



**VIA ELECTRONIC MAIL**

Officer Cameron Quinn  
Office for Civil Rights and Civil Liberties  
Department of Homeland Security  
Washington, DC 20528

Inspector General Joseph V. Cuffari  
Office of the Inspector General  
Department of Homeland Security  
Washington, DC 20528

Christopher A. Wray  
Director  
Federal Bureau of Investigation  
Washington, DC 20535

**RE: Deprivation of Medical Care to Children in CBP Custody**

Dear Officer Quinn, Inspector General Cuffari, and Director Wray:

The Dilley Pro Bono Project (DPBP)—a collaboration between the American Immigration Council (Council), the American Immigration Lawyers Association (AILA), the Catholic Legal Immigration Network, Inc. (CLINIC), and the Texas Rio Grande Legal Aid, Inc.—file this complaint on behalf of immigrant children currently and formerly detained in the custody of U.S. Customs and Border Protection (CBP) at the U.S.-Mexico border. This complaint documents the government’s systematic failure to provide adequate medical care to children in CBP custody in violation of CBP’s own internal guidance<sup>1</sup> and extensive medical guidelines.

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<sup>1</sup> CBP, National Standards on Transportation, Escort, Detention, and Search (Oct. 2015), <https://www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf>. See CBP, Interim Enhanced Medical Efforts (January 2019), <https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/CBP-Interim-Medical-Directive-28-January-2019.pdf>. See Chief David V. Aguilar, *Memorandum: Hold Rooms and Short Term Custody* (Jun. 2, 2008),

The stakes could not be higher for the thousands of men, women, and children held in CBP custody every year. An unprecedented number of children have perished while in CBP custody over the past several months, with at least seven children having died since last year alone.<sup>2</sup> Reports show that many reach the U.S.-Mexico border after arduous journeys during which they may have had no access to safe shelter, adequate food, and basic medical services.<sup>3</sup> For many of those arriving at our southern border, especially children, the need for medical attention is critical.

In support of this complaint, we offer recent firsthand accounts from asylum-seeking mothers attesting to the lack of medical attention received by their children while in CBP custody. Further, we include data from a survey completed by 200 detained families regarding the substandard conditions in CBP holding facilities and the systematic denial of medical care when requested.

Among the findings of the survey are that 35 percent of mothers who provided responses to a question about the well-being of their children stated they believed their health worsened while in CBP custody. In addition, 58 percent of mothers who requested medical care for their children did not receive it. One mother was denied medical care even though her child was vomiting repeatedly and experiencing severe diarrhea. Another woman observed CBP take a pregnant woman to the hospital to give birth—then observed CBP bring the woman back to detention, where she was forced to lay her newborn on the filthy concrete floor with only a thin Mylar sheet as a barrier.<sup>4</sup>

## I. Background

The inhumane conditions that individuals, including children, face inside CBP detention facilities on the U.S.-Mexico border have been the cause of great concern in the advocacy, medical, and legal communities.<sup>5</sup> These facilities, some of which have come to be known as "iceboxes" or

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[https://foiarr.cbp.gov/docs/Policies\\_and\\_Procedures/2011/200842354\\_378/1104271006\\_Hold\\_Room\\_Custody\\_Directive\\_Reading\\_Room.pdf](https://foiarr.cbp.gov/docs/Policies_and_Procedures/2011/200842354_378/1104271006_Hold_Room_Custody_Directive_Reading_Room.pdf) (redacted).

<sup>2</sup> See "Why are migrant children dying in U.S. custody?" NBC News, May 29, 2019,

<https://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316?fbclid=IwAR38n79Vu1jBLEjqEPL8NCeCJ7qaGinN2TJOuTfEkV1BKJDyISX3Jee7Rs>.

<sup>3</sup> See "Doctors Warn More Children in Border Patrol Stations Could Die Like Felipe and Jakelin," Daily Beast, December 29, 2018, <https://www.thedailybeast.com/doctors-warn-more-children-in-border-patrol-stations-could-die-like-felipe-and-jakelin>.

<sup>4</sup> Sworn, pseudonymized statements are located in the Appendix to this complaint.

<sup>5</sup> See "Recommendations for Customs and Border Protection Standards While Detaining Children," The Young Center, March 28, 2019,

“hieleras” (Spanish for “freezers” or “iceboxes”) because of their extremely cold temperatures, have been the subject of numerous reports,<sup>6</sup> civil rights complaints, and even litigation<sup>7</sup> regarding the substandard conditions.

Between 2008 and 2015, CBP set forth standards for the conditions of confinement in short-term custody in a memorandum entitled, “Hold Room and Short Term Custody” (hereinafter 2008 Hold Room Policy).<sup>8</sup> The 2008 Hold Room Policy maintained that individuals should be held in CBP detention for “not more than 12 hours” and should be moved out of CBP custody “promptly.” It also provided that “Detainees requiring bedding will be given clean bedding,”<sup>9</sup> and that “Detainees using the restrooms will have access to toilet items, such as soap, toilet paper, and sanitary napkins.”<sup>10</sup> All juveniles detained longer than 24 hours were “entitled to basic hygiene articles, a blanket, and a mattress,” as well as showers after 48 hours where available.<sup>11</sup>

In 2015, CBP adopted additional standards entitled Transport, Escort, Detention, and Search standards (“TEDS Standards”).<sup>12</sup> Both the TEDS Standards and the 2008 policy remain in effect. In several key ways, the TEDS Standards relax the requirements placed on CBP officers regarding the treatment of individuals held in CBP custody. Under the TEDS Standards, “Detainees should generally not be held for 72 hours,” and “Every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as

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<https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5ce419146070c6000188aad1558452500801/Recommendations+For+CBP+Standards+While+Detaining+Children.pdf>.

<sup>6</sup> See Guillermo Cantor, *Hieleras (Iceboxes) in the Rio Grande Valley Sector: Lengthy Detention, Deplorable Conditions, and Abuse in CBP Holding Cells* (Dec. 2015),

[https://www.americanimmigrationcouncil.org/sites/default/files/research/hieleras\\_iceboxes\\_in\\_the\\_rio\\_grande\\_valley\\_sector.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/hieleras_iceboxes_in_the_rio_grande_valley_sector.pdf). See “Recommendations for CBP Standards When Detaining Children,” Women’s Refugee Commission, Kids in Need in Defense (March 28, 2019),

<https://www.aappublications.org/news/2019/01/31/washington013119>. See “DHS Advisory Committee’s Recommendations Are Harmful to Immigrant Children,” Young Center for Immigrant Children’s Rights (May 7, 2019) <https://www.theyoungcenter.org/stories/2019/5/10/dhsnbspadvisory-committees-recommendations-are-harmful-to-immigrant-children> (joint letter to CBP Families and Children Care Panel from American Academy of Pediatrics, Kids in Need of Defense (KIND), Lutheran Immigration and Refugee Services, the Women’s Refugee Commission and the Young Center, highlighting concerns related to proper medical care and screening of children in CBP custody).

