve the entity's objectives
<b>Monitoring Principle 16</b>	Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results

However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

To assess the reliability and completeness of data, we interviewed agency officials knowledgeable about FSIS' information systems used to collect, track, and report allegations of sexual misconduct and harassment in the workplace. Through these interviews, we gained an understanding of the existence, relationship, impact, and pervasiveness of information systems used to collect, track, and report on sexual misconduct and harassment allegations in the workplace. Data were obtained from information systems maintained by each program area. We reviewed and discussed the methodology used to obtain data from the information systems. However, as we were unable to independently verify the data provided from the information systems, we make no representation on the reliability of the data. During the course of our audit, we did not solely rely on information from any agency information system. Therefore, we make no representation regarding the adequacy of any agency computer system or the information generated from it.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Abbreviations

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CARE	Compliance, Assistance, Review, and Evaluation
CR	Civil Rights
CRS	Civil Rights staff
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FSIS	Food Safety Inspection Service
FY	fiscal year
GAO	United States Government Accountability Office
HR	Human Resources
IA	Internal Affairs
LERD	Labor and Employee Relations Division
MD	Management Directive
OIG	Office of Inspector General
USDA	United States Department of Agriculture
WVPRP	Workplace Violence Prevention and Response Program

## **Exhibit A: FSIS Reports Alleging Sexual Misconduct and Harassment by Program Area**

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Exhibit A summarizes the total number of reports each FSIS program area received October 1, 2019, through May 31, 2021, and the number of reports selected for review by program area.

FSIS Program Area	Reports of Sexual Misconduct and Harassment Received October 1, 2019, through May 31, 2021	Total Number of Reports Sampled
CRS	5	2
WVPRP	21	2
IA	36	2
LERD	5	2
Totals	67	8

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