



Health Risks of Customs and Border Protection Detention

July 2019

Introduction

Many people intercepted while crossing the southern U.S. border are held in custody by Customs and Border Protection (CBP). The recent deaths of five children in CBP custody highlight the deficient care provided by CBP, especially to minors. Following outcry after the deaths of Jakelin Caal Maquin and Felipe Alonzo-Gomez, CBP reportedly began “enhanced” procedures to screen children for illness, injury, dehydration, or hunger.¹ Despite these changes, the conditions of CBP custody are still far from adequate. CBP has failed to employ appropriately trained medical professionals, and conditions of holding cells, or “hieleras,” are known for their uncomfortably low temperatures, cramped spaces, and thin Mylar blankets. If they are lucky, migrants receive a mat to place on the cement floor to sleep on. A recent investigation by the Office of the Inspector General has also exposed dangerous overcrowding of detention cells and an alarming lack of food, water, and sanitation products. PHR calls on the Department of Homeland Security to cease holding children in CBP detention facilities and to provide standards for better care of all persons in custody. Congress should oversee that proper treatment is provided when needed.

Recent Deaths of Children in Custody

- Jakelin Caal Maquin, age 7, died in CBP custody December 8, 2018.
- Felipe Alonzo-Gomez, age 8, died in CBP custody December 24, 2018.
- Juan de León Gutiérrez, age 16, died in CBP custody April 30, 2019.
- Wilmer Josué Ramírez Vásquez, age 2, formerly in CBP custody but released on own recognizance prior to his death on May 14, 2019.²
- Carlos Gregorio Hernández Vásquez, age 16, died in CBP custody May 20, 2019.³

Dangerous Conditions of CBP Custody and Detention

Inadequate Medical Screening

- CBP officers are mostly trained as law enforcement agents and less than six percent are certified EMTs.⁴
- Preliminary medical screenings are conducted by apprehending agents, who are often not medically qualified to determine if further care is needed. Though CBP only recently began employing physicians to conduct screenings at the border, the agency still does not have trained pediatricians to screen children for injuries or illness.⁵
- Agents have failed to provide preliminary exams in some instances, such as when a fourteen-year-old pregnant minor was reportedly not provided with a preliminary medical screening upon her detention, despite indications from CBP that it is their practice to provide such screenings.⁶
- PHR learned from a medical student that a young man detained by the border last year had been bitten by a rattlesnake, but CBP transferred him to a detention center without treatment. The man began experiencing additional symptoms after two days and was finally brought to a hospital.⁷
- Other reports indicate that CBP has failed to provide treatment or remedies for open wounds, broken bones, infected blisters, or other ailments.⁸

CBP has turned doctors away who tried to visit quarantined children following a flu epidemic at a facility.

Dangerous Conditions of CBP Custody and Detention *continued*

Poor access to Emergency Medical Attention

- The location of many border patrol stations and processing centers in remote areas can hinder access to emergency medical treatment when necessary, resulting in delayed treatment and perhaps even unavoidable deaths.
- Jakelin Caal Maquin, a seven-year-old child in CBP custody, was apprehended at night and reportedly underwent an initial screening by a border enforcement agent. Nearly seven hours later, she was ill and vomiting prior to being transferred between a port of entry and border patrol station, a journey of an hour and a half by bus. Upon arrival at the border patrol station, Jakelin had stopped breathing and had a fever. EMTs arrived and began providing care, but decided that Jakelin had to be transported to the nearest trauma center, a journey of over one hour by helicopter. Jakelin received further emergency care at the hospital, but she later died after she was diagnosed with liver failure.⁹
- Felipe Alonzo-Gomez, an eight-year-old in CBP custody, was apprehended in El Paso and was transferred to a different processing center. Two days later, he was transferred to El Paso Border Patrol Station, where he spent another two days. He was then transferred to Alamogordo Border Patrol Station. One day later, Felipe was coughing and his eyes appeared glossy; he was transferred to a hospital within half an hour. He was released later that day with two prescriptions, and was transferred to a temporary holding checkpoint. Later that night, Felipe was nauseous and vomited. After another three hours, these symptoms reoccurred; Felipe was then transferred to the hospital as “no EMT was on-duty.” Felipe lost consciousness during transportation to the hospital and was unable to be revived by hospital staff upon arrival.¹⁰
- An adult in CBP custody received medical attention at a hospital in Texas and was released the same day. He was sent to a CBP station in Rio Grande City. The following day, the person requested medical attention. CBP reports that he was brought to a medical center “shortly thereafter” and was diagnosed with cirrhosis of the liver and congestive heart failure. The man died some days later.¹¹
- Carlos Gregorio Hernández Vásquez, a 16-year-old boy in CBP custody, entered the United States without his parents on May 13, 2019. A CBP agent stated that he “did not show signs of illness” during his initial screening on the day that he arrived. However, on May 19, 2019, he informed agents at the processing center that he was not feeling well. He was reportedly given Tamiflu after a nurse practitioner found that his symptoms were consistent with influenza. Carlos was then transferred from the processing center to a Border Patrol station. He was found dead the next morning.¹² It is unclear why Carlos was not brought to a hospital for treatment.¹³

