

**OVERCROWDING AND PROLONGED DETENTION
AT CBP FACILITIES**

HEARING
BEFORE THE
SUBCOMMITTEE ON
IMMIGRATION AND CITIZENSHIP
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTEENTH CONGRESS
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OVERCROWDING AND PROLONGED DETENTION AT CBP FACILITIES

MONDAY, JULY 15, 2019

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP
COMMITTEE ON THE JUDICIARY
Washington, DC.

The subcommittee met, pursuant to call, at 5:30 p.m., in Room 2141, Rayburn House Office Building, Hon. Zoe Lofgren [chairman of the subcommittee] presiding.

Present: Representatives Lofgren, Nadler, Jayapal, Correa, Garcia, Mucarsel-Powell, Escobar, Jackson Lee, Scanlon, Buck, McClintock, Armstrong, and Steube.

Staff Present: Madeline Strasser, Chief Clerk; Susan Jensen, Parliamentarian/Senior Counsel; Joshua Breisblatt, Counsel; Rachel Calanni, Professional Staff Member; Sarnata Reynolds, Counsel; Andrea Loving, Minority Counsel; Andrea Woodard, Minority Professional Staff Member; and Jon Ferro, Minority Parliamentarian.

Ms. LOFGREN. The Subcommittee on Immigration and Citizenship will come to order. Without objection, the chair is authorized to declare recesses of the subcommittee at any time.

We welcome everyone to this afternoon's hearing on overcrowding and prolonged detention at CBP facilities. And I would now recognize myself for an opening statement.

In just 5 weeks' time, the DHS Inspector General has released two management alerts detailing dangerous conditions at U.S. Customs and Border Protection facilities in Texas. According to the IG, at some of these facilities, conditions are so bad that they require immediate attention and action.

The first alert focused on the detention of single adults and detailed, quote, the dangerous holding conditions at the El Paso Del Norte Processing Center. Unfortunately, this report was not a surprise to me and my colleagues.

Along with Vice Chair Jayapal and Chairman Nadler, I visited this same facility just a few months ago. Even then, the conditions we observed were unacceptable. Women, children, and families were either outside waiting to enter the facility, shoved into overcrowded cells, or sitting in hallways.

Prior to our visit, we understood that hundreds of families had been housed outside for days in a tent behind the Border Patrol fa-

cility. We expected to meet with them, but to our surprise, the tent was empty. It was not until after our visit that we learned that the families had been transported to another facility the night before. It's unfortunate, but also not surprising, that the IG's observations are even more disturbing.

As demonstrated in the IG report, although the facility's maximum capacity is 125 detainees, approximately 750 individuals were detained on May 7, and 900 individuals were detained on May 8. Overcrowding to this extent is a clear violation of CBP's own standards, which provide that, quote, under no circumstances should the maximum cell occupancy rate as set by the fire marshal be exceeded.

The IG also found that a significant number of individuals were being held longer than the maximum 72 hours set forth in CBP's standards. And although CBP is required to make a reasonable effort to provide showers for adults after 72 hours, most adults had not received showers at all and some had not showered in as long as a month.

In June, the IG completed another round of inspections, this time in the Texas Rio Grande Valley sector. Here the IG found serious overcrowding and other dangerous conditions at facilities holding families and unaccompanied children. According to the IG, 31 percent of children, including children 7 years old and younger, had been held in custody for more than 72 hours, some for more than 2 weeks. This violates, not only CBP's standards, but the Flores Agreement.

Sadly, we know the conditions documented by the IG are not limited to the facilities they visited. In June, lawyers reported horrific conditions at the Clint, Texas, Border Patrol facility, where some children had been held for weeks, sleeping on cold floors, and taking care of one another because of the lack of attention from guards.

Just last week, it was reported that a 15-year-old girl from Honduras was sexually assaulted by a Border Patrol agent in Yuma while other agents watched. There is a crisis on our border, and, yes, Health and Human Services needed and now has additional resources so that children can be moved out of CBP facilities more quickly and into facilities built with their needs in mind.

However, a lack of money is not the primary reason for this crisis. The Trump administration has made no secret of its intent to do all it can to deter children and families from seeking protection in the United States, as the law allows, without addressing the root causes that are driving migration to our border. This is sad. The mistreatment of these children and families is a moral stain on our Nation.

I appreciate the willingness of the inspector general to testify before us today. The spot inspections conducted by the IG has shed a light on some of the Trump administration's worst practices. We cannot look away. It is well past time for the cruelty of these policies to be exposed and for those who led the United States into this disaster to be held accountable. Today's hearing is just the beginning of the oversight we will conduct on this important issue.

It is now my pleasure to recognize the ranking member of the subcommittee, the gentleman from Colorado, Mr. Buck, for his opening statement.

Mr. BUCK. Thank you, Chairwoman Lofgren.

As I have been saying now for months, there is a crisis on the southern border. It comes as no surprise that given the record number of individuals crossing the border illegally, Border Patrol facilities are overwhelmed and over capacity.

I applaud the assistant inspector general for her office's work on exposing the conditions this crisis is causing, and I hope that her office will continue their investigations, especially as the crisis affects the most vulnerable among us, children.

After months of the President, DHS officials, and other administration officials sounding the alarm about the security and humanitarian crisis on the southern border well before the inspector general's reports were first published, I am now encouraged that our colleagues finally agree that there really is a crisis. And I am hopeful that we can now engage in the difficult work of solving this crisis head-on.

The inspector general's office issued two reports on overcrowding and prolonged detention at Border Patrol facilities in the El Paso and Rio Grande Valley sectors. These reports provide an objective perspective on the factors outside of CBP's control that are fueling this crisis, prolonging migrants' stay in CBP custody, and causing the overcrowded conditions identified in the inspector general's reports.

As of the July 2, 2019, report says, CBP detains individuals on a short-term basis to allow for initial processing and then transfers the individuals to other government agencies, but that short-term system has been completely broken. Due to a failure to update our laws, there is an unprecedented influx of migrants crossing our border illegally, and many of these individuals are more vulnerable than individuals who came during prior influxes.

So what do we need to do to fix this problem? We need a multi-layered approach to a multilayered problem. We must continue to work with our partners internationally to support their own law enforcement and anticorruption efforts. I have worked closely with officials in Guatemala, and I have seen the good work that can be done when close friends collaborate in their common interests.

We must continue to expand these initiatives to other countries, especially in Honduras and El Salvador. We must support economic development efforts in these countries to further elevate our hemisphere and let people have a chance to prosper in their own countries. We must also reform our immigration laws, including the TVPRA and the Flores Settlement Agreement, to ensure that our laws do not provide incentives to enter our country illegally and to use children to do it.

The exploitation of children incentivized by our laws must stop. We must ensure that all of our diplomatic efforts, legal reform efforts, and law enforcement efforts combine to ensure that we are protecting vulnerable children.

I look forward to hearing from the witness today about the IG's reports and the root causes of the crisis on our border. And I hope to work together with my colleagues, Republican and Democrat, to

quickly provide commonsense bipartisan solutions to meet this crisis head-on.

The chairwoman and I recently collaborated on a bipartisan immigration bill to fix a problem in our legal immigration system, and I am optimistic that we can repeat that success on issues as important as these. I look forward to the witness' testimony, and I yield back.

Ms. LOFGREN. Thank you. I thank the ranking member.

