1300 Pennsylvania Avenue, NW
Washington, D.C. 20229

U.S. Customs and
Border Protection

October 15, 2024

The Honorable Hampton Dellinger
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, D.C. 20036

Re: OSC Files No. DI-24-000591 and DI-24-001051

Dear Mr. Dellinger:

On July 12, 2024, the Office of Special Counsel (OSC) referred to the Department of Homeland Security (DHS) allegations that U.S. Customs and Border Protection's Acting Chief Medical Officer (aCMO) may have engaged in actions that constituted a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety.

Based on OSC's referral letter and additional statements from the whistleblowers, CBP investigated the following:

1. Allegation 1: aCMO's improper efforts to replace OCMO's Electronic Medical Records system (EMR).
2. Allegation 2: aCMO's improper creation of an agency-wide narcotics policy to personally procure Fentanyl.
3. Allegation 3: aCMO's repeated consumption of alcohol while in possession of a CBP-issued firearm; and.
4. Allegation 4: Any additional or related allegations of wrongdoing discovered during the investigation of the foregoing allegations.

CBP's Office of Professional Responsibility (OPR) investigated each allegation and has completed its findings. Investigation of Allegation #3, to include interviewing the named whistleblowers, submitting requests for information from the confidential whistleblowers through OSC, and interviewing other relevant witnesses, was previously completed and provided to you on September 25. Attached to this 5 U.S.C. §1213(d) response is the anonymized version of the Case Closing Report (CCR) on Allegations #1, #2, and #4 along with a redaction key.

As described more fully below and in the attached OPR investigators did not sustain Allegation #1, finding insufficient evidence that aCMO's efforts with respect to the EMR constituted a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. For

Allegation #2, CBP OPR found that the evidence supported the allegations that aCMO engaged in actions that constituted a violation of policy. With respect to Allegation #4, no other misconduct was identified.

As to Allegation #1 that aCMO improperly tried to replace OCMO's Electronic Medical Records system (EMR), there is evidence that his approach to the problem and preferred course of action differed from that of OCMO's staff and that, as a manager, this approach and his communication may have been poorly received by his staff who had been instrumental in the development, fielding, and improvements to EMR. Mere differences of opinion about a programmatic review, however, are insufficient to constitute a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. To date, CBP has not committed to procuring a new system and, except for the use of CBP personnel's time and effort in the review of the EMR and alternatives to it, CBP resources have not be used to change the system. It is important to note that aCMO's review of the EMR was not on his own initiative. Rather, guidance from the DHS Chief Medical Officer (DHS CMO) and from the Acting Commissioner all suggested that aCMO was tasked to carefully review EMR and alternatives. DHS CMO acknowledged staff concerns about aCMO's EMR review but supported working with him "on potential solutions and emphasized the need for prudent leadership in evaluating the current EMR system and exploring alternative options to improve functionality. He urged thorough evaluation before deciding on potential changes to the EMR system at OCMO."

For Allegation #2 that aCMO improperly created an agency-wide narcotics policy to personally procure Fentanyl, CBP OPR's CCR sustained the allegation as a violation of policy. Against the recommendations of his staff and without proper authority, aCMO published such a policy and attempted to procure Fentanyl for potential use if a serious injury occurred during the 2023 UNGA air support mission. There was ample evidence that the aCMO had been informed of the delegation of authority from the Secretary of Homeland Security to the DHS CMO; a delegation which vested such authority in the DHS CMO and not the CBP CMO. Both the DHS CMO and his Chief of Staff found that the aCMO's drafting of a policy and attempting to use it to obtain controlled substances without Departmental approval was problematic and likely without authority. DHS CMO specifically noted that the aCMO would have been in violation of policy if he had actually procured the controlled substances. His Chief of Staff characterized the aCMO's actions as an "attempt to bypass the established chain of command by seeking approval for controlled substances without proper authorization" and emphasized the importance of following established procedures and policies within DHS, particularly regarding the procurement and handling of controlled substances.

The aCMO's disregard of CBP's normal policymaking procedures led to the improper issuance of this policy both in terms of substance and procedure, as it had not been approved by his CBP chain of command (EAC OS) or the DHS CMO, and lacked key points regarding the storage, documentation, use, and disposal of controlled substances. The policy has been rescinded by CBP.