Insufficient Pediatric Care

- Numerous children informed the ACLU that they did not receive medical attention while in CBP detention despite falling ill or becoming injured, including those who were visibly injured during their apprehension by border patrol agents.¹⁴
- Agents reportedly returned a minor female and her newborn, born prematurely, to a holding cell against medical instruction that they should not be around other people. The minor and her newborn were kept in the crowded holding cell for two days and the mother complained that there was no clean space to change her baby’s diaper.¹⁵
- CBP turned doctors away who tried to visit quarantined children after a flu epidemic at a facility in Clint, Texas. The doctors wanted to ensure that the children received appropriate care, but could not persuade CBP officials to grant them access. Instead, they spoke on the telephone with quarantined teenagers but could not help infants unable to verbally relay symptoms.¹⁶

Confiscation or Disruption of Medication

- The ACLU, working with the University of Chicago’s International Human Rights Clinic, has recounted several instances where agents allegedly withheld medications from those in need, including:
 - Agents reportedly withheld prescription medications for a child in custody who had undergone spinal surgery after a car accident;¹⁷
 - Agents allegedly denied a child pain medication and additional sanitary products despite recovery from surgery on an ovarian cyst;¹⁸

Migrants released from CBP custody [said] ... that they slept on the ground; were exposed to rain, standing water, or extreme heat; and lacked bedding or seating.

Confiscation or Disruption of Medication *continued*

- Agents reportedly accused a child of lying when she informed agents she was having an asthma attack. Once finally provided with medical care, she was given medication and an inhaler, which agents reportedly confiscated.¹⁹
- While performing research in Texas, PHR was informed that patients in detention facilities were denied access to medication, including in El Paso where agents reportedly withheld PTSD medication from trafficking survivors and suspended the administration of hormones to a transgender detainee, which a medical professional described as very dangerous.²⁰
- Human Rights First reported that CBP confiscated an epileptic Honduran national's medication and later returned him to Mexico without it.²¹
- A pediatrician who volunteers at a clinic in Texas encountered patients who stated they did not have access to their medications while in CBP custody, including a 9-year-old child with a history of seizures who went days without anti-seizure medication. The pediatrician was concerned that CBP could have transported the boy elsewhere, leaving him very vulnerable: "if you put a 9-year-old child who has a history of seizures, without any seizure medicine on a bus for three days... he's going to have a seizure."²²
- CBP stated that all migrants in custody who have prescriptions confiscated receive equivalent U.S. medicine, but many medical care providers and advocates doubt that this always occurs.²³

Dangerous Conditions of Holding Cells

- Holding cells, commonly referred to as "hieleras" or "iceboxes," are designed for temporary use only, as they are small; lack furnishings such as beds or chairs; and provide no privacy.²⁴ However, CBP routinely maintains custody beyond the maximum of 72 hours,²⁵ as reported in multiple reports by the Department of Homeland Security's Office of Inspector General.²⁶ Furthermore, CBP offered no explanation to the N.Y. Times as to why Carlos Gregorio Hernández Vásquez, who died in CBP custody, spent nearly one week in a processing center while awaiting transfer to a youth shelter.²⁷
- The typical conditions of the hieleras - cold temperatures, insufficient clothing and bedding, unsanitary conditions, overcrowding, and inadequate provision of food or water²⁸ - increase health risks for persons in custody, especially as holding becomes prolonged.
- The Office of Inspector General (OIG) described conditions in the El Paso Del Norte Processing Center Border Patrol facility in May of 2019 as "dangerous," where adults were held in overcrowded cells.²⁹ The report explains that "single adults [were] held in cells designed for one-fifth as many detainees," with one cell designed to hold 35 containing 155 people.³⁰ Also, some of the people in custody were subject to "standing-room only conditions" for days or weeks.³¹
- Following visits to multiple Rio Grande Valley sector facilities,³² OIG reported overcrowding of "at-risk" populations, including unaccompanied minors and families.³³ The inspectors also found that 31 percent of the children at the facilities were held beyond the maximum 72-hours, and that "there were more than 50 [unaccompanied minors] younger than seven years old, and some of them had been in custody over two weeks while awaiting transfer."³⁴ OIG noted that "overcrowding and prolonged detention represent an immediate risk to the health and safety" of detainees.³⁵
- Recent reports indicate that CBP is now holding migrants, including children, outdoors without adequate shelter in the Rio Grande border section.³⁶ Migrants released from CBP custody informed the ACLU that they slept on the ground; were exposed to rain, standing water, or extreme heat; and lacked bedding or seating.³⁷ CBP agents reportedly did not provide medical examinations to those held outdoors and denied medical attention upon requests.³⁸ As the ACLU's complaint alleges, these conditions increase the risk of serious illness and harm.³⁹

