

# United States Senate

WASHINGTON, DC 20510

June 11, 2024

## VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
Washington, DC 20528

Dear Secretary Mayorkas:

Secure borders keep Georgia's and Tennessee's families safe. Strengthening border security requires vast resources, order, and humanity to help vulnerable children navigate an uncertain process. Protecting the human rights of children is both a moral and legal imperative, and border enforcement must be humane.

Public reporting in recent years has highlighted dangerous conditions for children in U.S. Customs and Border Protection ("CBP") custody, including reported deaths, abuse, and medical neglect.<sup>1</sup> The Department of Homeland Security's Office of the Inspector General ("OIG") has found repeated violations of both the CBP National Standards on Transport, Escort, Detention, and Search ("TEDS")<sup>2</sup> and the Trafficking Victims Protection Reauthorization Act, including

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<sup>1</sup> Nick Miroff, Before Child Died in Custody, CBP Tried to Replace Medical Contractor, *Washington Post* (Aug. 25, 2023) <https://www.washingtonpost.com/immigration/2023/08/25/border-medical-migrants-loyal-source/>; Sandy Chung, An 8-year-old Died in Customs and Border Protection Custody. CBP Must Stop Failing Kids, *USA Today*, (Jun. 25, 2023) <https://www.usatoday.com/story/opinion/2023/06/25/make-customs-border-protection-immigration-facilities-safe-kids/70322187007/>; Featured Issue: Conditions in CBP Custody, *American Immigration Lawyers Assoc.* (Nov. 29, 2021) <https://www.aila.org/library/featured-issue-conditions-in-cbp-custody>; "They Treat You Like You Are Worthless" Internal DHS Reports of Abuses by US Border Officials, *Human Rights Watch* (Oct. 21, 2021) <https://www.hrw.org/report/2021/10/21/they-treat-you-you-are-worthless/internal-dhs-reports-abuses-us-border-officials#6949>; Paul Ingram, Feds Release New Details about Death of Baby Girl at Nogales Border Patrol Station, *Tucson Sentinel* (Oct. 2, 2023) [https://www.tucsonsentinel.com/local/report/100223\\_infant\\_dies\\_nogales/feds-release-new-details-death-baby-girl-nogales-border-patrol-station/](https://www.tucsonsentinel.com/local/report/100223_infant_dies_nogales/feds-release-new-details-death-baby-girl-nogales-border-patrol-station/); Sarah Macaraeg, Border Patrol Violence: US Paid \$60m to Cover Claims against the Agency, *The Guardian* (May 1, 2018) <https://www.theguardian.com/world/2018/may/01/border-patrol-violence-us-paid-60m-to-cover-claims-against-the-agency>; Roque Planas, Border Patrol Agents Joked about Killing Migrant Children, Records Show, *Huffpost* (Apr. 30, 2024) [https://www.huffpost.com/entry/border-patrol-agents-joked-about-killing-migrant-children-records-show\\_n\\_662bfa3fe4b0ab66ede493de](https://www.huffpost.com/entry/border-patrol-agents-joked-about-killing-migrant-children-records-show_n_662bfa3fe4b0ab66ede493de); Florence Project Heartbroken by the Death of an Infant in CBP Custody, Florence Immigrant & Refugee Rights Project (Oct. 23, 2023) <https://firrp.org/florence-project-heartbroken-by-the-death-of-an-infant-in-cbp-custody/>.

<sup>2</sup> U.S. Customs and Border Protection, National Standards on Transport, Escort, Detention, and Search (Oct. 2015) <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf>.

overcrowding in holding facilities;<sup>3</sup> holding unaccompanied children for longer than 72 hours;<sup>4</sup> failing to adequately separate children from unrelated members of the opposite sex while in federal detention or custody;<sup>5</sup> and failing to provide children with showers, hygiene products, and clean bedding.<sup>6</sup>

The Subcommittee seeks information on the conditions at holding facilities for children in CBP custody and respectfully requests that the Department of Homeland Security (“DHS”) produce the following information and documents:

### *I. Facilities*

1. For each calendar year of 2022–2024 (up to the date of this letter), please list all holding facilities that housed juveniles (individuals under the age of 18) in CBP custody and the states where they are located.
2. For each calendar year of 2022–2024 (up to the date of this letter), please list the ten facilities with the highest annual number of complaints received or recorded by CBP by or on behalf of juveniles, and the number of complaints at each of those facilities.