<sup>7</sup> See, e.g., *Unknown Parties, et. al., v. Johnson*, No. CV-15-00250-TUC-DCB, 2016 WL 8188563, at \*11 (D. Ariz. Nov. 18, 2016) (granting a preliminary injunction after finding that plaintiffs were likely to succeed in their claim that conditions of confinement in CBP’s Tucson Sector short-term detention facilities, including the failure to provide sufficient medical screening and access medical care, violate the due process clause).

<sup>8</sup> See Chief David V. Aguilar, *Memorandum: Hold Rooms and Short Term Custody* (Jun. 2, 2008).

<sup>9</sup> “Bedding” was defined as “Any combination of pillow, sheets, blanket, sleeping bag, or mattress.” *Id.* at 3.1.

<sup>10</sup> *Id.* at 6.10-6.11.

<sup>11</sup> *Id.* at 6.24.7.

<sup>12</sup> See CBP, National Standards on Transportation, Escort, Detention, and Search (Oct. 2015).

appropriate and operationally feasible.”<sup>13</sup> While juveniles are still entitled to “clean bedding,”<sup>14</sup> the TEDS Standards only require that “clean blankets must be provided to adult detainees upon request.” The TEDS Standards also limit access to soap, providing only that “Whenever operationally feasible, soap may be made available.”<sup>15</sup> As with the 2008 Hold Room Policy, CBP officers are required to give juveniles “access to basic hygiene articles, and clean bedding.”<sup>16</sup>

Despite the existence of the 2015 TEDS Standards and the 2008 Hold Room Policy, CBP has routinely failed to meet even the relatively low requirements of those policies. Individuals held in CBP detention have routinely described overcrowded and often-filthy cells, freezing temperatures, inadequate medical treatment, inedible and insufficient food, lack of access to hygienic products such as soap and toothbrushes, and being forced to sleep on bare concrete floors with no protection.<sup>17</sup>

Under a settlement agreement in *Flores v. Barr*, DHS—including CBP—must provide unaccompanied minors in its custody with “safe and sanitary” detention conditions.<sup>18</sup> On August 15, 2019, the Ninth Circuit affirmed a District Court order finding that CBP had violated the *Flores* settlement agreement “by detaining minors in unsanitary and unsafe conditions at Border Patrol stations.”<sup>19</sup> The Ninth Circuit further held that the District Court had not gone beyond the terms of the settlement agreement by ordering CBP to provide “specific hygiene items and adequate sleeping accommodations.”<sup>20</sup> The Ninth Circuit “emphatically disagreed” with CBP’s argument that the *Flores* settlement’s requirement of “safe and sanitary” conditions did not give the District Court authority to order that CBP provide items like soap and toothbrushes to children held in the agency’s custody.<sup>21</sup> “Assuring that children eat enough edible food, drink clean water, are housed in hygienic facilities with sanitary bathrooms, have soap and toothpaste, and are not sleep-deprived are without doubt essential to the children’s safety.”<sup>22</sup>

Over the past year, reports of unlawful and substandard conditions in CBP facilities escalated. During the summer of 2018, individuals reported spending significantly longer time than

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<sup>13</sup> *Id.* at 4.12.

<sup>14</sup> “Bedding” is defined as “A (or any combination of) blanket, mat, or cot.” *Id.* at 8.0.

<sup>15</sup> *Id.* at 4.11.

<sup>16</sup> *Id.* at 5.6.

<sup>17</sup> See, e.g., Human Rights Watch, *In the Freezer: Abusive Conditions for Women and Children in US Immigration Holding Cells* (Feb. 28, 2018), <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells>.

<sup>18</sup> *Flores v. Barr*, No. 17-56297 (9th Cir. Aug. 15, 2019).

<sup>19</sup> *Id.* at 5.

<sup>20</sup> *Id.* at \*6.

<sup>21</sup> *Id.* at \*12.

<sup>22</sup> *Id.* at \*14.

normal—and often longer than 72 hours—in CBP facilities. A September 2018 report from the Department of Homeland Security (DHS) Office of Inspector General (OIG) indicated that between May 5 and June 20, 2018, 44 percent of unaccompanied children were held in CBP custody for longer than 72 hours, with one child held in the Rio Grande Valley Sector for 25 days.<sup>23</sup>

Throughout 2019, reports of worsening conditions continued, detailing children forced to sleep outside on gravel and under bridges, adults held in “standing room only” conditions, total lack of access to hygiene, and other widespread violations of the TEDS Standards. Many of these reports were confirmed by a pair of DHS OIG Management Alerts issued in May and June 2019 about “dangerous overcrowding” in El Paso<sup>24</sup> and in the Rio Grande Valley.<sup>25</sup>

Since those reports were issued, apprehensions at the border decreased, but reports of substandard conditions continue. This complaint demonstrates that the inadequate and unlawful conditions observed by the DHS OIG persist and remain of concern.<sup>26</sup>

## II. Methodology and Demographics

The Dilley Pro Bono Project (DPBP) provides legal services to mothers detained with their children in the South Texas Family Residential Center (STFRC) in Dilley, Texas.<sup>27</sup> In June and July 2019, DPBP staff and volunteers administered a 13-question survey to DPBP clients individually or in groups. Clients were informed that participation was optional and would not in any way impact their ability to seek legal services from DPBP and that their identities would be protected. Potential participants were randomly selected from lists of clients who had undergone their credible fear interviews in the few days before surveys were administered. Several non-Spanish-speaking clients were separately asked to participate, due to their under-representation on the primary client lists used. Surveys were conducted in Spanish, but phone interpretation was

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<sup>23</sup> DHS OIG, *OIG-18-84: Special Review – Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy* (Sept. 27, 2018), at 8, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf>.

<sup>24</sup> DHS OIG, *OIG-19-46: Management Alert - DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center* (May 30, 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-05/OIG-19-46-May19.pdf>.

<sup>25</sup> DHS OIG, *OIG-19-51: Management Alert - DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley* (July 2, 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19.pdf>.

<sup>26</sup> See “Hungry, Scared and Sick: Inside the Migrant Detention Center in Clint, Tex.,” *New York Times*, July 9, 2019, <https://www.nytimes.com/interactive/2019/07/06/us/migrants-border-patrol-clint.html>.