These finding will be forwarded to DHS for review and appropriate action.

If you require further information regarding this matter, please contact Deputy Associate Chief Counsel [redacted] or [redacted], Senior Attorney [redacted].

Sincerely,

Troy Miller
Senior Official Performing the Duties of the Commissioner

Enclosures

Department of Homeland Security
DHS Directives System
Delegation Number: 00013
Revision Number: 00
Issue Date: 10/29/2019

DELEGATION REGARDING OFFICE OF SPECIAL COUNSEL INVESTIGATIONS AND REPORTS REQUIRED BY TITLE 5, UNITED STATES CODE, SECTION 1213

I. Purpose

This delegation vests authority in the Operational Component heads and Director of the Federal Law Enforcement Training Centers to perform functions required under Title 5, United States Code (U.S.C.) § 1213.

II. Delegation

Subject to my oversight, direction, and guidance, I hereby delegate to the Operational Component heads and the Director of the Federal Law Enforcement Training Centers, the following authority:

Conduct investigations, and review and sign investigative reports responding to referrals from the Office of Special Counsel pursuant to 5 U.S.C. § 1213 when the Office of Inspector General declines to investigate the matter.

III. Re-delegation

The Component head may re-delegate authority to conduct investigations to appropriate subordinate officials provided such re-delegation is in writing. The Component head may re-delegate authority to review and sign investigative reports only in writing and to the deputy Component heads who are the first assistant/first successor on the Components' order of succession pursuant to the most current Delegation 00106, "DHS Orders of Succession and Delegations of Authorities for Named Positions."

IV. Reservations

The authorities delegated herein do not include the authority to investigate, review, and sign investigate reports for any particular matters in which I exercise my discretion to retain.

V. Authorities

A. Title 5, U.S.C., Section 1213, “Provisions Relating to Disclosures of Violations of Law, Gross Mismanagement, and Certain Other Matters”

B. DHS Delegation 00002, “Delegation to the Under Secretary for Management”

C. DHS Delegation 00106, “DHS Orders of Succession and Delegations of Authorities for Named Positions”

VI. Office of Primary Interest

The Office of the Under Secretary for Management has primary interest in this delegation.

R. D. Alles
Acting Under Secretary for Management

10/29/19
Date

U.S. CUSTOMS AND BORDER PROTECTION
OFFICE OF PROFESSIONAL RESPONSIBILITY
INVESTIGATIVE OPERATIONS DIRECTORATE

CASE CLOSING REPORT

CASE NUMBER:	202400798	**FIELD OFFICE:**	Washington Field Office
CASE AGENT:	Special Agent		
CASE TITLE:	Office of the Special Counsel Directed Investigation		
SUBJECT NAME AND TITLE:	Acting Chief Medical Officer (ACMO), Office of the Chief Medical Officer, Office of Operations Support, CBP		
DATE OF ALLEGED ACTIVITY:	June 20, 2023 - Present		
SECURITY CLEARANCE:	TS/SCI		

ALLEGATION

On June 12, 2024, the U.S. Customs and Border Protection (CBP) Office of Professional Responsibility (OPR) Investigative Operations Directorate (IOD) received a referral to investigate allegations made to Mr. Hampton Dellinger, Special Counsel, Office of the Special Counsel (OSC), Washington, DC.

Mr. Dellinger provided whistleblower disclosures alleging the ACMO for the Office of the Chief Medical Officer (OCMO), Office of Operations Support (OS), CBP, Washington, D.C., engaged in conduct that may constitute a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, and a substantial and specific danger to public health and safety.

Whistleblowers, [redacted], [redacted], OCMO, OS, CBP, and two whistleblowers, who wished to remain confidential (CWB1 & CWB 2), alleged ACMO, OCMO, OSC, CBP engaged in wrongdoing. The allegations were as follows:

- ACMO's improper efforts to replace OCMO's Electronic Medical Records system (EMR).
- ACMO's improper creation of an agency-wide narcotics policy to personally procure Fentanyl.
- ACMO's repeated consumption of alcohol while in possession of a CBP- issued firearm; and
- Any additional or related allegations of wrongdoing discovered during the investigation into the alleged wrongdoing into CBP's OCMO.

On June 12, 2024, CBP OPR initiated this investigation, wherein the case was assigned to Special

Agent (SA), Washington, DC Field Office (WFO).