### *II. Child Protection*

1. Please describe how CBP balances its statutory obligations and internal policies to protect children who present or are encountered without a legal guardian from potential trafficking against the potential harm to the child that may arise from separation from a non-guardian relative accompanying the child—e.g., a grandparent.
2. Please describe what measures CBP is taking to ensure children in their custody are accounted for once they leave CBP custody.
3. Please describe what measures CBP is taking to ensure that the children in their custody are not trafficked or exploited, including through sex trafficking or child labor.

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<sup>3</sup> Office of Inspector General, Dep’t. of Homeland Sec., Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities, OIG-22-22 at 8–9 (Jan. 27, 2022) <https://www.oig.dhs.gov/sites/default/files/assets/2022-02/OIG-22-22-Feb22.pdf>; Office of Inspector General, Dep’t. of Homeland Sec., Del Rio Area Struggled with Prolonged Detention, Consistent Compliance with CBP’s TEDS Standards, and Data Integrity, OIG-22-80 at 12 (Sept. 29, 2022) <https://www.oig.dhs.gov/sites/default/files/assets/2022-10/OIG-22-80-Oct22.pdf>.

<sup>4</sup> Office of Inspector General, Dep’t. of Homeland Sec., Results of Unannounced Inspections of CBP Holding Facilities in the Rio Grande Valley Area, OIG-23-28 at 10 (May 24, 2023) <https://www.oig.dhs.gov/sites/default/files/assets/2023-05/OIG-23-28-May23.pdf>; OIG-22-80 at 9.

<sup>5</sup> Office of Inspector General, Dep’t. of Homeland Sec., Results of Unannounced Inspections of CBP Holding Facilities in the El Paso Area, OIG-23-50 at 20 (Sept. 15, 2023) <https://www.oig.dhs.gov/sites/default/files/assets/2023-09/OIG-23-50-Sep23.pdf>.

<sup>6</sup> *Id.* at 22; OIG-23-28 at 13; Office of Inspector General, Dep’t. of Homeland Sec., Results of Unannounced Inspections of CBP Holding Facilities in the San Diego Area, OIG-24-07 at 8 (Nov. 15, 2023) <https://www.oig.dhs.gov/sites/default/files/assets/2023-11/OIG-24-07-Nov23.pdf>.

### *III. Documenting, Investigating, and Resolving Complaints*

1. Please describe how juveniles in CBP custody may make formal complaints about their conditions of custody (including, but not limited to, facilities, food, safety, abuse by staff, and access to medical care) and the conduct of CBP and DHS employees and contractors.
  - a. Please describe the process, if one exists, by which juveniles can make complaints about their experience once they are no longer in CBP custody.
  - b. Please describe the process, if one exists, by which juveniles who have been identified as unaccompanied immigrant children, 6 U.S.C. 279(g)(2), and transferred to the custody of the Office of Refugee Resettlement (“ORR”) can make complaints regarding CBP abuse while in ORR custody.
    - i. For each calendar year of 2022–2024 (up to the date of this letter), please provide the number of Serious Incident Reports received by the Office of Civil Rights and Civil Liberties (“CRCL”).
2. According to the Government Accountability Office’s September 2022 report,<sup>7</sup> complaints by or on behalf of juveniles related to their conditions of detention or the conduct of CBP and DHS employees and contractors are entered into the Office of Professional Responsibility’s (“OPR”) Joint Intake Center (“JIC”).
  - a. For each calendar year of 2022–2024 (up to the date of this letter) please provide the total number of complaints recorded in the JIC by or on behalf of juveniles regarding the following topics:
    - i. Conditions of detention or holding;
    - ii. Disability discrimination;
    - iii. Discrimination or profiling;
    - iv. Excessive force or inappropriate use of force;
    - v. Human rights;
    - vi. Inappropriate touch or search of person;
    - vii. Abuse of authority or misuses of official position;
    - viii. Sexual assault or abuse;
    - ix. Intimidation, threats, or improper coercion; and

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<sup>7</sup> U.S. Gov’t. Accountability Office, Southwest Border: CBP Oversees Short-Term Custody Standards, but Border Patrol Could Better Monitor Care of At-Risk Individuals, GAO-22-105321 at 30 (Sept. 2022) <https://www.gao.gov/assets/gao-22-105321.pdf>.