It's now my pleasure to introduce today's witness, Ms. Diana R. Shaw. Diana Shaw was appointed the assistant inspector general for Special Reviews and Evaluations for the Department of Homeland Security, Office of Inspector General, in March of this year. She has also served in several other leadership positions with the inspector general's office, including assistant inspector general for Legal Affairs, acting counsel to the Inspector General, Director of Special Review Groups, and acting assistant inspector general for External Affairs.

Prior to joining to Office of Inspector General, Ms. Shaw practiced law with a firm's white collar crime groups specializing in internal investigations and compliance counseling.

Ms. Shaw, we thank you for taking the time to participate in today's hearing on this critical issue. We welcome you to the committee and we look forward to your testimony. And I would ask you now to please rise so that I can swear you.

Raise your right hand.

Do you swear or affirm under penalty of perjury that the testimony you are about the give is true and correct to the best of your knowledge, information, and belief, so help you God?

Ms. SHAW. I do.

Ms. LOFGREN. Thank you very much.

Let the record show that the witness answered in the affirmative.

And we are now happy to receive your written testimony. Please know that your entire testimony will be entered into the record, and we would like to hear a summary in 5 minutes or so.

We have a light, or usually we have a light, that tells you when your time is up. When it goes yellow, there's a minute left. When it's red, the 5 minutes are up. And we would love to hear from you at this moment.

TESTIMONY OF DIANA R. SHAW, ASSISTANT INSPECTOR GENERAL FOR SPECIAL REVIEWS AND EVALUATIONS, DEPARTMENT OF HOMELAND SECURITY, OFFICE OF INSPECTOR GENERAL

Ms. SHAW. Chairwoman Lofgren, Ranking Member Buck, and members of the subcommittee, thank you for inviting me to discuss DHS OIG's recent work on conditions at Customs and Border Protection holding facilities at the southern border.

My testimony today will focus on the dangerous overcrowding and prolonged detention recently observed by DHS OIG inspectors in both the El Paso Del Norte Processing Center and at facilities in the Rio Grande Valley. These issues pose a serious and imminent threat to the health and safety, both of DHS personnel and

detainees, and require the Department's immediate attention and action.

DHS OIG conducts unannounced inspections of CBP facilities to evaluate compliance with CBP's transport, escort, detention, and search standards, otherwise known as TEDS standards.

TEDS standards govern CBP's interactions with detainees, providing guidance on things like duration of detention, access to food and water, access to medical care, and hygiene.

Our unannounced inspections enable us to identify instances of noncompliance with TEDS and to propose appropriate corrective action. In doing so, we seek to drive transparency and accountability at the Department of Homeland Security.

Although CBP has struggled at times to achieve full compliance with detention standards, our recent unannounced inspections revealed a situation far more grievous than any our inspectors had previously encountered. For instance, when our team arrived at the El Paso Del Norte Processing Center, they found that this facility, which has a maximum capacity of 125 detainees, had more than 750 detainees onsite. The following day, that number had increased to 900.

At all the Border Patrol facilities we visited in the Rio Grande Valley, we also observed serious overcrowding among unaccompanied alien children, or UACs. Additionally, we found that individuals, including children, were being detained well beyond the 72 hours generally permitted under TEDS standards and the Flores Agreement.

For instance, at the Centralized Processing Center in McAllen, Texas, many children had been in custody longer than a week. Some UACs under the age of 7 had been in custody for more than 2 weeks.

Under these circumstances, CBP has struggled to comply with TEDS standards. For instance, although all facilities we visited in the Rio Grande Valley had infant formula, diapers, baby wipes, and juice and snacks for children, two facilities had not provided children access to hot meals, as required, until the week we arrived for our inspections. Additionally, children at three of the five facilities we visited had no access to showers, limited access to a change of clothes and no access to laundry facilities.

Space limitations also affect single adults. The lack of space has restricted CBP's ability to separate detainees with infectious diseases, including chicken pox, scabies, and influenza, from each other and from the general population.

According to CBP management, these conditions also affect the health of Border Patrol agents who are experiencing high incidence of illness.

Further, there is a concern that the overcrowding and prolonged detention may be contributing to rising tensions among detainees. A senior manager at one facility in the Rio Grande Valley called the situation, quote, a ticking time bomb.

Despite these immense challenges, we observed CBP staff interacting with detainees in a professional and respectful manner, and in general, attempting to comply with standards to the extent possible. Notwithstanding these efforts, Border Patrol requires immediate assistance to manage the overcrowding in its facilities.

CBP is not responsible for providing long-term detention, and CBP facilities like those we visited are not designed to hold individuals for longer periods. However, with limited bed space available at ICE and HHS long-term facilities nationwide, detainees are left in CBP custody until a placement can be found.

In its response to our recent management alerts, DHS described the situation on the southern border as, quote, an acute and worsening crisis. Our observations comport with that characterization which is why we have called on the Department to take immediate action to begin to remedy the situation.

Although DHS has asserted that it has reduced the number of UACs in custody in the last few weeks, we remain concerned that it is not taking sufficient steps to address the overcrowding and prolonged detention we observed, particularly with respect to single adult detainees.

We will continue to monitor the situation at the border, and have already begun new work aimed specifically at identifying the root causes of some of these issues. We hope this work will assist the Department in addressing these challenges. In the meantime, however, DHS leadership must develop a strategic coordinated approach that will allow it to make good on its commitment to ensure the safety, security, and care of those in its custody.

Ms. Chairwoman, this concludes my testimony. I'm happy to answer any questions you or other members of the subcommittee may have.

[The statement of Ms. Shaw follows:]

OFFICE OF INSPECTOR GENERAL

**Testimony of Assistant Inspector
General for Special Reviews and
Evaluations Diana R. Shaw**

**Before the Committee on the
Judiciary, Subcommittee on
Immigration and Citizenship**

U.S. House of Representatives

**“Overcrowding and Prolonged
Detention at CBP Facilities”**



**Homeland
Security**

**July 15, 2019
5:30 PM**



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

July 15, 2019

Why We Did This Work

In 2016, in response to concerns raised about conditions for aliens in U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) custody, DHS OIG began conducting unannounced inspections of CBP and ICE detention facilities to observe conditions and determine whether aliens were being held in compliance with applicable detention standards. In fiscal year 2019, we continued this important work, inspecting dozens of detention facilities, including CBP facilities on the Southwest Border.

What We Recommend

We recommend that the Department of Homeland Security take immediate steps to alleviate the dangerous overcrowding and prolonged detention at CBP facilities.

For Further Information:
Contact our Office of Legislative Affairs at (202) 981-6000 or DHS-OIG.OfficeLegislativeAffairs@dhs.gov

www.oig.dhs.gov

What We Found

In May and June of this year, teams of DHS OIG inspectors observed dangerous overcrowding and prolonged detention in CBP facilities in both El Paso and the Rio Grande Valley. The teams also documented additional instances of non-compliance with applicable detention standards. These included non-compliance with standards applicable to the detention of alien children, including lack of access to hot meals, showers, and a change of clothes. The conditions we observed prompted us to publish two Management Alerts raising the issues to the attention of DHS leadership and requesting immediate action.

Specifically, during the week of May 6, 2019, we observed dangerous holding conditions at the El Paso Del Norte Processing Center (PDT) Border Patrol processing facility, located at the Paso Del Norte Bridge. This facility, which has a maximum capacity of 125 detainees, had between 750 and 900 detainees onsite on the dates visited. An individual holding cell with a maximum capacity of 35 held 155 single adults. Further, some of the detainees had been held in standing-room-only conditions for days or weeks.