I affirm that my statements in this report are true and correct to the best of my knowledge and belief.

Prepared by:		Report Date:	
Reviewed by:		Reviewed Date:	
Approved by:		Approved Date	

POTENTIAL VIOLATIONS AND INVESTIGATIVE FINDINGS

Potential Violation(s) of Law
None

PROSECUTORIAL ACTION(s) (when applicable)

No prosecutorial actions were taken against ACMO, as the allegations against ACMO were violations of CBP regulation or policy.

Potential Violation(s) of Policy, Rule, or Regulation	Investigative Findings
Table of Penalties – E06 (Use of position or authority for other than official purposes.)	Unfounded
Table of Penalties - F02 (Willful and intentional refusal to obey a proper order of a superior, a regulation, policy, rule, or procedure.)	Unfounded
Table of Penalties – I02 (Failure to follow applicable laws, rules, regulations, or policies in the performance of duties.)	Sustained

ADMINISTRATIVE ACTION(s) (when applicable)

No administrative actions were taken against ACMO during OPR's investigation.

EXECUTIVE SUMMARY

[redacted] and CWB 1 alleged, even before ACMO's assignment as Acting Chief Medical Officer in late June 2023, ACMO desired to replace OCMO's EMR; specifically, ACMO expressed a desire to replace the current EMR with a "commercial off-the-shelf" (COTS) product, such as those used in conventional hospital settings. According to [redacted], one of the original EMR programmers and a member of the advisory team charged with evaluating and reviewing the EMR, an Electronic Health Record (EHR) was considered, but ultimately rejected due to CBP and DHS system compatibility and interoperability issues. Additionally, the cost to purchase and implement a new system was projected to cost millions of dollars, which was more than the anticipated cost of maintaining and updating the current EMR. [redacted] said ACMO directed his staff to conduct multiple reviews of the EMR and COTS systems with varying criteria in a manner that, in [redacted]'s opinion, was done to massage the results of the review to justify the purchase of a COTS system. According to [redacted], ACMO's push to replace the EMR wasted countless hours of federal employees' time and yielded no positive or tangible results.

[redacted] and [redacted] further disclosed, in September 2023, ACMO directed his staff members to assist him in procuring Fentanyl, a CSA Schedule II Narcotics, for use at a meeting of the U.N. General Assembly (UNGA) in New York City, NY. [redacted] and [redacted] stated ACMO allegedly claimed his possession of Fentanyl at the U.N. General Assembly was necessary in case a CBP operator was injured. OCMO staff members advised ACMO OCMO had no policy governing the procurement, storage, and disposal of CSA Schedule II Narcotics. ACMO directed a policy be created for such, using an unapproved, draft, DHS Office of Countering Weapons of Mass Destruction (CWMD) operational medicine policy as a template. ACMO signed the newly generated policy and authorized the purchase of the Fentanyl.

Ultimately, the agency did not procure the Fentanyl requested by ACMO, due to a vendor shortage of the Fentanyl. On February 21, 2024, Executive Assistant Commissioner (EAC), OS, CBP, conducted a review of the OCMO Operational Medicine Policy created by and signed by ACMO, which resulted in the policy being rescinded by EAC. The interviews of Chief Medical Officer (CMO), Office of Health Security (OHS), Department of Homeland Security (DHS)(DHS CMO), and Chief of Staff (CoS) OHS, DHS (COS2), revealed ACMO was in receipt of and responsible for adhering to Delegation Number 26000, Delegation to the DHS CMO, which outlined the responsibilities of ACMO's role to include, but not limited to, the procurement of, and proper handling and use of, controlled substances and prescription drugs. According to COS2, ACMO's proposed CBP OCMO policy would have been in violation of OHS DHS Delegation Number 26000.

DETAILS OF INVESTIGATION

On **November 30, 2023,** [redacted] was interviewed, wherein [redacted] said ACMO directed OCMO staff to create an operations policy, which, in part, addressed the procurement and handling of pharmaceuticals. [redacted] stated ACMO conveyed he did not see a need to inform EAC of the narcotics procurement, as some OCMO staff suggested, explaining that telling EAC was a bad habit to get into. [redacted] said an OCMO staff member brought the concerns they had with the draft policy to the attention of Deputy Executive Assistant Commissioner (DEAC), OS, CBP. Against the advice of the OCMO staff, ACMO signed the Operational Medicine Policy and approved the purchase of the narcotics. Due to backorder issues with pharmaceutical contractors, OCMO was unable to purchase the Fentanyl lollipops. [redacted] provided no information regarding the EMR.