<sup>27</sup> The DPBP is an initiative of the American Immigration Lawyers Association (AILA), the American Immigration Council, Catholic Legal Immigration Network, Inc. (CLINIC), and other partners.

available if the client was not comfortable responding to the survey in Spanish. DPBP ceased to conduct surveys once 200 surveys had been completed.

Survey participants were 51 percent Honduran, 20 percent Guatemalan, 20 percent Salvadoran and 4 percent Venezuelan. There were one or two participants each from Mexico, Nicaragua, Cuba, Ecuador, and Democratic Republic of the Congo. Ninety-eight percent spoke Spanish as a first language, with the remaining participants speaking French, K'iche, Q'eqchi, and Kichua. Ninety percent of the participants entered the United States in the Rio Grande Valley sector, with six percent entering near Laredo, two percent near Eagle Pass, and one percent near Del Rio. One participant entered through the airport in Houston and one entered the U.S. near Calexico, California. All participants entered the United States between May 8 and July 22, 2019. The participants were all mothers detained with their minor children.

### **III. Survey Results**

Families reported spending an average of four days in CBP custody before being transferred to the STFRC, with 48 percent spending more than three days; the maximum detention time reported was 11 days in CBP custody.

Mothers reported that their children experienced the following symptoms while in CBP custody (with some reporting more than one symptom):

- 31 percent reported fever;
- 22 percent reported vomiting;
- 26 percent reported diarrhea; and
- 14 percent reported difficulty breathing.

Thirty-five percent of mothers who provided responses to a question about the well-being of their children stated they believed their health worsened while in CBP custody. Only five percent of respondents said that their child's health improved.

Forty-three percent of mothers reported that they requested medical care for their child while in CBP custody. Out of those who requested medical care, fifty-eight percent said their child did not receive medical care when requested.

Sixty-seven percent of mothers reported that their child was not seen by a medical provider while detained by CBP, excluding a standard check for lice. On a scale of 1 (very bad) to 5 (very good), participants rated the medical care available to their child in CBP custody a 1.6 on average.

#### **IV. Individual Complaints**

Some clients who stated on the survey that their child had been denied medical care in CBP custody were asked to voluntarily provide a sworn statement while detained at the STFRC about the medical care—or lack thereof—provided to their children while in CBP custody. The declarations demonstrate a consistent lack of access to medical care available to children. The few families who were provided access to a medical provider reported waiting for hours, receiving inadequate treatment, or not receiving medication that the medical provider had prescribed.

Pseudonyms have been used in each of the following cases to protect the identities of the individuals involved. These accounts, taken directly from sworn statements provided in the Appendix to this complaint, represent only a few of the many we have received. All declarants have since been released from the STFRC.

##### **a. Account of Beatriz**

Beatriz fled Honduras this summer with her nine-year-old daughter, who was diagnosed prenatally with cysts that prevented one of her kidneys from working. The child's doctor had instructed Beatriz to change her daughter's underwear and bathe her carefully every day due to her high risk for urinary tract infections. In July 2019, the family was detained and transferred to a CBP facility. When her child vomited twice, an immigration official told Beatriz that "they only took children to a medical provider if they had fever or had vomited three times." Despite multiple requests to officials and a medical provider, Beatriz's daughter went five days without a shower or a change of underwear. The child complained of genital itching and burning during urination. Beatriz states:

"I told another official about my daughter's medical problem and need to shower. She said that we had to wait for her assigned bathing day. I asked if we could at least have another pair of underwear. She said she could not help. I saw girls' clothing nearby and asked if we could have one of those but she said she could not help. I put a sanitary napkin in my daughter's underwear to try to keep her clean."

##### **b. Account of Yuri**

Yuri, an asylum-seeking Honduran mother arrived in the United States in July 2019 with her three-year-old daughter. They were taken into CBP custody and held for eight days. Yuri reported that

her daughter is only accustomed to drinking from a bottle, which officials refused to provide. Her daughter then stopped drinking liquids almost completely. Two days after Yuri's arrival, the CBP facility was put under quarantine. According to Yuri, immigration officials told Yuri and the other people detained with her to stay away from them because they were afraid of getting infected. The officials stopped taking roll and handing out food individually. Yuri's daughter became very ill during their detention in the CBP facility. Yuri made frequent visits to a dirty bathroom with her daughter, who had diarrhea. At one point, her daughter vomited about ten times in an hour, but officials told Yuri she could not receive medical care because of the quarantine. Yuri recalls:

"The majority of children were sick. One Guatemalan mother had a boy who was three or four years old. He had a cough, diarrhea, fever, and vomiting for several days. An official told her to stand [in line] waiting to see a doctor. She waited from one in the morning until about eleven at night and still was waiting in the same place without being seen. Her son started to convulse, and they finally took them away."

Yuri says that both fathers and mothers became so angry about the lack of medical care for their sick children that everyone began to yell at the same time. After that, CBP gave all of the adults a pill and all of the children one dose of liquid medicine but that was the only time they received medicine in eight days. Yuri saw a woman leave to give birth and return to the facility, which was under a quarantine, with her newborn baby. The mother had to lay her newborn on the cement floor with only a Mylar sheet between the baby and the floor.

### **c. Account of Marisela**

Marisela, a 21-year-old mother of a two-year-old son, fled Honduras and entered the United States in July 2019. A few days after their detention in CBP custody began, immigration officials stopped bringing in or releasing anyone, in what seems to have been a quarantine. Officials told Marisela and others detained with her that they were "on alert." Officials gave the adults a pill related to the quarantine, but told her that her son would not receive one because they had run out. Her son developed a fever, cough, and diarrhea. Marisela recounts:

"My son was losing weight and I would sometimes have to change his diaper every 10 or 15 minutes because of the diarrhea. An official told me that they were not giving medication to children and he could only give me a little electrolytes. That was the only time my son received electrolytes during the week we were in the *perrera*."<sup>28</sup>

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<sup>28</sup> "Perrera" is the Spanish word for "dog pound."

Marisela reports that most of the children in the CBP facility were sick with vomiting or diarrhea, and that she thinks the portable toilets, which were frequently overflowing, could have contributed to spreading infection. Marisela and her son waited in the medical area to see the nurse for over five hours one day, but the nurse never arrived. When they finally saw the nurse the next day, she was told that there was nothing that could be done for her son.