During the week of June 10, 2019, we traveled to the Rio Grande Valley and observed serious overcrowding at four of the five Border Patrol facilities and prolonged detention at all five facilities. There were more than 50 UACs younger than 7 years old, and some of them had been in custody over two weeks while awaiting transfer.

This overcrowding and prolonged detention poses a risk to the health and safety to both DHS personnel and detainees, and requires immediate action.

DHS Response

DHS concurred with our recommendation; but the recommendation will remain unresolved and open until DHS offers an immediate corrective action plan to address the dangerous overcrowding.



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Chairwoman Lofgren, Ranking Member Buck, and members of the subcommittee, thank you for inviting me today to discuss our recent work relating to conditions at U.S. Customs and Border Protection (CBP) holding facilities and ports of entry. My testimony today will focus on our two recent Management Alerts: *DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center (OIG-19-46)* and *DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley (OIG-19-51)*. We appreciate you holding this hearing because, as we stated in both reports, the dangerous overcrowding and prolonged detention conditions we observed create health and security risks for Department of Homeland Security (DHS) personnel and detainees, and require immediate attention.

Background on Unannounced Inspections and Past Work

DHS Office of Inspector General (OIG) initiated our unannounced inspection program in response to concerns raised by Congress about conditions for aliens in CBP custody. Our unannounced inspections of CBP holding facilities evaluate compliance with CBP's National Standards on Transport, Escort, Detention and Search (TEDS)¹, which govern CBP's interaction with detained individuals. Our inspections also determine whether CBP provides reasonable care from apprehension to holding. During our visits to ports of entry and Border Patrol facilities, we focus on elements of the TEDS standards that can be observed and evaluated by OIG inspectors without specialized law enforcement or medical training. We inspect CBP's compliance with standards such as whether adequate drinking water, food, blankets, and hygiene supplies are being provided to detainees. We also review how long detainees have been in custody and whether unaccompanied alien children (UACs) are given access to telephones to call relatives or their consulates.

We issued two recent alerts because in the course of our review we identified issues that posed a serious, imminent threat to the health and safety of CBP personnel and detainees requiring immediate action by the Department. CBP Office of Field Operations ports of entry, Border Patrol stations, and processing centers are intended solely for short-term detention. In fact, TEDS standards provide that "[d]etainees should generally not be held for longer than 72 hours in CBP hold rooms or holding facilities. Every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible." Additional legal protections are in place for children DHS deems to be UACs, who by law should be transferred to Health and Human Services (HHS) Office of Refugee

¹ *U.S. Customs and Border Protection, National Standards on Transport, Escort, Detention, and Search, October 2015.*



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Resettlement (ORR) within 72 hours.² The TEDS standards also outline protocols for CBP on how to treat vulnerable populations, defined as “at risk” by CBP, such as UACs, families and pregnant, elderly, or disabled detainees, and specify requirements for general care and conditions for such vulnerable populations in temporary custody. While ICE is responsible for providing long-term detention, TEDS standards require that CBP provide safe and sanitary short-term holding facilities for all detainees.

In the past, when we had reviewed CBP holding facilities, conditions were generally compliant with existing hold-room policies. However, starting in 2014 with the influx of UACs in CBP custody, DHS has struggled with compliance with certain *Flores* Agreement provisions, such as holding children no longer than 72 hours.³ This generally continued to be the case in 2018, during which implementation of the Administration’s Zero Tolerance Policy was followed by an increase in the number of individuals held in CBP custody for longer than 72 hours.⁴

Our more recent unannounced inspections reveal a worsening situation, which the Department has characterized as “an acute and worsening crisis.” Specifically, in May and June of this year, we observed dangerous overcrowding and prolonged detention in CBP facilities in both El Paso and the Rio Grande Valley. We also documented instances of non-compliance with TEDS standards, including lack of access to hot meals and showers. The conditions we observed, which put the health and safety of both DHS personnel and detainees at risk, prompted us to publish two Management Alerts raising the issues to the attention of DHS leadership and requesting immediate action.

Overcrowding and Prolonged Detention Have Resulted in Non-Compliance with TEDS Standards

Early in May 2019, our inspectors conducted spot inspections of five Border Patrol stations and two ports of entry in the El Paso area. One month later in June 2019, our inspectors conducted spot inspections of five Border Patrol

² The *Flores* Agreement generally permits detention of minors no longer than 72 hours, with a provision that in an influx of minors, placement should be as expeditious as possible. In addition, the *Trafficking Victims Protection Reauthorization Act of 2008* requires DHS to meet this timeline unless there are “exceptional circumstances.” 8 U.S.C. § 1232(b)(3). The *Flores* Agreement also includes a requirement that immigration officials hold minors immediately following arrest in facilities that provide: (1) access to food and drinking water; (2) medical assistance in the event of emergencies; (3) toilets and sinks; (4) adequate temperature control and ventilation; (5) adequate supervision to protect minors from others; (6) separation from unrelated adults whenever possible; and (7) contact with family members who were arrested with the minor.

⁴ *Results of Unannounced Inspections of Conditions for Unaccompanied Alien Children in CBP Custody*, OIG-18-87, September 28, 2018.



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facilities and two ports of entry in the Rio Grande Valley. In both instances, we observed dangerous overcrowding and prolonged detention at Border Patrol facilities resulting in non-compliance with TEDS standards.

We chose these locations based on a review of CBP statistics on apprehensions, complaints received by the OIG hotline, spot inspections from previous years, and consultation with our investigators who work in OIG field offices on the southern border and are familiar with conditions in the facilities. According to CBP data, the El Paso sector experienced the sharpest increase in apprehensions – 619 percent⁵ comparing the first seven months of FY 2019 to the same period in FY 2018. The Rio Grande Valley Sector had the highest overall volume of apprehensions⁶ on the southwest border, with nearly a quarter million apprehensions in the first eight months of FY 2019.

Overcrowding and Prolonged Detention of Single Adults at El Paso Del Norte Processing Center

During the week of May 6, 2019, we observed dangerous holding conditions at the El Paso Del Norte Processing Center (PDT) Border Patrol processing facility, located at the Paso Del Norte Bridge. Despite having a maximum capacity of 125 detainees, CBP custody logs indicated that approximately 750 detainees were on-site on May 7 and 900 detainees were on-site on May 8. Although the majority of these detainees were held in outdoor space for processing and transfer, many of those inside the facility were held in severely overcrowded cells. TEDS standards provide that “under no circumstances should the maximum [cell] occupancy rate, as set by the fire marshal, be exceeded.” Yet, at the facility, single adults were being held in cells designed for one-fifth as many detainees. Specifically, we observed:

- a cell with a maximum capacity of 12 held 76 detainees;
- a cell with a maximum capacity of 8 held 41 detainees; and
- a cell with a maximum capacity of 35 held 155 detainees.

Border Patrol agents also told our inspectors that some of the detainees had been held in standing-room-only conditions for days or even weeks. The Border Patrol’s custody logs confirmed this prolonged detention. When we visited PDT on May 7, of the total 756 detainees on-site during our visit, 66 percent of detainees had been held for longer than the 72 hours generally permitted under TEDS standards, with 4 percent held for more than two weeks. When we returned to PDT for another unannounced inspection the next day, we

⁵ This represents an increase in apprehensions of 82% of single adults, 347% of UACs, and 1,816% of family units.

⁶ This represents an increase in apprehensions of 32% of single adults, 62% of UACs, and 269% of family units.