- x. Any other category broadly reflecting mistreatment, abuse, or neglect of juveniles.
  - b. For each of these categories, please also provide the number of complaints that are currently:
    - i. Open;
    - ii. Expedited;
    - iii. Investigated;
    - iv. Substantiated;
    - v. Unsubstantiated;
    - vi. Closed;
    - vii. Dismissed without investigation.
  - c. For all complaints identified as “closed,” please provide:
    - i. The date the complainant entered CBP custody;
    - ii. The date the complainant left CBP custody;
    - iii. The date the complaint was opened; and
    - iv. The date the complaint was closed.
- 3. Reports by the Office for Civil Rights and Civil Liberties (“CRCL”) to Congress indicate that CRCL may use a “short form” process “to expedite investigations of narrowly focused allegations,” rather than its full investigation process.<sup>8</sup> Please explain how CRCL determines that it may conduct a short form investigation of a complaint.
  - a. For each calendar year of 2022–2024 (up to the date of this letter), please provide the number of complaints by or on behalf of juveniles handled through CRCL’s short form process.
  - b. Please identify any circumstances under which an allegation of sexual or physical abuse would not receive “short form” or otherwise expedited treatment.
  - c. Please explain how CRCL documents the investigation and resolution of a complaint via the short form investigation process.

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<sup>8</sup> Dep’t of Homeland Sec. Office for Civil Rights and Civil Liberties, Semiannual Report to Congress First and Second Quarters, FY 2023 (October 1, 2022 – March 31, 2023), at 11 (Nov. 17, 2023)  
[https://www.dhs.gov/sites/default/files/2023-12/23\\_1117\\_crcl-fy23-q1-q2-semiannual-report.pdf](https://www.dhs.gov/sites/default/files/2023-12/23_1117_crcl-fy23-q1-q2-semiannual-report.pdf).

4. Please describe the process, if one exists, by which CRCL, OPR, OIG, or the Office of the Immigration Detention Ombudsman (“OIDO”) determine to prioritize or expedite a complaint.
  - a. Please provide the number of complaints currently being expedited through any such process.
  - b. Of currently expedited complaints, how many relate to the following topics?
    - i. Sexual abuse of juveniles;
    - ii. Physical abuse of juveniles;
    - iii. Medical mistreatment or neglect of juveniles; and
    - iv. Juveniles experiencing conditions of custody not conforming with TEDS or other standards required by law.
5. Please describe, if one exists, any CBP or DHS internal mandatory deadlines for complaint resolution.
6. Please describe any CBP or DHS policies and procedures for tracking complaints that do not specify at which CBP station the complained-of behavior or conditions occurred.
7. Please describe whether and how complainants are notified regarding the status or resolution of the complaint.
8. From January 1, 2020, to the present, please provide all internal reports or other analysis of complaints related to juveniles in CBP facilities by CRCL, OIG, OPR, OIDO, or other CBP offices, including any reports or analysis produced for internal CBP or DHS use.
9. For each calendar year of 2022–2024 (up to the date of this letter), please provide:
  - a. The number of CBP or DHS personnel (including contracted employees) suspended pending investigation of a complaint by or on behalf of juveniles; and
  - b. The number of CBP or DHS personnel (including contracted employees) terminated as the result of a complaint by or on behalf of juveniles.

#### *IV. Medical Screenings and Access to Treatment*

1. Upon intake, how are juveniles entering CBP facilities screened for health concerns or conditions?
2. For each calendar year of 2022–2024 (up to the date of this letter), please provide the number of complaints by or on behalf of juveniles in CBP custody concerning medical or mental health care.

3. For each calendar year of 2022–2024 (up to the date of this letter), please provide the number of complaints by or on behalf of juveniles in CBP custody related to injuries sustained during the juvenile’s arrest by CBP.
4. Please describe CBP’s retention policy for documents related to medical screenings and medical treatment conducted on individuals in CBP custody.

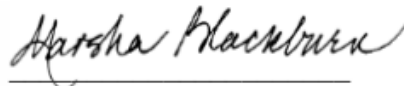
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To expedite our investigative review, the Subcommittee asks that you provide the material responsive to this request on a rolling basis as soon as it becomes available, but **no later than July 5**. Please contact Stephanie Herrmann, Senior Counsel for Senator Ossoff, at [Stephanie\\_Herrmann@ossoff.senate.gov](mailto:Stephanie_Herrmann@ossoff.senate.gov), or Katie Lane, Chief Counsel for Senator Blackburn, at [kaytlin\\_lane@blackburn.senate.gov](mailto:kaytlin_lane@blackburn.senate.gov), if you have any questions.

Sincerely,



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Senator Jon Ossoff  
Chairman  
Subcommittee on Human Rights



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Senator Marsha Blackburn  
Ranking Member  
Subcommittee on Human Rights

CC:

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