**d. Account of Sofia**

Sofia fled El Salvador with her nine-year-old daughter, entering the United States in June 2019. In CBP custody, her daughter had stomach pain and nausea which she believed was from the ham sandwiches and burritos provided. Sofia reports that her daughter barely ate anything while in custody. Her daughter vomited and had diarrhea so many times Sofia says she lost track. Sofia says that her daughter vomited into her hands because she could not reach the bathroom in time. Sofia was very worried because her daughter's lack of appetite was very uncharacteristic of her daughter. Sofia states:

“My daughter’s health kept getting worse so on Monday June 24 I asked an official for my daughter to see a doctor. She was going to the bathroom with diarrhea and vomiting very frequently. The official put her hands on her hips and asked if she had a fever. I said no. The official said that if she didn’t have a fever she couldn’t take her anywhere and told us to go back to our cell.”

Sofia and her daughter never saw a medical professional in the four days that they were detained by CBP.

**e. Account of Carla**

Carla fled Honduras with her six-year-old son, entering the United States in June 2019. She reports that immediately after crossing the border, she looked for an official so that she and her son could turn themselves in and request asylum. However, they were caught in a rainstorm and walked for an hour before finding an immigration official. Carla describes conditions in the CBP holding cell:

“My son was wet and very cold from the air conditioning and only had a Mylar blanket. We had to sleep on the cold cement floor. He was naked and trembling, crying, and couldn’t sleep from the cold. I asked for diapers so he could have something to wear but the officials said he was too old to wear them.”

Carla's son woke up with congestion, fatigue, and a fever. Carla reports that she requested medical attention for him, but the official told her that her son was just tired and needed to sleep. Yet officials woke Carla and her son up at four in the morning while he was sick to process the belongings that were being confiscated from them.

**f. Account of Vidalina**

Vidalina fled Guatemala with her four-year-old daughter to seek asylum in the United States. She entered the country, was detained in July 2019, and spent six days in CBP custody. Despite her daughter having wet clothing, she was denied dry pants and socks for her daughter and was told not to take their shoes off because their feet would smell. They were given a meal and then told that if they wanted to shower, they would need to do so right away. As a result, they did not finish their food because they had had to leave it right next to the portable bathrooms and there were flies circling. They were afraid the flies would settle on their food. Vidalina's daughter came down with a fever, diarrhea, and a headache. A CBP official told her that no medical care was available. Vidalina says:

“My daughter got sick with a fever, diarrhea, and a headache. I tried giving her more water but the next day she woke up even more sick. Her lips were chapped from the fever. I asked the official in charge of our area for medical attention. I told her my daughter had a fever and headache. The official responded, “Listen, I don't have medicine for you and much less for her. Hold her in your arm and put her to sleep.”

**g. Account of Diana**

Diana and her 11-year-old daughter, both from Honduras, arrived in the United States in July 2019. After crossing the U.S.-Mexico border, they were transferred to CBP custody and held for at least a week, where they were separated from one another in different fenced areas. She recounts:

“On Friday, July 12<sup>th</sup> at 6:00 in the evening, we noticed that no new people were arriving and that the officials were no longer calling people for interviews. The officials told us that this was because there was an epidemic of fever, diarrhea, and vomiting. They gave all of us women a pill and told us that we had to stay detained for 48 hours after taking the pill to be sure we weren't contagious. ... From our cell, we could see two women in other areas with babies who looked just a couple days old. The mothers had to sleep on a mattress on the floor with the newborns, wrapping them up to try to keep them warm.”

Diana states that she heard many mothers request medical care, but none of the children were taken to a doctor, even though some of them seemed seriously ill. After she was reunited with her daughter, she learned that her daughter had not received a pill like the one she had been given.

#### **h. Account of Isabel**

Isabel, a mother from Honduras, arrived in the United States in June 2019 with her three-year-old daughter. Isabel asked officials in CBP custody for dry clothes for her soaking wet daughter, but was told she could not have any. Isabel wrung the clothes out as best she could in their cell. They were each given a single Mylar blanket, so Isabel wrapped both blankets around her daughter, who was still wearing wet clothes, and slept without one herself. They did not receive dry clothing for two days. Isabel states:

“The next day, [my daughter] woke up with a fever and congestion. I asked several officials for medicine but the officials said they didn’t have any. One told me to wait but she never came back.”

#### **i. Account of Fatima**

Fatima, a 21-year-old Salvadoran mother, arrived in the United States in June 2019 with her four-year-old daughter. She and her daughter were very cold in CBP custody and only received one Mylar blanket each. Fatima requested dry socks and an additional blanket for her daughter but was denied. The child started sneezing and becoming congested. Fatima reports that every time her daughter tried to eat the ham sandwiches or burritos that were provided for every meal, she gagged as if she were going to vomit. Fatima requested medical attention from two different officials, both of whom denied her requests. She says:

“It seemed to me like the officials would only provide medical care in a very extreme situation like if someone had a seizure, but not for most sick children. I did not see anyone receive medical care in the days that I was there even though most children there looked sick.”

After three days in CBP custody, Fatima and her daughter were transferred to the STFRC. Upon arrival at the STFRC Fatima’s daughter was still congested and had a fever. She was barely eating and had stomach pain. Fatima believes that the conditions in the facility caused her daughter to get sick.

## V. Conclusion

The case examples above demonstrate the poor medical care children experience in CBP custody, which could lead to serious illness, including death. The substandard conditions in which children in CBP custody are held raise significant legal and medical concerns and threaten fundamental due process.

We urge your offices to take immediate action and implement meaningful oversight mechanisms to drastically improve access to medical services for individuals—and vulnerable children in particular—held in CBP custody. We also urge the following corrective actions:

1. CBP should adhere to its own policies provided in the 2008 Hold Room and Short Term Custody memorandum setting forth standards for the conditions of confinement in short-term custody, and the subsequent 2015 Transport, Escort, Detention, and Search (TEDS) standards requiring in part that individuals held in short-term custody be held for not more than 72 hours.
2. Professionals with child welfare expertise should conduct the processing and caring for children in CBP facilities. Further, CBP facilities should be staffed by physicians and other medical providers with pediatric training and expertise, and appropriately trained mental health professionals specializing in pediatric care and trauma, to ensure timely access to care for sick or injured children.
3. The appropriate training of CBP personnel to enable agents to identify signs of sick or injured children so that they may be quickly referred to pediatricians or other medical experts trained in pediatric care. CBP agents should not be expected to oversee and carry out medical care for children.
4. Families held in CBP custody should be processed expeditiously and released using community-based alternatives to detention (ATD), such as the Family Case Management Program.<sup>29</sup> Similarly, unaccompanied immigrant children should be held in CBP custody for the minimum time possible.