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observed that, while some family units and adult females had been transferred the day before, additional detainees had arrived for processing, increasing the total number of detainees on-site to approximately 900.

"At-Risk" Populations are Subject to Overcrowding and Prolonged Detention in Border Patrol Facilities in the Rio Grande Valley Sector, Resulting in Non-Compliance with Applicable Standards

During the week of June 10, 2019, we traveled to the Rio Grande Valley in Texas and we observed serious overcrowding at four of the five Border Patrol facilities and prolonged detention at all five facilities. At the time of our visit, Border Patrol was holding about 8,000 detainees in custody in the Rio Grande Valley sector, with 3,400 held longer than the permitted 72 hours. Of those 3,400 detainees, Border Patrol held 1,500 for more than 10 days. With respect to UACs and families – populations defined as "at-risk" in TEDS standards – Border Patrol's custody data indicated that 826 (31 percent) of the 2,669 children at these facilities had been held longer than the 72 hours generally permitted under the TEDS standards and the *Flores* Agreement. For example, at the Centralized Processing Center in McAllen, TX, of the 806 UACs who had already been processed and were awaiting transfer to HHS custody, 165 had been in CBP custody longer than a week. Additionally, there were more than 50 UACs younger than 7 years old, and some of them had been in custody more than two weeks while awaiting transfer.

In addition to holding roughly 30 percent of minor detainees for longer than 72 hours, several Rio Grande Valley facilities struggled to meet other TEDS standards for UACs and families. For example, children at three of the five Border Patrol facilities we visited had no access to showers, despite the TEDS standards requiring that "reasonable efforts" be made to provide showers to children approaching 48 hours in detention. Children had limited access to a change of clothes as Border Patrol had few spare clothes and no laundry facilities. While all facilities had infant formula, diapers, baby wipes, and juice and snacks for children, we observed that two facilities had not provided children access to hot meals – as is required by the TEDS standards – until the week we arrived.

Overcrowding and Prolonged Detention for Adults in the Rio Grande Valley Sector Resulted in Non-Compliance with TEDS Standards

The conditions in the Rio Grande Valley for single adults were similar to those faced by detainees in the El Paso facility. Detainees were also held in cells that exceeded maximum occupancy rates, resulting in non-compliance with TEDS standards. Overcrowding at one facility led to some single adults being held in standing room only conditions for a week and, at another facility, some single adults were held more than a month in overcrowded cells.



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CBP was also unable to meet TEDS standards that require CBP to make a reasonable effort to provide a shower for adults after 72 hours; most single adults had not had a shower in CBP custody despite several being held for as long as a month. At some facilities, Border Patrol was giving detainees wet-wipes to maintain personal hygiene. Most single adult detainees were wearing the clothes they arrived in days, weeks, and even up to a month prior.

Overcrowding and Prolonged Detention Puts DHS Personnel and Detainees at Health and Safety at Risk

We are concerned that the overcrowding and prolonged detention we observed in the El Paso and Rio Grande Valley sectors represent an immediate risk to the health and safety of DHS agents and officers, and to those detained.

Overcrowding and Prolonged Detention Exacerbate Health and Safety Risks in El Paso Sector

During our May visits at PDT, we observed approximately 75 people being treated for lice and some detainees were in isolation with flu, chicken pox, and scabies. When the detainees in line waiting to be processed had to surrender their valuables, such as money and phones, to DHS staff, we observed DHS staff discarding all other detainee property, such as backpacks, suitcases, and handbags, in the nearby dumpster. Border Patrol personnel told us that these items might be wet, have bugs, and be muddy, and therefore, presented a "biohazard." Border Patrol management at PDT and other facilities also raised concerns about the high incidence of illness among their staff, concerns about employee morale, and conditions that were elevating anxiety and affecting employees' personal lives.

CBP was also struggling to maintain hygienic conditions in the holding cells. With limited access to showers and clean clothing, detainees were wearing soiled clothing for days or weeks. While TEDS standards do not require a change of clothing for adults, Border Patrol agents said they were nevertheless trying to obtain clean clothing for adult females because the lack of clean clothes was "wearing down on them." Access to toilets was limited, because overcrowding caused detainees to stand on toilets in cells to make room and gain breathing space. Border Patrol agents said detainees who were not ill were raising medical complaints simply to obtain temporary release from the cells, adding to the medical staff's burden.

Border Patrol management at PDT also described an ongoing concern that rising tensions among detainees could turn violent. At the time of our visit, 140 adult male detainees were crowding the hallways and common areas of the facility while their cell was being cleaned. We observed staff having difficulty



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maneuvering around this crowd to perform their duties, and were told that staff feel they have limited options if detainees decide not to cooperate.

Overcrowding and Prolonged Detention of Single Adults Have Resulted in Security Incidents in Rio Grande Valley Sector

The security incidents in the Rio Grande Valley facilities reflect an escalation of the security concerns we raised in our El Paso report. We were informed of multiple security incidents among adult males at multiple facilities. Incidents arise when detainees are moved from their cells for servicing and maintenance. At one facility, when detainees who had been moved from their cells during cleaning refused to return, Border Patrol brought in its special operations team to demonstrate it was prepared to use force if necessary. Additionally, detainees have attempted to escape while removed from their cells during maintenance. Detainees at one overcrowded facility had clogged the toilets with Mylar blankets and socks in order to be released from their cells while the toilets were repaired.

Senior managers at several facilities raised security concerns for their agents and the detainees. One senior manager described the situation as “a ticking time bomb.” We had to end our site visit at one Border Patrol facility early because we noticed that our presence was agitating an already difficult situation. Specifically, when detainees observed us, they banged on the cell windows, shouted, pressed notes to the window with their time in custody, and pointed to the evidence of their time in custody, such as their beards.

Department of Homeland Security Needs a Plan to Eliminate Overcrowding

We recognize the extraordinary challenge CBP is currently facing to eliminate overcrowding. However, given the large number of adults and UACs detained in CBP facilities, we remain concerned that DHS is not taking sufficient measures to address the issues outlined in our recent Management Alerts.

In our May 2019 Management Alert on conditions in the PDT facility, we recommended that CBP take immediate steps to alleviate the overcrowding there. CBP concurred with our recommendation and reported that they have constructed a 500-person soft-sided structure at El Paso Station and plan to construct an additional tent by July 31, 2019. CBP also plans to open a new Centralized Processing Center with an estimated completion date of November 30, 2020. While additional tents may reduce some of the overcrowding, we do not think CBP’s plan will eliminate the immediate risk to the health and safety of detainees and DHS employees because the proposed action is not urgent enough and prolonged severe overcrowding of single adults can lead to outbreaks of communicable diseases and violence. Thus, the recommendation



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will remain unresolved and open until DHS offers an immediate corrective action plan to address the dangerous overcrowding.

In response to our July 2019 report on the conditions in the Rio Grande Valley sector, DHS measures it has taken to expand CBP's capacity on the southern border. DHS continues to add tents capable of holding 500 people and plans to add more tents to house single adults by July 29, 2019. Again, while additional tents may reduce overcrowding, we remain concerned that DHS is not taking sufficient measures to address prolonged detention in CBP custody among single adults.

We continue to encourage the Department to take immediate steps to alleviate dangerous overcrowding and prolonged detention of children and adults at CBP facilities. However, the problem will persist until DHS develops a plan to more efficiently transfer detainees from CBP custody to ICE, in the case of single adults and some families, and HHS ORR, in the case of UACs – the two agencies responsible for providing long-term detention to detainees.

