



441 G St. N.W.  
Washington, DC 20548

October 21, 2024

The Honorable Richard J. Durbin  
Chair  
The Honorable Lindsey Graham  
Ranking Member  
Committee on the Judiciary  
United States Senate

The Honorable Jim Jordan  
Chairman  
The Honorable Jerrold Nadler  
Ranking Member  
Committee on the Judiciary  
House of Representatives

**FEDERAL LAW ENFORCEMENT: Criminal Sexual Acts while Serving in Official Capacity (2024 Update)**

The Consolidated Appropriations Act, 2022, contained a provision making it unlawful for someone, while acting in their capacity as a federal law enforcement officer, to knowingly engage in a sexual act with an individual who is under arrest, under supervision, in detention, or in federal custody.<sup>1</sup> According to an official from the Department of Justice (DOJ), consent is not a defense to a violation of 18 U.S.C. § 2243(c) and therefore federal law enforcement officers are automatically liable if they engage in the prohibited conduct. Generally, DOJ’s Civil Rights Division and the 94 U.S. Attorneys’ Offices throughout the country prosecute sexual offenses committed by federal law enforcement officers.<sup>2</sup> DOJ’s Executive Office for United States Attorneys (EOUSA) provides executive and administrative support for U.S. Attorneys and maintains data on federal prosecutions in its case management information system.<sup>3</sup>

The Consolidated Appropriations Act, 2022, includes a provision for us to report on violations of 18 U.S.C. § 2243(c) committed between October 1, 2022, and September 30, 2023, and then to

---

<sup>1</sup>Pub. L. No. 117-103, § 1202, 136 Stat. 49, 923-25 (codified as amended at 18 U.S.C. § 2243(c)). Under 18 U.S.C. § 2246 (which references 18 U.S.C. § 115), a “[f]ederal law enforcement officer” means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law.”

<sup>2</sup>The President appoints a U.S. Attorney to each of the 94 federal districts. There are 93 U.S. Attorneys (Guam and the Northern Mariana Islands are separate districts but share a U.S. Attorney). The U.S. Attorney is the chief federal law enforcement officer in each district.

<sup>3</sup>The Civil Rights Division also has a case management system. However, according to Division officials, cases pursuant to 18 U.S.C. § 2243 would be prosecuted in conjunction with a U.S. Attorney’s office.

report annually thereafter.<sup>4</sup> We issued our first report addressing this topic, covering fiscal year 2023, in October 2023.<sup>5</sup>

This report covers cases filed and violations of 18 U.S.C. § 2243(c) committed between October 1, 2023, and September 30, 2024 (fiscal year 2024). For the purposes of this report, we refer to cases filed as charges and to violations as convictions under 18 U.S.C. § 2243(c), consistent with DOJ's definitions. To address our objective for this report, we requested data from EOUSA's CaseView system on violations and cases filed from October 1, 2023, through September 30, 2024, pursuant to 18 U.S.C. § 2243(c).<sup>6</sup> This system provides information by federal statute pertaining to the numbers of cases filed and defendants charged. We assessed the reliability of these data by reviewing related documentation such as the CaseView data dictionary and interviewing EOUSA officials to understand how they report cases filed and violations in CaseView. We found the data sufficiently reliable for the purpose of reporting the number of cases and violations during this period.

We conducted this performance audit from July to October 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, 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 objectives.

### **DOJ Did Not Report Any Violations of 18 U.S.C. § 2243(c), Criminal Sexual Acts by a Federal Law Enforcement Officer Against Individuals in Custody, in Fiscal Year 2024**

According to EOUSA data, there were no cases filed and no violations pursuant to 18 U.S.C. § 2243(c) in fiscal year 2024.<sup>7</sup> Similarly, as we reported in our prior report on this topic, there were also no cases filed and no violations in fiscal year 2023. As we noted in our prior report, there are several factors that could explain why there have been no cases filed and no violations to date. First, individuals cannot be charged for prohibited conduct that occurred prior to the provision's effective date of October 1, 2022. Second, it can take several years from the time of an alleged incident to the filing of a criminal case to a disposition of the criminal case. Finally, according to an official from DOJ's Office on Violence Against Women, many victims do not report sexual abuse immediately due to a variety of factors, including fear of retaliation. The official also noted that there is a high rate of underreporting of sex offenses in general, particularly when it involves victims in custody or detention, where victims are reluctant to report "the police to the police."

---

<sup>4</sup>Pub. L. No. 117-103, § 1204, 136 Stat. at 926-27. The Consolidated Appropriations Act, 2022 was enacted on March 15, 2022; however, section 4 of the Violence Against Women Act Reauthorization Act of 2022, Pub. L. No. 117-103, 136 Stat. 840, 846 (Division W of the Consolidated Appropriations Act, 2022), generally made the amendments of the Act, including the amendment to 18 U.S.C. § 2243, effective October 1, 2022. We use the October 1, 2022 effective date of the provision to provide Congress with reports reflecting data for each fiscal year.

<sup>5</sup>GAO, *Federal Law Enforcement Officers: Criminal Sexual Acts while Acting in Official Capacity*, [GAO-24-106723](#) (Washington, D.C.: Oct. 23, 2023).

<sup>6</sup>EOUSA indicated that 18 U.S.C § 2243(c) was added to CaseView on April 14, 2023, and is available for U.S. Attorneys' offices to code cases filed under the statute.

<sup>7</sup>Federal law enforcement officers committing criminal sexual acts against individuals under arrest, under supervision, in detention, or in federal custody may be prosecuted under other criminal statutes.

## Agency Comments

We provided a draft of this report to DOJ for review and comment. DOJ provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Attorney General, and other interested parties. The report will also be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-8777 or [GoodwinG@gao.gov](mailto:GoodwinG@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this correspondence. Other key contributors to this report include Adam Hoffman (Assistant Director); Liz Poulsen (Analyst-in-Charge); and Willie Commons III.

A handwritten signature in cursive script that reads "Gretta Goodwin".

Gretta Goodwin  
Director, Homeland Security and Justice

---

---

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

---

---

## GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

---

## Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through our website. Each weekday afternoon, GAO posts on its [website](#) newly released reports, testimony, and correspondence. You can also [subscribe](#) to GAO's email updates to receive notification of newly posted products.

---

## Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <https://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

---

## Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#).  
Subscribe to our [RSS Feeds](#) or [Email Updates](#). Listen to our [Podcasts](#).  
Visit GAO on the web at <https://www.gao.gov>.

---

## To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: <https://www.gao.gov/about/what-gao-does/fraudnet>

Automated answering system: (800) 424-5454 or (202) 512-7700

---

## Congressional Relations

A. Nicole Clowers, Managing Director, [ClowersA@gao.gov](mailto:ClowersA@gao.gov), (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

---

## Public Affairs

Sarah Kaczmarek, Managing Director, [KaczmarekS@gao.gov](mailto:KaczmarekS@gao.gov), (202) 512-4800, U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548

---

## Strategic Planning and External Liaison

Stephen J. Sanford, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707 U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548