



## Recommendations to the Department of Homeland Security to Improve Conditions in CBP detention facilities

Customs and Border Protection (CBP) has no public, legally enforceable standards for detention conditions in the more than 700 hold facilities that it operates at ports of entry and along the U.S. border. In an effort to address this shortcoming—and in light of the numerous reports of inappropriate and inhumane conditions in these facilities—legislation was introduced by the 113<sup>th</sup> Congress, in both the House and the Senate, to require CBP to promulgate regulations to ensure humane conditions for immigrant detention in CBP facilities.

The Department of Homeland Security (DHS) could, however, proactively address the myriad of problems with the conditions in CBP short-term hold detention facilities by taking the following actions:

### **Short Term:**

DHS should promulgate policies and directives requiring that CBP:

(1) Ensure all detainees have access to potable water and a snack, and, if detained for more than five hours, a nutritious meal with regular nutritious meals (at least one of which daily must be heated) and snacks.

*(Note: We frequently hear from CBP agents they give their own water to migrants apprehended in the desert and that they use their own money to buy food and diapers for children because they do not have government funds for this.)*

(2) Provide medically appropriate meals or snacks to detained individuals who are pregnant or have medical needs.

(3) Provide access to bathroom facilities (including private toilets, sinks and showers) as well as basic toiletries and hygiene items, including soap, a toothbrush, toilet paper and other items

appropriate for the age and gender identification of such individuals, such as diapers and feminine hygiene products.

*(We are cognizant that in some cases, current infrastructure makes the provision of some basic necessities difficult. Some stations have developed creative and effective short-term solutions, such as setting up impromptu showers, creating outdoor recreation with some balls and a makeshift goal and/or basketball hoop, etc.)*

(4) Provide detained individuals with a cot, clean linens and blankets if detained for more than five hours, particularly if a person is apprehended in wet clothing.

(5) Ensure that all detained unaccompanied children are shown the “Know What to Expect” video that CBP created in 2013.

(6) Ensure all persons held in CBP hold facilities are held in rooms with adequate lighting and that lighting is not kept on 24 hours a day.

(7) Promptly inform and permit all detained individuals of their ability to make one telephone call at any time after apprehension, provide telephone access to make such a call and provide the phone numbers necessary to file a complaint with the Office of the Inspector General of the Department and the Office for Civil Rights and Civil Liberties of the Department.

**Medium term:**

DHS should promulgate policies and directives requiring that CBP:

(1) Conduct a physical and mental health screening of individual detainees promptly after apprehension in a manner that complies with the requirements for such screenings specified in the currently applicable National Commission for Correctional Health Care Jails Standards, as well as information about the availability of, and access to, health care services that is communicated in a form and language such individual is known to understand.

*(While this is already a policy, it does not always happen. We recognize that the drastic increase in numbers can make this logistically difficult but, again, creative and effective solutions are available. For example, in San Diego, the Office of Field Operations has suggested they could comply with this requirement using a medical service provider who does house calls to save exorbitant emergency room fees.)*

(2) Conduct an immediate physical and mental health needs assessment performed by a qualified health care professional as soon as possible when it is visibly apparent this is required.

(3) Ensure that any lawful, nonperishable belongings of an individual in CBP custody that are confiscated by personnel operating under Federal authority are returned to such individual prior to the deportation or removal of such individual.

(5) Create an access policy akin to the Immigration and Customs Enforcement (ICE) access policy providing for access by nongovernmental organizations to CBP hold facilities for monitoring purposes.

(6) Improve the education of individuals in CBP custody regarding administrative procedures and legal rights under United States immigration law, in consultation with the Executive Office for Immigration Review; and ensure notification of the Office of Inspector General and Department of Homeland Security Office for Civil Rights and Civil Liberties within 48 hours of all instances in which:

(A) an individual in CBP custody has died, including during transfer to another facility or while being released; and

(B) an individual has died as the result of an encounter with CBP.

**Long Term:**

DHS should promulgate policies and directives requiring that CBP:

(1) Ensure all persons held in CBP short-term hold facilities are held in spaces with adequate climate control that achieves a reasonable indoor temperature.

(2) Short-term custody facilities be inspected at least once every year by the Department of Homeland Security Office for Civil Rights and Civil Liberties, with the results made public without the need to submit a request under section 552 of title 5, United States Code.

(3) Establish a publicly accessible, online system to track the location of individuals in CBP custody and provide an online list of all locations with phone numbers routinely used to hold individuals in CBP custody.

In addition, the DHS Secretary should submit to Congress a report that details all instances in which an individual in CBP custody has died in the prior fiscal year, including during transfer to another facility or while being released, as well as all instances in which an individual has died as the result of an encounter with CBP, and the result of any subsequent investigation. Such reports shall also detail all instances in which an individual, including an individual in the custody of CBP, has suffered serious injuries requiring hospitalization as a result of the use of force by CBP.

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