Ongoing OIG Oversight

Our office will continue to help the Department meet its critical mission through independent and objective audits, inspections, and investigations. We plan to publish several DHS-wide reports this year and next year that will include reviews of CBP and ICE, including:

- DHS Tracking of Detainees to Support Migrant Family Reunification: We initiated a full-scale audit looking at the effectiveness of DHS' IT systems for tracking and supporting efforts to reunify UACs with separated families. Our audit will determine whether the IT systems and processes DHS relied upon were adequate to carry out specific border security operations, including tracking separated families, prior to and following the implementation of the Zero Tolerance Policy.
- CBP's Processing of Asylum Seekers: We are reviewing CBP's handling of asylum seekers at ports of entry. The objective of this work is to determine whether CBP Office of Field Operations is turning away those who present themselves for asylum at ports of entry. As part of its ongoing fieldwork, the team travelled to ports of entry in Texas, Arizona, and California, where it observed operations, gathered documents, and interviewed CBP officers, representatives of non-governmental organizations, and asylum seekers.
- Update on Family Separations: Our review will determine whether CBP was separating families seeking asylum at ports of entry during and after



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the Zero Tolerance Policy and documenting those separations appropriately.

- Review of Removal of Separated Alien Families: Our work will determine whether ICE removed any parents without first offering them the opportunity to bring their separated children with them. The review will identify why this may have happened and how many separated parents may have been removed without having that option.
- 72-hour CBP Custody Snapshot: Working in partnership with our Data Analytics group, we will try to determine the populations of detainees held in CBP facilities for longer than 72 hours, the total time in custody from apprehension to transfer or release, and where such holds occur most frequently.
- CBP's Holding of Detainees Beyond 72 Hours: This larger-scale evaluation's objective is to determine the root causes leading to CBP's inability to comply with the general requirement to only hold detainees in its custody for up to 72 hours. CBP, ICE, and HHS all have responsibility for assuming custody of specific groups of detainees in various stages of the immigration proceedings. We will try to identify the root causes driving the delays in placement, and make recommendations to mitigate those causes.
- CBP's Use of FY 2019 Appropriated Funds for Humanitarian Assistance: Our objective is to determine whether CBP has adequately planned for deployment, and is deploying, FY 2019 appropriated funds quickly and effectively to address the humanitarian needs on the southern border.
- Unannounced Inspections of CBP Holding Facilities & ICE Adult Detention Facilities: Our objective is to continue conducting ongoing unannounced inspections of DHS and contract facilities to monitor DHS compliance with health, safety, and civil rights standards outlined in CBP's National Standards on Transport, Escort, Detention, and Search; and ICE's Performance-Based National Detention Standards.

Conclusion

We understand that the Department is facing a difficult challenge; however, the Department has not developed a long-term plan to address the issues within detention centers along the southern border. The steps the Department has taken to implement our recommendation to alleviate dangerous overcrowding continue to fall short. For instance, the Department's proposal to address overcrowding at PDT by November 2020 was completely inconsistent with the



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immediate need for corrective action that we considered the recommendation open and unresolved. With the increasing apprehensions of UACs, family units, and single adults along the southern border, we remain concerned that the Department's response to our Management Alerts is not sufficient. With the ongoing concern from Border Patrol management that rising tensions among detainees could turn violent, dangerous overcrowding among single adults requires immediate action.

DHS OIG will continue to exercise diligent oversight over immigration enforcement, paying particular attention to the Department's progress in reducing overcrowding and prolonged detention at CBP facilities. Consistent with our obligations under the *Inspector General Act of 1978*, we will keep Congress fully and currently informed of our findings and recommendations.

Mrs. Chairwoman, this concludes my testimony. I am happy to answer any questions you or other members of the Subcommittee may have.

Ms. LOFGREN. Thank you very much for your testimony, for your work, and for your report.

I would ask unanimous consent that the report itself be made a part of this record.

[The information follows:]

CHAIR LOFGREN FOR THE RECORD

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**Management Alert -
DHS Needs to Address
Dangerous Overcrowding
Among Single Adults at
El Paso Del Norte
Processing Center
(Redacted)**

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May 30, 2019

OIG-19-46



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OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

May 30, 2019

MEMORANDUM FOR: The Honorable Kevin K. McAleenan
Acting Secretary
Department of Homeland Security

FROM: John V. Kelly 
Acting Inspector General

SUBJECT: *Management Alert - DHS Needs to Address Dangerous
Overcrowding Among Single Adults at El Paso Del Norte
Processing Center*

For your action is our final management alert, *Management Alert - DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center*, the purpose of which is to notify you of urgent issues that require immediate attention and action. Specifically, we are recommending that the Department of Homeland Security (DHS) take immediate steps to alleviate dangerous overcrowding at the El Paso Del Norte Processing Center (PDT). Issuance of this management alert is consistent with our duties under the *Inspector General Act of 1978*, as amended, to conduct inspections and recommend policies to promote economy, efficiency, and effectiveness in DHS programs and operations.

We have incorporated the formal comments provided by your office on the draft management alert and appended them verbatim. Your office concurred with the recommendation we made to alleviate overcrowding at PDT, but gave a target completion date of November 30, 2020. Because DHS's corrective action is critical to the immediate health and safety needs of detainees, who cannot continue to be held in standing-room-only conditions for weeks until additional tents are constructed, we consider the recommendation open and unresolved. We will continue our spot inspections of the southern border facilities and may revisit El Paso sector sites to monitor overcrowding.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our alert to congressional committees with oversight and appropriation responsibility over DHS. We also will post the alert on our website for public dissemination.

Please call me with any questions, or your staff may contact Diana Shaw, Assistant Inspector General for Special Reviews and Evaluations, at (202) 981-6000.

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Background

In May 2019, U.S. Customs and Border Protection (CBP) and Border Patrol leadership jointly testified before Congress that they are experiencing an unprecedented border security and humanitarian crisis along the southwest border. According to CBP statistics, the number of southwest border migrant apprehensions during the first seven months of FY 2019 has in general already surpassed that of the total apprehensions for each of the previous four fiscal years. At the sector level, El Paso has experienced the sharpest increase in apprehensions when comparing the first seven months of FY 2019 to the same period in FY 2018. Table 1 shows the total number of apprehensions by category and the percent increase for the El Paso sector.

Table 1. El Paso Sector Border Patrol Apprehensions

	Apprehensions October 2017 to April 2018	Apprehensions October 2018 to April 2019	Percent Increase
Unaccompanied Alien Children	2,116	10,027	374%
Family Units	3,865	74,072	1,816%
Single Adults	7,665	13,953	82%
Total	13,646	98,052	619%

Source: Border Patrol southwest border apprehensions by sector

During the week of May 6, 2019, we visited five Border Patrol stations and two ports of entry in the El Paso area, including greater El Paso and eastern New Mexico, as part of our unannounced spot inspections of CBP holding facilities. We reviewed compliance with CBP's Transport, Escort, Detention and Search (TEDS) standards,¹ which govern CBP's interaction with detained individuals, and observed dangerous holding conditions at the El Paso Del Norte Processing Center (PDT) Border Patrol processing facility, located at the Paso Del Norte Bridge, that require immediate attention. Specifically, PDT does not have the capacity to hold the hundreds currently in custody safely, and has held the majority of its detainees longer than the 72 hours generally permitted under the TEDS standards (TEDS 4.1).²

¹ U.S. Customs and Border Protection, National Standards on Transport, Escort, Detention, and Search, October 2015.