Single adults [were] held in cells designed for one-fifth as many detainees, with one cell designed to hold 35 containing 155 people.

- Lawyers who visited children in an El Paso border facility found “inadequate food, water and sanitation” and children who were trying to care for other children, including a few girls between the ages of 10 and 15 who assumed care of a 2-year-old who was placed in their cell days earlier.⁴⁰ The attorneys reportedly observed that the infant boy “had wet his pants and had no diaper and was wearing a mucus-smear shirt.”⁴¹

Legal Framework CBP Standards on Transport, Escort, Detention, and Search (TEDS)

- Section 4.3 provides that agents must inquire as to and inspect for any injury, illness, or physical or mental health concerns. Agents must inform supervisors of injuries or illnesses and appropriate medical care should be sought in a timely fashion.⁴² The TEDS serve only as guidelines and are not binding or legally enforceable.

Flores Settlement Agreement

- The Agreement provides minimum standards for the treatment and care of minors in custody. Minors must be held in “facilities that are safe and sanitary.”⁴³
- The Agreement specifies that minors in custody must be provided medical attention when “the minor is in need of emergency services.”⁴⁴ However, it is unclear what the relevant agencies consider to be emergency services.

Federal Law on Custody and Transfer of Unaccompanied Minors

- Federal law specifies that the Department of Health and Human Services is responsible for the care of unaccompanied minors in immigration custody.⁴⁵ The law also provides that “except in the case of exceptional circumstances,” unaccompanied minors should be transferred to the custody of the Department of Health and Human Services within 72 hours of determining the child’s status as an unaccompanied minor.⁴⁶

Requirements for Reporting Deaths in Custody

- Pursuant to a CBP policy issued after the death of Jakelin, CBP must notify Congress within 24 hours of a person in custody’s death. CBP should also notify the public within one hour of Congressional notification, absent restrictions or limitations. This is an internal policy within CBP and is not enforceable by law.⁴⁷

International Law Prohibition on Inhuman or Degrading Treatment or Punishment

- The Special Rapporteur has stated that detention based solely on immigration status should be deemed arbitrary, and that there is a direct link with prolonged or arbitrary detention and the violation of the prohibition on inhuman treatment.⁴⁸
- Furthermore, the Special Rapporteur stated that “...the deprivation of liberty of migrant children based solely on their own or their parents’ migration status is never in the best interests of the child, exceeds the requirement of necessity, is grossly disproportionate and, even in case of short term detention, may amount to cruel, inhuman or degrading treatment.”⁴⁹

Recommendations To CBP

- Provide all persons in custody with a timely medical screening by a licensed health professional. Trained pediatricians should be employed to screen children for illness and injury.⁵⁰
- Require an EMT or other certified health professionals to be on-duty and available to give medical attention at all times at CBP processing and holding stations.
- Record the outcome of medical screenings and the provision of medical treatment in appropriate systems subject to Congressional inspection.
- Ensure that persons in custody, especially children, are not held for longer than 24 hours, as conditions of holding cells are inadequate for longer periods of detention.

To Congress

- Codify as law standards regarding medical care that are binding on CBP and other DHS agencies. Refer to medical associations and professionals for input regarding appropriate medical standards.
- Provide oversight of CBP’s provision of medical care.
- Enact legislation requiring CBP to report all instances of death to Congress and to the public.

Endnotes

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12. Zolan Kanno-Youngs, "Teenager Dies at Border Station While Awaiting Move to Shelter," *N.Y. Times*, May 21, 2019.
13. Daniela Silva, "16-Year-Old Migrant Boy Dies in U.S. Custody, 5th Child to Die Since December," *NBC News*, May 20, 2019, <https://www.nbcnews.com/news/latino/16-year-old-migrant-boy-dies-u-s-custody-5th-n1007751>.
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Physicians for
Human Rights

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