We urge an immediate investigation into CBP's repeated violations of relevant medical and legal standards and longstanding child protection principles. The lives of thousands of immigrant children depend upon it. Thank you in advance for your time and consideration. If you have any questions or require additional information, please do not hesitate to contact us.

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<sup>29</sup> Women's Refugee Commission, Family Case Management Program, <https://www.womensrefugeecommission.org/rights/resources/1653-family-case-managementprogram>.

AMERICAN IMMIGRATION COUNCIL

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

CC:

Mark Morgan  
Acting Commissioner  
U.S. Customs and Border Protection  
Department of Homeland Security  
Washington, DC 20528



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<sup>1</sup> CBP, National Standards on Transportation, Escort, Detention, and Search (Oct. 2015), <https://www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf>. See CBP, Interim Enhanced Medical Efforts (January 2019), <https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/CBP-Interim-Medical-Directive-28-January-2019.pdf>. See Chief David V. Aguilar, *Memorandum: Hold Rooms and Short Term Custody* (Jun. 2, 2008),

The stakes could not be higher for the thousands of men, women, and children held in CBP custody every year. An unprecedented number of children have perished while in CBP custody over the past several months, with at least seven children having died since last year alone.<sup>2</sup> Reports show that many reach the U.S.-Mexico border after arduous journeys during which they may have had no access to safe shelter, adequate food, and basic medical services.<sup>3</sup> For many of those arriving at our southern border, especially children, the need for medical attention is critical.

In support of this complaint, we offer recent firsthand accounts from asylum-seeking mothers attesting to the lack of medical attention received by their children while in CBP custody. Further, we include data from a survey completed by 200 detained families regarding the substandard conditions in CBP holding facilities and the systematic denial of medical care when requested.

Among the findings of the survey are that 35 percent of mothers who provided responses to a question about the well-being of their children stated they believed their health worsened while in CBP custody. In addition, 58 percent of mothers who requested medical care for their children did not receive it. One mother was denied medical care even though her child was vomiting repeatedly and experiencing severe diarrhea. Another woman observed CBP take a pregnant woman to the hospital to give birth—then observed CBP bring the woman back to detention, where she was forced to lay her newborn on the filthy concrete floor with only a thin Mylar sheet as a barrier.<sup>4</sup>

## I. Background

The inhumane conditions that individuals, including children, face inside CBP detention facilities on the U.S.-Mexico border have been the cause of great concern in the advocacy, medical, and legal communities.<sup>5</sup> These facilities, some of which have come to be known as "iceboxes" or

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[https://foiarr.cbp.gov/docs/Policies\\_and\\_Procedures/2011/200842354\\_378/1104271006\\_Hold\\_Room\\_Custody\\_Directive\\_Reading\\_Room.pdf](https://foiarr.cbp.gov/docs/Policies_and_Procedures/2011/200842354_378/1104271006_Hold_Room_Custody_Directive_Reading_Room.pdf) (redacted).

<sup>2</sup> See "Why are migrant children dying in U.S. custody?" NBC News, May 29, 2019,

<https://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316?fbclid=IwAR38n79Vu1jBLEjqEPL8NCeCJ7qaGinN2TJOuTfEkV1BKJDyISX3Jee7Rs>.

<sup>3</sup> See "Doctors Warn More Children in Border Patrol Stations Could Die Like Felipe and Jakelin," Daily Beast, December 29, 2018, <https://www.thedailybeast.com/doctors-warn-more-children-in-border-patrol-stations-could-die-like-felipe-and-jakelin>.

<sup>4</sup> Sworn, pseudonymized statements are located in the Appendix to this complaint.

<sup>5</sup> See "Recommendations for Customs and Border Protection Standards While Detaining Children," The Young Center, March 28, 2019,

“hieleras” (Spanish for “freezers” or “iceboxes”) because of their extremely cold temperatures, have been the subject of numerous reports,<sup>6</sup> civil rights complaints, and even litigation<sup>7</sup> regarding the substandard conditions.

Between 2008 and 2015, CBP set forth standards for the conditions of confinement in short-term custody in a memorandum entitled, “Hold Room and Short Term Custody” (hereinafter 2008 Hold Room Policy).<sup>8</sup> The 2008 Hold Room Policy maintained that individuals should be held in CBP detention for “not more than 12 hours” and should be moved out of CBP custody “promptly.” It also provided that “Detainees requiring bedding will be given clean bedding,”<sup>9</sup> and that “Detainees using the restrooms will have access to toilet items, such as soap, toilet paper, and sanitary napkins.”<sup>10</sup> All juveniles detained longer than 24 hours were “entitled to basic hygiene articles, a blanket, and a mattress,” as well as showers after 48 hours where available.<sup>11</sup>

In 2015, CBP adopted additional standards entitled Transport, Escort, Detention, and Search standards (“TEDS Standards”).<sup>12</sup> Both the TEDS Standards and the 2008 policy remain in effect. In several key ways, the TEDS Standards relax the requirements placed on CBP officers regarding the treatment of individuals held in CBP custody. Under the TEDS Standards, “Detainees should generally not be held for 72 hours,” and “Every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as

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<https://static1.squarespace.com/static/597ab5f3beba0a625aaf45/t/5ce419146070c6000188aad1558452500801/Recommendations+For+CBP+Standards+While+Detaining+Children.pdf>.

<sup>6</sup> See Guillermo Cantor, *Hieleras (Iceboxes) in the Rio Grande Valley Sector: Lengthy Detention, Deplorable Conditions, and Abuse in CBP Holding Cells* (Dec. 2015),

[https://www.americanimmigrationcouncil.org/sites/default/files/research/hieleras\\_iceboxes\\_in\\_the\\_rio\\_grande\\_valley\\_sector.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/hieleras_iceboxes_in_the_rio_grande_valley_sector.pdf). See “Recommendations for CBP Standards When Detaining Children,” Women’s Refugee Commission, Kids in Need in Defense (March 28, 2019),

<https://www.aappublications.org/news/2019/01/31/washington013119>. See “DHS Advisory Committee’s Recommendations Are Harmful to Immigrant Children,” Young Center for Immigrant Children’s Rights (May 7, 2019) <https://www.theyoungcenter.org/stories/2019/5/10/dhsnbspadvisory-committees-recommendations-are-harmful-to-immigrant-children> (joint letter to CBP Families and Children Care Panel from American Academy of Pediatrics, Kids in Need of Defense (KIND), Lutheran Immigration and Refugee Services, the Women’s Refugee Commission and the Young Center, highlighting concerns related to proper medical care and screening of children in CBP custody).