² TEDS 4.1 provides that "[d]etainees should generally not be held for longer than 72 hours in CBP hold rooms or holding facilities. Every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible."

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Overcrowding and Prolonged Detention at the PDT Border Patrol Facility Puts Detainees and DHS Personnel at Risk

According to PDT Border Patrol processing facility staff, the facility's maximum capacity is 125 detainees. However, on May 7 and 8, 2019, Border Patrol's custody logs indicated that there were approximately 750 and 900 detainees on site, respectively. TEDS standards provide that "under no circumstances should the maximum [cell] occupancy rate, as set by the fire marshal, be exceeded" (TEDS 4.7). However, we observed dangerous overcrowding at the facility with single adults held in cells designed for one-fifth as many detainees (see Figures 1 through 3). Specifically, we observed:

- a cell with a maximum capacity of 12 held 76 detainees (Figure 1);
- a cell with a maximum capacity of 8 held 41 detainees (Figure 2); and
- a cell with a maximum capacity of 35 held 155 detainees (Figure 3).

Figure 1: Overcrowding of Adult Females in PDT Holding Cell Observed by OIG on May 8, 2019



Source: OIG

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**Figure 2: Overcrowding of Adult Females in PDT Holding Cell Observed by
OIG on May 7, 2019**



Source: OIG

**Figure 3: Overcrowding of Adult Males in PDT Holding Cell Observed by
OIG on May 7, 2019**



Source: OIG

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PDT's seven general cells and three small isolation cells are unable to accommodate the number of detainees currently being held at the processing facility within TEDS standards. Further limiting available space is the need to separate detainees with infectious diseases, such as chicken pox, scabies, and influenza, from each other and from the general population.

Border Patrol agents told us some of the detainees had been held in standing-room-only conditions for days or weeks. According to Border Patrol's custody logs, there were 756 detainees on site when we visited PDT on May 7, 2019. Of those, 502 detainees (66 percent) had been held at PDT for longer than 72 hours, with 33 detainees (4 percent) held there for more than two weeks. On May 8, 2019, we returned to PDT for another unannounced spot inspection and observed that some family units and adult females had been transferred, but overall numbers were even higher as additional detainees had arrived for processing. According to Border Patrol staff, on May 8, 2019, the total number on site was approximately 900.

During our visits, we observed the triage of hundreds of detainees outside in the PDT parking lot. There were approximately 75 people treated for lice, hundreds of family units waiting in the tented area to be processed,³ and hundreds of detainees in line to surrender their valuables, such as money and phones, to DHS staff.⁴ Figure 4 depicts some of the outdoor lines we observed on May 7, 2019, and May 8, 2019. We also observed staff discarding all other detainee property, such as backpacks, suitcases, and handbags, in the nearby dumpster (see Figure 5). Border Patrol personnel told us that these items might be wet, have bugs, and be muddy, and, therefore, presented a "biohazard."⁵

³ PDT staff informed us that as of May 11, 2019, PDT no longer holds family units in the parking lot.

⁴ DHS has detailed CBP Office of Field Operations officers to assist with custody management at PDT.

⁵ Border Patrol personnel are responsible for ensuring a healthy and safe work environment including prompt identification and abatement of hazards related to unsafe or unhealthful working conditions as per the CBP Occupational Safety & Health Handbook (Office of Human Resources Management, Occupational Safety & Health Division: HB 5200-08B, September 2012).

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Figure 4: Family Units and Single Adults in the PDT Parking Lot Observed by OIG on May 7 and 8, 2019, Respectively



Source: OIG

Figure 5: Dumpster with Detainee Personal Property Observed by OIG on May 8, 2019



Source: OIG

We are concerned that overcrowding and prolonged detention represent an immediate risk to the health and safety not just of the detainees, but also DHS agents and officers. Border Patrol management on site said there is a high incidence of illness among their staff. Border Patrol management at PDT and other sites also raised concerns about employee morale and that conditions were elevating anxiety and affecting

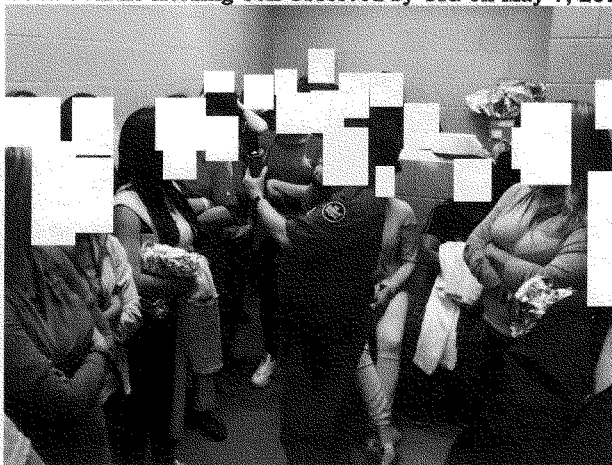
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employees' personal lives. They noted that some employees eligible for retirement had accelerated their retirement dates, while others were considering alternative employment opportunities.

In addition, Border Patrol management on site said there is an ongoing concern that rising tensions among detainees could turn violent. We observed that staff must enter crowded cells (see Figure 6) or move large numbers of detainees for meals, medical care, and cell cleaning. For example, at the time of our visit, 140 adult male detainees were crowding the hallways and common areas of the facility while their cell was being cleaned. We observed staff having difficulty maneuvering around this crowd to perform their duties, and were told that staff feel they have limited options if detainees decide not to cooperate.

Figure 6: Armed Border Patrol Agent Verifying Temperature in PDT Single Adult Female Holding Cell Observed by OIG on May 7, 2019



Source: OIG

The overcrowded conditions also complicate efforts to ensure compliance with TEDS standards. For example, CBP was struggling to maintain hygienic conditions in the holding cells. With limited access to showers and clean clothing, detainees were wearing soiled clothing for days or weeks. Although TEDS standards do not require a change of clothing for adults, Border Patrol agents said they were nevertheless trying to obtain clean clothing for adult females because the lack of clean clothes was "wearing down on them." We also observed detainees standing on toilets

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in the cells to make room and gain breathing space, thus limiting access to the toilets. Border Patrol agents said detainees who were not ill were raising medical complaints to obtain temporary release from the cells, adding to the medical staff's burden.⁶

DHS Needs a Coordinated Approach to Managing Long-Term Detention during Sharp Increase in Apprehensions

Although CBP headquarters management has been aware of the situation at PDT for months and detailed staff to assist with custody management, DHS has not identified a process to alleviate issues with overcrowding at PDT. Within DHS, providing long-term detention is the responsibility of U.S. Immigration and Customs Enforcement (ICE), not CBP.⁷ El Paso sector Border Patrol management said they are able to complete immigration processing for most detainees within a few days, but have not been able to transfer single adults into ICE custody quickly. Border Patrol managers at the stations we visited said they call ICE daily to request detention space for single adults. They said in some instances ICE officers tell them they cannot take the detainees. In other instances, ICE initially agrees to take some adult detainees, but then reverses the decision.

ICE has the infrastructure to transport and detain aliens nationwide, but its current ability to do both of these tasks is also strained.⁸ ICE senior managers stated that ICE does not currently have sufficient detention bed space to take all of Border Patrol's adult detainees, and explained that Border Patrol has the authority to decide which detainees are the highest priority to transfer to ICE custody. ICE managers also stated that ICE prioritizes requests from CBP over any other requests for bed space and, when possible, uses its national transportation system to fly and transport detainees to available detention beds.