On **December 7, 2023,** [redacted] was interviewed, wherein he stated, during ACMO's visit to the Rio Grande Valley, TX, following the May 2023 in-custody death of a minor, ACMO remarked the (then) current CBP EMR needed to be replaced by EHR, like what is used in a hospital. CBP published a request for information (RFI) to assess what commercial options were available to CBP, wherein the contractor Deloitte responded to the RFI. [redacted] said Deloitte's contract bid included information that, according to [redacted], was from meetings internal to OCMO. [redacted] stated, since

Deloitte's contract bid was not an "official" bid, it was not considered an organizational conflict of interest, as the RFI was only for market research purposes and Deloitte was not in violation of any procurement regulations.

On **February 22, 2024,** [redacted] was interviewed concerning the February 16, 2023, GAP report, which detailed the attempted procurement of Schedule II narcotics by ACMO. [redacted] recounted ACMO's long held a desire to replace CBP's EMR with a new, commercially available system, an EHR. [redacted] recounted the drawbacks to adopting an EHR and ACMO's continued efforts to replace the EMR, ignoring the protests of OCMO staff and the EMR review team's recommendations. The review of the EMR was directed by Acting CBP Commissioner (C1) Troy Miller, CBP, following a June 8, 2023, memo from DHS CMO finding the EMR's shortcomings to be a contributing factor in the in-custody death of a minor in May 2023.

On **February 1, 2024,** the former OCMO CMO (FCMO), replaced by ACMO following the May 2023 in-custody death, was interviewed and stated ACMO's focus, as CMO, was to ensure safe and effective medical care was provided to those who needed it; however, in September 2023, ACMO focused his staff's efforts on the procurement of Fentanyl "lollipops", should an emergency medical requirement arise during the UNGA security mission in late September 2023. FCMO relayed hearsay information about ACMO's efforts to generate a policy regarding the procurement and handling of CSA Schedule II Narcotics by OCMO. FCMO highlighted ACMO signed the OCMO policy with no senior leadership approval. FCMO echoed the concerns of the OCMO staff in that ACMO's narcotics policy lacked many of the required elements for such a policy to include, but not limited to, the chain of custody requirements, the storage instructions for the CSA Schedule II Narcotics, the distribution instructions for the scheduled narcotics, and disposal of scheduled narcotics. FCMO provided no information regarding the EMR.

On **February 21, 2024, a document review** was conducted on email chains between ACMO and OCMO staff after CoS OS, CBP (COS3), reported discovering an NBC News article about ACMO's attempt to order Fentanyl lollipops for the UNGA security mission. The email chains showed the evolution of the OCMO's Operational Medicine Policy ACMO used to justify the attempted procurement of narcotics for the UNGA security mission. ACMO disseminated an unapproved DHS CWMD policy document to OCMO staff for use as a template, the staff of whom raised concerns about the lack of higher-level management approval and handling guidelines for the CSA Schedule II Narcotics. Despite the concerns expressed by the OCMO staff, ACMO approved the Operational Medicine Policy, which violated CBP's policy guidelines.

On **March 14, 2024,** Mission Support Director**,** (MSD), OCMO, CBP, was interviewed, wherein she provided no information concerning the EMR but explained she did not fully participate in the

attempt to procure fentanyl lollipops. MSD stated, "...*everybody within this office, we were all trying to discourage…moving forward with* [the procurement of the CSA Schedule II Narcotics]." MSD. also noted ACMO was advised by staff the draft Operational Medicine policy should be elevated to OS management for review. MSD provided no information regarding the EMR.