<sup>7</sup> See, e.g., *Unknown Parties, et. al., v. Johnson*, No. CV-15-00250-TUC-DCB, 2016 WL 8188563, at \*11 (D. Ariz. Nov. 18, 2016) (granting a preliminary injunction after finding that plaintiffs were likely to succeed in their claim that conditions of confinement in CBP’s Tucson Sector short-term detention facilities, including the failure to provide sufficient medical screening and access medical care, violate the due process clause).

<sup>8</sup> See Chief David V. Aguilar, *Memorandum: Hold Rooms and Short Term Custody* (Jun. 2, 2008).

<sup>9</sup> “Bedding” was defined as “Any combination of pillow, sheets, blanket, sleeping bag, or mattress.” *Id.* at 3.1.

<sup>10</sup> *Id.* at 6.10-6.11.

<sup>11</sup> *Id.* at 6.24.7.

<sup>12</sup> See CBP, National Standards on Transportation, Escort, Detention, and Search (Oct. 2015).

appropriate and operationally feasible.”<sup>13</sup> While juveniles are still entitled to “clean bedding,”<sup>14</sup> the TEDS Standards only require that “clean blankets must be provided to adult detainees upon request.” The TEDS Standards also limit access to soap, providing only that “Whenever operationally feasible, soap may be made available.”<sup>15</sup> As with the 2008 Hold Room Policy, CBP officers are required to give juveniles “access to basic hygiene articles, and clean bedding.”<sup>16</sup>

Despite the existence of the 2015 TEDS Standards and the 2008 Hold Room Policy, CBP has routinely failed to meet even the relatively low requirements of those policies. Individuals held in CBP detention have routinely described overcrowded and often-filthy cells, freezing temperatures, inadequate medical treatment, inedible and insufficient food, lack of access to hygienic products such as soap and toothbrushes, and being forced to sleep on bare concrete floors with no protection.<sup>17</sup>

Under a settlement agreement in *Flores v. Barr*, DHS—including CBP—must provide unaccompanied minors in its custody with “safe and sanitary” detention conditions.<sup>18</sup> On August 15, 2019, the Ninth Circuit affirmed a District Court order finding that CBP had violated the *Flores* settlement agreement “by detaining minors in unsanitary and unsafe conditions at Border Patrol stations.”<sup>19</sup> The Ninth Circuit further held that the District Court had not gone beyond the terms of the settlement agreement by ordering CBP to provide “specific hygiene items and adequate sleeping accommodations.”<sup>20</sup> The Ninth Circuit “emphatically disagreed” with CBP’s argument that the *Flores* settlement’s requirement of “safe and sanitary” conditions did not give the District Court authority to order that CBP provide items like soap and toothbrushes to children held in the agency’s custody.<sup>21</sup> “Assuring that children eat enough edible food, drink clean water, are housed in hygienic facilities with sanitary bathrooms, have soap and toothpaste, and are not sleep-deprived are without doubt essential to the children’s safety.”<sup>22</sup>

Over the past year, reports of unlawful and substandard conditions in CBP facilities escalated. During the summer of 2018, individuals reported spending significantly longer time than

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<sup>13</sup> *Id.* at 4.12.

<sup>14</sup> “Bedding” is defined as “A (or any combination of) blanket, mat, or cot.” *Id.* at 8.0.

<sup>15</sup> *Id.* at 4.11.

<sup>16</sup> *Id.* at 5.6.

<sup>17</sup> See, e.g., Human Rights Watch, *In the Freezer: Abusive Conditions for Women and Children in US Immigration Holding Cells* (Feb. 28, 2018), <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells>.

<sup>18</sup> *Flores v. Barr*, No. 17-56297 (9th Cir. Aug. 15, 2019).

<sup>19</sup> *Id.* at 5.

<sup>20</sup> *Id.* at \*6.

<sup>21</sup> *Id.* at \*12.

<sup>22</sup> *Id.* at \*14.

normal—and often longer than 72 hours—in CBP facilities. A September 2018 report from the Department of Homeland Security (DHS) Office of Inspector General (OIG) indicated that between May 5 and June 20, 2018, 44 percent of unaccompanied children were held in CBP custody for longer than 72 hours, with one child held in the Rio Grande Valley Sector for 25 days.<sup>23</sup>

Throughout 2019, reports of worsening conditions continued, detailing children forced to sleep outside on gravel and under bridges, adults held in “standing room only” conditions, total lack of access to hygiene, and other widespread violations of the TEDS Standards. Many of these reports were confirmed by a pair of DHS OIG Management Alerts issued in May and June 2019 about “dangerous overcrowding” in El Paso<sup>24</sup> and in the Rio Grande Valley.<sup>25</sup>

Since those reports were issued, apprehensions at the border decreased, but reports of substandard conditions continue. This complaint demonstrates that the inadequate and unlawful conditions observed by the DHS OIG persist and remain of concern.<sup>26</sup>

## II. Methodology and Demographics

The Dilley Pro Bono Project (DPBP) provides legal services to mothers detained with their children in the South Texas Family Residential Center (STFRC) in Dilley, Texas.<sup>27</sup> In June and July 2019, DPBP staff and volunteers administered a 13-question survey to DPBP clients individually or in groups. Clients were informed that participation was optional and would not in any way impact their ability to seek legal services from DPBP and that their identities would be protected. Potential participants were randomly selected from lists of clients who had undergone their credible fear interviews in the few days before surveys were administered. Several non-Spanish-speaking clients were separately asked to participate, due to their under-representation on the primary client lists used. Surveys were conducted in Spanish, but phone interpretation was

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<sup>23</sup> DHS OIG, *OIG-18-84: Special Review – Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy* (Sept. 27, 2018), at 8, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf>.

<sup>24</sup> DHS OIG, *OIG-19-46: Management Alert - DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center* (May 30, 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-05/OIG-19-46-May19.pdf>.

<sup>25</sup> DHS OIG, *OIG-19-51: Management Alert - DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley* (July 2, 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19.pdf>.

<sup>26</sup> See “Hungry, Scared and Sick: Inside the Migrant Detention Center in Clint, Tex.,” *New York Times*, July 9, 2019, <https://www.nytimes.com/interactive/2019/07/06/us/migrants-border-patrol-clint.html>.

<sup>27</sup> The DPBP is an initiative of the American Immigration Lawyers Association (AILA), the American Immigration Council, Catholic Legal Immigration Network, Inc. (CLINIC), and other partners.

available if the client was not comfortable responding to the survey in Spanish. DPBP ceased to conduct surveys once 200 surveys had been completed.