When we discussed the situation at PDT with ICE, ICE officials suggested the El Paso sector could develop a single point of contact to better prioritize requests for adult detention beds. They said with individual Border Patrol stations making requests to ICE, the highest priority detainees may not be transferred to ICE. Prioritization could alleviate the

⁶ At the time of our visit, contract medical staff had been on site for 3 months to screen detainees and treat minor ailments.

⁷ See 6 U.S.C. § 211(c)(8)(B).

⁸ ICE has detailed 32 officers to assist its local staff with processing aliens apprehended in El Paso sector; 24 are assisting with family units, and 8 with single adults. ICE is processing family units for release daily, and accepts single adults into ICE detention facilities as soon as space becomes available.

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situation at PDT and in the El Paso sector in the short term, but would not contribute to a coordinated DHS approach to managing long-term detention during this sharp increase in border apprehensions.

Recommendations

We recommend the Acting Secretary of DHS:

1. Take immediate steps to alleviate the overcrowding at the El Paso Del Norte Bridge Processing Center (PDT).

DHS Management's Response and OIG Analysis

DHS management provided written comments on a draft of this alert. We included a copy of DHS' management comments in their entirety in appendix A. We also incorporated DHS' technical comments in the final alert, as appropriate.

DHS Response to Recommendation #1:

Concur. CBP has constructed a 500-person holding capacity soft-sided structure at El Paso Station, will construct an additional tent by July 31, 2019, and will open a Centralized Processing Center within 18 months. CBP will continue to review the number of migrants in custody at Border Patrol stations to determine available space and transfer subjects accordingly. The Border Patrol, through its single point of contact at El Paso Sector, will continue to communicate with ICE to improve the migrant transfer process.

The estimated completion date is November 30, 2020.

OIG Response:

We observed conditions at the El Paso Del Norte Processing Center (PDT) Border Patrol facility that represent an immediate risk to the health and safety of detainees and DHS employees. Specifically, Border Patrol agents told us some single adults had been held in standing-room-only conditions for days or weeks. Border Patrol management on site said there is an ongoing concern that rising tensions among detainees could turn violent. Dangerous overcrowding among single adults in PDT requires immediate action.

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While we consider the actions outlined in DHS' response to be partially responsive to the recommendation, the recommendation will remain unresolved and open until DHS offers an immediate corrective action plan to address the dangerous overcrowding at PDT.

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Appendix A
DHS's Management Comments to the Draft Management Alert

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
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May 28, 2019

MEMORANDUM FOR: John V. Kelly
Acting Inspector General

FROM: Jim H. Crumacker, CIA, CFE *JHC*
for Director
Departmental GAO-OIG Liaison Office

SUBJECT: Management Response to OIG Draft Management Alert: "DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center (PDT) – For Official Use Only" (Project No. 19-039-SRE-CBP)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

DHS performs an essential role in securing our Nation's borders at and between ports of entry, and enforces U.S. immigration law within the interior of the country. U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) officers and agents continually uphold the utmost professionalism while performing essential border security operations. DHS is devoted to the care and processing of the individuals in our custody with the utmost dignity and respect.

The current situation on the border represents an acute and worsening crisis. Our immigration system is not equipped to accommodate a migration pattern like the one we are experiencing now. Previous patterns—somewhat predictable in composition and predicated on seasonal variations—are no longer the norm. Through April 2019, CBP enforcement actions along the southwest border are 84 percent higher than the same period last fiscal year; this includes a 117 percent increase in U.S. Border Patrol (USBP) apprehensions. Additionally, the speed with which illegal migrants are transiting through Mexico to reach our southern border is frustrating our best efforts to respond quickly.

The current migration flow and the resulting humanitarian crisis are rapidly overwhelming the ability of the Federal Government to respond. In March 2019, CBP

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encountered over 103,000 illegal border crossers and inadmissible aliens. In April 2019, that number exceeded 109,000—the highest monthly levels in more than a decade.

DHS has taken steps to ensure an elevated standard of care in response to the current humanitarian crisis and has directed additional personnel and resources to the border. CBP has constructed a weatherproof and climate-controlled soft-sided structure in the El Paso Sector. The structure will allow Border Patrol agents to expedite, process, and transport migrants to ICE or the U.S. Department of Health and Human Services. The structure provides areas for eating, sleeping, recreation, and personal hygiene for up to 500 people. There are also separate areas for processing, medical evaluations, bathroom facilities, laundry, trailers, sleeping mats, kitchen equipment, personal property storage boxes, office space, television, and lockers.

Additionally, a modular facility that is capable of holding up to 800 people is projected to be in use by July 2019. Construction of a permanent Centralized Processing Center (CPC) in El Paso is planned to further alleviate overcrowding. The CPC is expected to be operational in approximately 18 months, with a holding capacity of approximately 1,800. Congress can also help by working on targeted solutions to restore integrity to our immigration system and remove the incentives for families and children to cross our border illegally.

The draft report contained one recommendation, with which the Department concurs. Attached find our detailed response to the recommendation. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment

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**Attachment: Management Response to Recommendation
Contained in 19-039-SRE-CBP**

The OIG recommended that the Acting Secretary of DHS:

Recommendation 1: Take immediate steps to alleviate the overcrowding at El Paso Del Norte Processing Center (PDT).

Response: Concur. In an effort to alleviate the overcrowding at the PDT brought on by the unprecedented increase in the number of families and children arriving at the Southwest Border, CBP has implemented a multi-layered approach.

CBP has constructed a 500 holding capacity soft-sided structure at El Paso Station that has been operational since May 2, 2019. CBP will construct an 800 holding capacity modular facility at El Paso Station to be operational by July 31, 2019. In addition, a permanent CPC with a holding capacity of approximately 1,800 is planned to further alleviate overcrowding in El Paso. It is scheduled to be operational within 18 months.

CBP will continue to review the number of migrants in custody at USBP stations within El Paso Sector to determine available space and transfer subjects accordingly. USBP, through its single point-of-contact at El Paso Sector, will continue to communicate with ICE's Enforcement and Removal Operations to improve the migrant transfer process.

In an effort to supplement staff, CBP will continue to temporarily detail Border Patrol Agents and CBP Surge Force personnel to El Paso Sector, as well as utilize personnel from the U.S. Department of Defense.

Due to capacity issues, USBP will continue processing non-criminal family units for immediate release under an order of recognizance.

Estimated Completion Date: November 30, 2020.

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**Appendix B
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**Management Alert –
DHS Needs to Address
Dangerous Overcrowding
and Prolonged Detention of
Children and Adults in the
Rio Grande Valley
(Redacted)**

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OFFICE OF INSPECTOR GENERAL
 Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

July 02, 2019

MEMORANDUM FOR: The Honorable Kevin K. McAleenan
 Acting Secretary
 Department of Homeland Security

FROM: Jennifer L. Costello *Jennifer J. Costello*
 Acting Inspector General

SUBJECT: *Management Alert - DHS Needs to Address
 Dangerous Overcrowding and Prolonged Detention
 of Children and Adults in the Rio Grande Valley*

For your action is our final management alert, *Management Alert - DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley*, the purpose of which is to notify you of urgent issues that require immediate attention and action. Specifically, we encourage the Department of Homeland Security (DHS) to take immediate steps to alleviate dangerous overcrowding and prolonged detention of children and adults in the Rio Grande Valley. Issuance of this management alert is consistent with our duties under the *Inspector General Act of 1978*, as amended, to conduct inspections and recommend policies to promote economy, efficiency, and effectiveness in DHS programs and operations.