On **April 3, 2024, EAC** was interviewed wherein she stated, following the February 16, 2024, GAP report, she and DHS CMO had many questions and concerns about ACMO's intentions and the Operational Medicine Policy OCMO generated. EAC indicated DHS CMO, "*issued direction that indicated that components needed to have authorization from his office before establishing a policy like CBP had established. That then allowed for the procurement of the fentanyl lollipops.*" EAC did not know if CBP, as an agency, knew of DHS CMO's policy, but opined ACMO, who was on detail from DHS to OCMO, should have known of the policy. ACMO worked at DHS when the policy was initiated. EAC stated, due to that information, CBP Office of Chief Counsel recommended EAC rescind OCMO's Operational Medicine policy. Therefore, on February 21, 2024, EAC rescinded OCMO's Operational Medicine Policy. EAC indicated she was never provided the Operational Medicine Policy for review. EAC provided no information related to the allegations of ACMO's efforts to replace the EMR.

On **April 8, 2024,** Acting Deputy, OCMO, CBP (DEP), was interviewed, wherein she indicated she knew of the work conducted and the issues raised by the OCMO staff related to the review of the EMR, but her knowledge of the matter was provided to her by ACMO.

On **April 25, 2024, ACMO** was interviewed, wherein he expressed concerns about the effectiveness of OCMO's in-house EMR system. ACMO's concerns about the OCMO in-house EMR system stemmed from the lack of experience among staff, which led to shortcomings and failures in the EMR, ultimately resulting in a patient's death. He acknowledged the need for a modern system, an EHR, to provide alerts and warnings for caregivers. ACMO stated he faced accusations for his opinions on the EMR but learned to communicate more tactfully. He directed an assessment of the current EMR to be conducted and alternative EHR options provided, which would include higher-level evaluators to ensure comprehensive results. Despite claims of cost-effectiveness, ACMO found the current EMR only met 65% of requirements, compared to superior commercial solutions. ACMO highlighted the need for a new software suite, an EHR, which would document care, provide quality assurance, and offer clinical decision support. ACMO stated all these highlighted beneficial elements of the EHR could be achieved with successful integration into CBP systems. He clarified coding/billing capabilities were not a priority for OCMO. ACMO defended his decision-making process, emphasizing staff emotions regarding the EMR should not override the needs of CBP and patients.

ACMO stated he attempted to procure CSA Schedule II Narcotics for use during the September 2023 UNGA air support mission. ACMO explained, as the physician for DHS' Joint Airborne Quick Reaction Force, the narcotics were needed for pain management, in the event of serious injuries. ACMO admitted he directed the OCMO staff to purchase the narcotics.

ACMO stated he discussed his plan to procure the narcotics with his supervisor, DHS CMO, but was unable to procure the narcotics, due to backorder issues. According to ACMO, EAC rescinded OCMO's Operational Medicine policy and directed the creation of a new policy, which complied with CBP's policy creation process and Delegation to the Chief Medical Officer/ Director of the Office of Health Security Delegation 26000.

On **June 17, 2024, DHS CMO,** was interviewed. DHS CMO expressed concerns over Dr. Eastman's attempt to procure CSA Schedule II Narcotics for a medical evacuation mission at the UNGA meeting in New York City in September 2023. Following a whistleblower report, DHS CMO raised issues with the policy and its implications, raising concerns about proper storage and control of the CSA Schedule II Narcotics. DHS CMO also expressed concerns concerning a draft policy from the DHS CWMD being used to create the CBP policy, without proper approval.

Concerning the OCMO Operational Medicine Policy created by OCMO staff at ACMO's direction, DHS CMO explained how the CBP policy appeared to be based on an unapproved, draft format from the DHS Office of CWMD. Ultimately, DHS CMO expressed doubts about Dr. Eastman's adherence to proper procedures and highlighted the need for stringent oversight to prevent unauthorized procurement and misuse of controlled substances.

On **June 24, 2024, documents from COS3** pertaining to CBP's response to the in-custody death of eight-year-old ARA in May 2023 were reviewed and revealed memos sent between the DHS CMO, and CBP Acting Commissioner Troy Miller (C1). DHS CMO's memo highlighted issues such as medical risk reduction, contract management, enhanced medical monitoring, clinical care communication, and the use of CBP's EMR. The memo pointed out shortcomings in the management of the CBP Medical Services Contract and recommended updates to the EMR to improve documentation and communication of clinical care. As a result, a review was requested by C1 to analyze CBP's medical care practices identified by DHS CMO. In response, C1 acknowledged the need for critical updates to the EMR system and considered potentially replacing it with a commercial medical records system. An Alternative Analysis Team was formed to assess and enhance the EMR system at CBP. C1 also requested ACMO to oversee CBP's response to the situation.