Survey participants were 51 percent Honduran, 20 percent Guatemalan, 20 percent Salvadoran and 4 percent Venezuelan. There were one or two participants each from Mexico, Nicaragua, Cuba, Ecuador, and Democratic Republic of the Congo. Ninety-eight percent spoke Spanish as a first language, with the remaining participants speaking French, K'iche, Q'eqchi, and Kichua. Ninety percent of the participants entered the United States in the Rio Grande Valley sector, with six percent entering near Laredo, two percent near Eagle Pass, and one percent near Del Rio. One participant entered through the airport in Houston and one entered the U.S. near Calexico, California. All participants entered the United States between May 8 and July 22, 2019. The participants were all mothers detained with their minor children.

### **III. Survey Results**

Families reported spending an average of four days in CBP custody before being transferred to the STFRC, with 48 percent spending more than three days; the maximum detention time reported was 11 days in CBP custody.

Mothers reported that their children experienced the following symptoms while in CBP custody (with some reporting more than one symptom):

- 31 percent reported fever;
- 22 percent reported vomiting;
- 26 percent reported diarrhea; and
- 14 percent reported difficulty breathing.

Thirty-five percent of mothers who provided responses to a question about the well-being of their children stated they believed their health worsened while in CBP custody. Only five percent of respondents said that their child's health improved.

Forty-three percent of mothers reported that they requested medical care for their child while in CBP custody. Out of those who requested medical care, fifty-eight percent said their child did not receive medical care when requested.

Sixty-seven percent of mothers reported that their child was not seen by a medical provider while detained by CBP, excluding a standard check for lice. On a scale of 1 (very bad) to 5 (very good), participants rated the medical care available to their child in CBP custody a 1.6 on average.

#### **IV. Individual Complaints**

Some clients who stated on the survey that their child had been denied medical care in CBP custody were asked to voluntarily provide a sworn statement while detained at the STFRC about the medical care—or lack thereof—provided to their children while in CBP custody. The declarations demonstrate a consistent lack of access to medical care available to children. The few families who were provided access to a medical provider reported waiting for hours, receiving inadequate treatment, or not receiving medication that the medical provider had prescribed.

Pseudonyms have been used in each of the following cases to protect the identities of the individuals involved. These accounts, taken directly from sworn statements provided in the Appendix to this complaint, represent only a few of the many we have received. All declarants have since been released from the STFRC.

##### **a. Account of Beatriz**

Beatriz fled Honduras this summer with her nine-year-old daughter, who was diagnosed prenatally with cysts that prevented one of her kidneys from working. The child's doctor had instructed Beatriz to change her daughter's underwear and bathe her carefully every day due to her high risk for urinary tract infections. In July 2019, the family was detained and transferred to a CBP facility. When her child vomited twice, an immigration official told Beatriz that "they only took children to a medical provider if they had fever or had vomited three times." Despite multiple requests to officials and a medical provider, Beatriz's daughter went five days without a shower or a change of underwear. The child complained of genital itching and burning during urination. Beatriz states:

"I told another official about my daughter's medical problem and need to shower. She said that we had to wait for her assigned bathing day. I asked if we could at least have another pair of underwear. She said she could not help. I saw girls' clothing nearby and asked if we could have one of those but she said she could not help. I put a sanitary napkin in my daughter's underwear to try to keep her clean."

##### **b. Account of Yuri**

Yuri, an asylum-seeking Honduran mother arrived in the United States in July 2019 with her three-year-old daughter. They were taken into CBP custody and held for eight days. Yuri reported that

her daughter is only accustomed to drinking from a bottle, which officials refused to provide. Her daughter then stopped drinking liquids almost completely. Two days after Yuri's arrival, the CBP facility was put under quarantine. According to Yuri, immigration officials told Yuri and the other people detained with her to stay away from them because they were afraid of getting infected. The officials stopped taking roll and handing out food individually. Yuri's daughter became very ill during their detention in the CBP facility. Yuri made frequent visits to a dirty bathroom with her daughter, who had diarrhea. At one point, her daughter vomited about ten times in an hour, but officials told Yuri she could not receive medical care because of the quarantine. Yuri recalls:

"The majority of children were sick. One Guatemalan mother had a boy who was three or four years old. He had a cough, diarrhea, fever, and vomiting for several days. An official told her to stand [in line] waiting to see a doctor. She waited from one in the morning until about eleven at night and still was waiting in the same place without being seen. Her son started to convulse, and they finally took them away."

Yuri says that both fathers and mothers became so angry about the lack of medical care for their sick children that everyone began to yell at the same time. After that, CBP gave all of the adults a pill and all of the children one dose of liquid medicine but that was the only time they received medicine in eight days. Yuri saw a woman leave to give birth and return to the facility, which was under a quarantine, with her newborn baby. The mother had to lay her newborn on the cement floor with only a Mylar sheet between the baby and the floor.

### **c. Account of Marisela**

Marisela, a 21-year-old mother of a two-year-old son, fled Honduras and entered the United States in July 2019. A few days after their detention in CBP custody began, immigration officials stopped bringing in or releasing anyone, in what seems to have been a quarantine. Officials told Marisela and others detained with her that they were "on alert." Officials gave the adults a pill related to the quarantine, but told her that her son would not receive one because they had run out. Her son developed a fever, cough, and diarrhea. Marisela recounts:

"My son was losing weight and I would sometimes have to change his diaper every 10 or 15 minutes because of the diarrhea. An official told me that they were not giving medication to children and he could only give me a little electrolytes. That was the only time my son received electrolytes during the week we were in the *perrera*."<sup>28</sup>

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<sup>28</sup> "Perrera" is the Spanish word for "dog pound."

Marisela reports that most of the children in the CBP facility were sick with vomiting or diarrhea, and that she thinks the portable toilets, which were frequently overflowing, could have contributed to spreading infection. Marisela and her son waited in the medical area to see the nurse for over five hours one day, but the nurse never arrived. When they finally saw the nurse the next day, she was told that there was nothing that could be done for her son.

**d. Account of Sofia**

Sofia fled El Salvador with her nine-year-old daughter, entering the United States in June 2019. In CBP custody, her daughter had stomach pain and nausea which she believed was from the ham sandwiches and burritos provided. Sofia reports that her daughter barely ate anything while in custody. Her daughter vomited and had diarrhea so many times Sofia says she lost track. Sofia says that her daughter vomited into her hands because she could not reach the bathroom in time. Sofia was very worried because her daughter's lack of appetite was very uncharacteristic of her daughter. Sofia states:

“My daughter’s health kept getting worse so on Monday June 24 I asked an official for my daughter to see a doctor. She was going to the bathroom with diarrhea and vomiting very frequently. The official put her hands on her hips and asked if she had a fever. I said no. The official said that if she didn’t have a fever she couldn’t take her anywhere and told us to go back to our cell.”

Sofia and her daughter never saw a medical professional in the four days that they were detained by CBP.

**e. Account of Carla**

Carla fled Honduras with her six-year-old son, entering the United States in June 2019. She reports that immediately after crossing the border, she looked for an official so that she and her son could turn themselves in and request asylum. However, they were caught in a rainstorm and walked for an hour before finding an immigration official. Carla describes conditions in the CBP holding cell:

“My son was wet and very cold from the air conditioning and only had a Mylar blanket. We had to sleep on the cold cement floor. He was naked and trembling, crying, and couldn’t sleep from the cold. I asked for diapers so he could have something to wear but the officials said he was too old to wear them.”

Carla's son woke up with congestion, fatigue, and a fever. Carla reports that she requested medical attention for him, but the official told her that her son was just tired and needed to sleep. Yet officials woke Carla and her son up at four in the morning while he was sick to process the belongings that were being confiscated from them.

**f. Account of Vidalina**

Vidalina fled Guatemala with her four-year-old daughter to seek asylum in the United States. She entered the country, was detained in July 2019, and spent six days in CBP custody. Despite her daughter having wet clothing, she was denied dry pants and socks for her daughter and was told not to take their shoes off because their feet would smell. They were given a meal and then told that if they wanted to shower, they would need to do so right away. As a result, they did not finish their food because they had had to leave it right next to the portable bathrooms and there were flies circling. They were afraid the flies would settle on their food. Vidalina's daughter came down with a fever, diarrhea, and a headache. A CBP official told her that no medical care was available. Vidalina says:

“My daughter got sick with a fever, diarrhea, and a headache. I tried giving her more water but the next day she woke up even more sick. Her lips were chapped from the fever. I asked the official in charge of our area for medical attention. I told her my daughter had a fever and headache. The official responded, “Listen, I don't have medicine for you and much less for her. Hold her in your arm and put her to sleep.”

**g. Account of Diana**

Diana and her 11-year-old daughter, both from Honduras, arrived in the United States in July 2019. After crossing the U.S.-Mexico border, they were transferred to CBP custody and held for at least a week, where they were separated from one another in different fenced areas. She recounts:

“On Friday, July 12<sup>th</sup> at 6:00 in the evening, we noticed that no new people were arriving and that the officials were no longer calling people for interviews. The officials told us that this was because there was an epidemic of fever, diarrhea, and vomiting. They gave all of us women a pill and told us that we had to stay detained for 48 hours after taking the pill to be sure we weren't contagious. ... From our cell, we could see two women in other areas with babies who looked just a couple days old. The mothers had to sleep on a mattress on the floor with the newborns, wrapping them up to try to keep them warm.”

Diana states that she heard many mothers request medical care, but none of the children were taken to a doctor, even though some of them seemed seriously ill. After she was reunited with her daughter, she learned that her daughter had not received a pill like the one she had been given.

#### **h. Account of Isabel**

Isabel, a mother from Honduras, arrived in the United States in June 2019 with her three-year-old daughter. Isabel asked officials in CBP custody for dry clothes for her soaking wet daughter, but was told she could not have any. Isabel wrung the clothes out as best she could in their cell. They were each given a single Mylar blanket, so Isabel wrapped both blankets around her daughter, who was still wearing wet clothes, and slept without one herself. They did not receive dry clothing for two days. Isabel states:

“The next day, [my daughter] woke up with a fever and congestion. I asked several officials for medicine but the officials said they didn’t have any. One told me to wait but she never came back.”

#### **i. Account of Fatima**

Fatima, a 21-year-old Salvadoran mother, arrived in the United States in June 2019 with her four-year-old daughter. She and her daughter were very cold in CBP custody and only received one Mylar blanket each. Fatima requested dry socks and an additional blanket for her daughter but was denied. The child started sneezing and becoming congested. Fatima reports that every time her daughter tried to eat the ham sandwiches or burritos that were provided for every meal, she gagged as if she were going to vomit. Fatima requested medical attention from two different officials, both of whom denied her requests. She says:

“It seemed to me like the officials would only provide medical care in a very extreme situation like if someone had a seizure, but not for most sick children. I did not see anyone receive medical care in the days that I was there even though most children there looked sick.”

After three days in CBP custody, Fatima and her daughter were transferred to the STFRC. Upon arrival at the STFRC Fatima’s daughter was still congested and had a fever. She was barely eating and had stomach pain. Fatima believes that the conditions in the facility caused her daughter to get sick.

## V. Conclusion

The case examples above demonstrate the poor medical care children experience in CBP custody, which could lead to serious illness, including death. The substandard conditions in which children in CBP custody are held raise significant legal and medical concerns and threaten fundamental due process.

We urge your offices to take immediate action and implement meaningful oversight mechanisms to drastically improve access to medical services for individuals—and vulnerable children in particular—held in CBP custody. We also urge the following corrective actions:

1. CBP should adhere to its own policies provided in the 2008 Hold Room and Short Term Custody memorandum setting forth standards for the conditions of confinement in short-term custody, and the subsequent 2015 Transport, Escort, Detention, and Search (TEDS) standards requiring in part that individuals held in short-term custody be held for not more than 72 hours.
2. Professionals with child welfare expertise should conduct the processing and caring for children in CBP facilities. Further, CBP facilities should be staffed by physicians and other medical providers with pediatric training and expertise, and appropriately trained mental health professionals specializing in pediatric care and trauma, to ensure timely access to care for sick or injured children.
3. The appropriate training of CBP personnel to enable agents to identify signs of sick or injured children so that they may be quickly referred to pediatricians or other medical experts trained in pediatric care. CBP agents should not be expected to oversee and carry out medical care for children.
4. Families held in CBP custody should be processed expeditiously and released using community-based alternatives to detention (ATD), such as the Family Case Management Program.<sup>29</sup> Similarly, unaccompanied immigrant children should be held in CBP custody for the minimum time possible.

We urge an immediate investigation into CBP's repeated violations of relevant medical and legal standards and longstanding child protection principles. The lives of thousands of immigrant children depend upon it. Thank you in advance for your time and consideration. If you have any questions or require additional information, please do not hesitate to contact us.

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<sup>29</sup> Women's Refugee Commission, Family Case Management Program, <https://www.womensrefugeecommission.org/rights/resources/1653-family-case-managementprogram>.

AMERICAN IMMIGRATION COUNCIL

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

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