On **June 25, 2024,** ASAC McAllen Field Office, IOD, OPR, CBP, McAllen, TX**,** was interviewed regarding the CBP EMR. The investigation by ASAC, following the death of ARA, an 8-year-old undocumented migrant, in May 2023, found discrepancies in the EMR system and the lack of proper documentation of medical care provided to migrants by the Loyal Source Government Services (LSGS) medical services contractors. ASAC provided the example, wherein ARA's mother had requested emergency assistance multiple times, but the requests were not documented promptly in the EMR by the LSGS staff. ASAC highlighted the lack of accurate documentation in the EMR across CBP facilities, jeopardizing patient care.

Furthermore, ASAC mentioned concerns raised by ACMO regarding LSGS medical providers not conducting historic medical records checks and not properly utilizing the EMR system. ACMO aimed to improve the EMR system rather than replace it to prevent future tragedies. However, ASAC was not aware of specific changes made to the EMR, following ARA's death. Overall, there was a need for better oversight of LSGS contractors and proper utilization of the EMR system to ensure comprehensive medical care for undocumented migrants in CBP custody.

On **June 26, 2024, DHS CMO** was interviewed. DHS CMO addressed concerns about the CBP EMR in a memo to CBP Acting Commissioner. He highlighted deficiencies in the system's use and the lack of proper documentation of medical care in CBP facilities. DHS CMO clarified his intent was not to advocate for a new EMR but to address existing documentation issues. ACMO 's review of the EMR and consideration of alternative options were deemed acceptable by DHS CMO.

DHS CMO said, CMIO, OHS, DHS, raised concerns about the proposed solutions for the EMR, suggesting they may not be suitable for CBP's health triage system. DHS CMO acknowledged staff concerns about the EMR review but supported working with ACMO on potential solutions. DHS CMO emphasized the need for prudent leadership in evaluating the current EMR system and exploring alternative options to improve functionality. He urged thorough evaluation before deciding on potential changes to the EMR system at OCMO.

DHS CMO stated he provided the DHS policy, Delegation to the Chief Medical Officer/ Director of the Office of Health Security Delegation 26000, to all staff of OHS. He stated ACMO’s desire to procure CSA Schedule II Narcotics for the UNGA security mission in September 2023 was only discussed after media reports. DHS CMO confirmed, if ACMO had procured the substances without informing him, it would have violated Delegation to the Chief Medical Officer/ Director of the Office of Health Security Delegation 26000. DHS CMO mentioned discussions with ACMO focused on broader topics, such as medical standards of care, suicide prevention, and employee

assistance, rather than specific details on controlled substances procurement. He emphasized there was no direct conversation about procuring controlled substances without proper authorization.

On **June 26, 2024, DIR SIP**, OPR, CBP, was interviewed. DIR SIP noted it does not seem like the EMR system requires every medical visit to be annotated. DIR SIP explained a medical provider can retroactively input patient care data into the EMR system. DIR SIP said, in the ARA death case, medical records were provided and uploaded into the EMR system; however, the medical providers were not required or alerted to review the records while giving care over the multiple days she was in CBP custody

DIR SIP noted, during the ARA case, one of the medical providers, a nurse practitioner, voiced concerns that the EMR was insufficient and inferior to a system she used at a previous place of employment. DIR SIP added there must be better alternative EMR systems available. DIR SIP offered, in general, a problem CBP has was taking "an extreme generalist" and putting them in charge of things and expecting them to be an expert. Specifically, DIR SIP noted a Border Patrol Agent may not be the best person to put in charge of designing a retention system for medical records. Since the in-custody death, DIR SIP stated he was unaware of any changes made to the EMR system. DIR SIP added he was uncertain of the documentation requirements of the EMR, but the ARA investigation revealed medical providers frequently fail to document medical visits. DIR SIP provided no information regarding OCMO's Operational Medicine Policy creation process.

On **June 28, 2024, COS2,** was interviewed. COS2 stated, following the signing of Delegation to the Chief Medical Officer/ Director of the Office of Health Security Delegation 26000 by the DHS Secretary, it was distributed within OHS. Regarding a DHS policy for handling controlled substances, subordinate agencies, such as U.S. Immigration and Customs Enforcement (ICE) and U.S. Coast Guard, had existing policies, but a department-wide policy was still in development.

ACMO's use of the CWMD draft policy as a template for a CBP policy raised concerns, as it did not align with the ongoing policy development process at OHS. COS2 highlighted ACMO's attempt to bypass the established chain of command by seeking approval for controlled substances without proper authorization. COS2 emphasized the importance of following established procedures and policies within DHS, particularly regarding the procurement and handling of controlled substances. COS2 provided no information regarding the EMR.

On June 28, 2024, [redacted] was interviewed. [redacted] explained, after ARA's death in May 2023, ACMO traveled to the RGV to assess the situation. During this trip, ACMO blamed the EMR for the girl's death. According to [redacted], ACMO spoke with SCBPO, Division Chief, OCMO, OS, CBP, about his concerns with the EMR, wherein, during the conversation, ACMO called C1 to request an alternative analysis into replacing the EMR system. Following the incident on the border, the then

current CMO, FCMO, was relieved and ACMO was transferred to CBP from DHS.

According to [redacted], the C1-directed alternative analysis of the EMR was conducted, without input from OCMO staff, who felt that replacing the existing system would be inefficient. [redacted] stated, during the analysis, ACMO made changes to the analysis results to make the EMR appear inferior to secure funding for a new system, leading to internal disagreements and concerns about manipulation of data by ACMO. [redacted] stated, despite these issues, ACMO continued to push forward with his plans to find funding for a new system. [redacted] stated the concerns raised by OCMO staff regarding the fraud, waste, and abuse in the alternative analysis process were brought to light during a trip to RGV in November 2023. [redacted] stated the OCMO staff felt the excessive man-hours and resources dedicated to investigating a system not directly responsible for the child's death was wrong. [redacted] stated, despite efforts to address the issues raised by ACMO, the staff remained skeptical of his intentions and the changes he made to influence the analysis results. [redacted] stated the staff felt pressured by ACMO to change data in the analysis to secure funding for a new system.

With respect to the attempted purchase of Schedule II Narcotics, [redacted] stated ACMO requested [redacted] and another OCMO staff member procure Fentanyl and Midazolam. [redacted] stated ACMO conveyed he wanted the narcotics available for emergency situations that might occur when he participated in the AMO security operation at UNGA.

[redacted] stated ACMO provided an incomplete and unsigned DHS policy to the OCMO staff. [redacted] stated ACMO subsequently instructed his staff to use the draft policy as a template for OCMO's policy supporting the procurement and use of Schedule II Narcotics. [redacted] stated the draft DHS policy lacked any reference to U.S. Drug Enforcement Administration (DEA) diversion regulations related to the storage, documentation, use, and disposal of controlled substances. [redacted] stated he contacted DEAC Koumans for guidance. [redacted] said DEAC told him to add the DEA diversion language into the OCMO draft policy and send it back to ACMO. [redacted] stated ACMO again removed the DEA language and returned a signed version of the OCMO Operational Medicine Policy.

[redacted] was asked to clarify if DEAC had known of the draft Operational Medicine Policy prior to its signing and enactment by ACMO. [redacted] indicated that DEAC not only knew of the document but had read the document and showed it to EAC.

On **July 16, 2024,** CMIO was interviewed. CMIO was a member of the CBP Commissioner-directed, Alternative Analysis Team (AAT), a team responsible for the post in-custody death review of the EMR. According to CMIO, FCMO and ACMO clashed over the EMR and how to address its shortcomings, out of which grew animosity, but as physicians, CMIO, FCMO, and ACMO all agreed CBP needed to do something. The AAT conducted its review of the EMR and over time, the AAT members became increasingly unhappy as it was clear in their minds that a decision was made with what CMIO described as "prejudice". The AAT members felt ignored and were frustrated they were not being heard. The AAT members also provided data showing the millions of dollars CBP could

save updating the EMR, versus procuring a new system. According to CMIO, the AAT members felt ACMO wanted CBP to use a new system, no matter what, as long as it was not the current EMR. CMIO said his place on the AAT was in an advisory capacity and the decision-making was in the hands of ACMO. CMIO stated he would support whatever decision was made. CMIO provided no information regarding OCMO's Operational Medicine Policy creation process.