We have incorporated the formal comments provided by your office on the draft management alert and appended them verbatim. We may continue our spot inspections of the southern border facilities, and may revisit Rio Grande Valley sector sites to monitor overcrowding and prolonged detention.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our alert to congressional committees with oversight and appropriation responsibility over DHS. We also will post the alert on our website for public dissemination.

Please call me with any questions, or your staff may contact Diana Shaw, Assistant Inspector General for Special Reviews and Evaluations, at (202) 981-6000.

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Background

In May 2019, we issued a management alert about dangerous overcrowding observed in the El Paso area during our unannounced inspections of U.S. Customs and Border Protection (CBP) holding facilities.¹ During the week of June 10, 2019, we traveled to the Rio Grande Valley in Texas and again observed serious overcrowding and prolonged detention in Border Patrol facilities requiring immediate attention.

According to Border Patrol statistics, the Rio Grande Valley sector has the highest volume on the southwest border, with nearly a quarter million apprehensions in the first eight months of FY 2019. This total represents a 124 percent increase compared to the same period in FY 2018, with the greatest increase in family units. Table 1 shows the total number of apprehensions by category and the percent increase for the Rio Grande Valley sector.

Table 1. Rio Grande Valley Sector Border Patrol Apprehensions

	Apprehensions October 2017 to May 2018	Apprehensions October 2018 to May 2019	Percent Increase
Unaccompanied Alien Children	14,822	23,944	62%
Family Units	36,773	135,812	269%
Single Adults	48,240	63,507	32%
Total	99,835	223,263	124%

Source: Border Patrol southwest border apprehensions by sector

During our visits to five Border Patrol facilities and two ports of entry in the Rio Grande Valley,² we reviewed compliance with CBP's Transport, Escort, Detention and Search (TEDS) standards, which govern CBP's interaction with detained individuals,³ and observed serious overcrowding and prolonged detention of unaccompanied alien children (UACs),⁴ families, and single adults that require immediate attention. Specifically,

¹ Management Alert – DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center (OIG-19-46), May 2019.

² We visited the McAllen, Weslaco, and Fort Brown Border Patrol Stations, and the Border Patrol Centralized Processing Center and Donna Processing Center. We also visited the Hidalgo and Progreso ports of entry.

³ U.S. Customs and Border Protection, National Standards on Transport, Escort, Detention, and Search, October 2015.

⁴ Unaccompanied alien children are aliens under the age of 18 with no lawful immigration status in the United States and without a parent or legal guardian in the United States "available" to provide care and physical custody for them. 6 U.S.C. § 279(g)(2).



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Border Patrol was holding about 8,000 detainees in custody at the time of our visit, with 3,400 held longer than the 72 hours generally permitted under the TEDS standards.⁵ Of those 3,400 detainees, Border Patrol held 1,500 for more than 10 days.

CBP is responsible solely for providing short-term detention for aliens arriving in the United States without valid travel documents. CBP detains such individuals on a short-term basis to allow for initial processing, and then transfers the individuals to other government agencies. However, even when CBP has completed its initial processing obligations, it cannot transfer detainees out of its facilities until U.S. Immigration and Customs Enforcement (ICE) has space for single adults and some families, and the U.S. Department of Health and Human Services (HHS) has space for UACs. Currently, because both ICE and HHS are operating at or above capacity, CBP has experienced increasing instances of prolonged detention in its facilities.

This management alert addresses overcrowding at four of the five Border Patrol facilities, and prolonged detention at all five facilities, we visited in the Rio Grande Valley. While our prior management alert on an El Paso facility identified similar issues with respect to the single adults detained in that facility, this alert highlights additional concerns with respect to UACs and families being detained in the Rio Grande Valley facilities we visited. This alert also addresses security incidents in these facilities that reflect an escalation of the security concerns raised in our prior alert.

At-Risk Populations are Subject to Overcrowding and Prolonged Detention in Border Patrol Facilities

During our visits to five Border Patrol facilities in the Rio Grande Valley, we observed serious overcrowding of UACs and families, populations defined as “at-risk” in TEDS standards (see figures 1 through 3).

⁵ TEDS 4.1 provides that “[d]etainees should generally not be held for longer than 72 hours in CBP hold rooms or holding facilities. Every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible.”



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Figure 1. Overcrowding of families observed by OIG on June 10, 2019, at Border Patrol's McAllen, TX, Station. *Source: OIG*

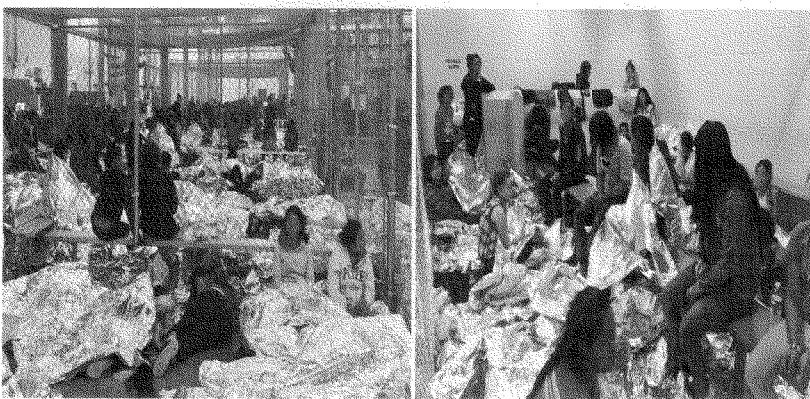


Figure 2. Overcrowding of families observed by OIG on June 11, 2019, at Border Patrol's McAllen, TX, Centralized Processing Center. *Source: OIG*



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Figure 3. Overcrowding of families observed by OIG on June 11, 2019, at Border Patrol's Weslaco, TX, Station. Source: OIG

In addition to the overcrowding we observed, Border Patrol's custody data indicates that 826 (31 percent) of the 2,669 children⁶ at these facilities had been held longer than the 72 hours generally permitted under the TEDS standards and the *Flores* Agreement.⁷ For example, of the 1,031 UACs held at the Centralized Processing Center in McAllen, TX, 806 had already been processed and were awaiting transfer to HHS custody. Of the 806 that were already processed, 165 had been in custody longer than a week.

⁶ This population consisted of 1,130 UACs, and 1,539 children who crossed as part of a family unit.

⁷ The *Flores* Agreement generally permits detention of minors no longer than 72 hours, with a provision that in an influx of minors, placement should be as expeditious as possible. In addition, the *Trafficking Victims Protection Reauthorization Act of 2008* requires DHS to meet this timeline unless there are "exceptional circumstances." 8 U.S.C. § 1232(b)(3). The *Flores* Agreement also includes a requirement that immigration officials hold minors immediately following arrest in facilities that provide: (1) access to food and drinking water; (2) medical assistance in the event of emergencies; (3) toilets and sinks; (4) adequate temperature control and ventilation; (5) adequate supervision to protect minors from others; (6) separation from unrelated adults whenever possible; and (7) contact with family members who were arrested with the minor.



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Additionally, there were more than 50 UACs younger than 7 years old, and some of them had been in custody over two weeks while awaiting transfer.

In addition to holding roughly 30 percent of minor detainees for longer than 72 hours, several Rio Grande Valley facilities struggled to meet other TEDS standards for UACs and families. For example, children at three of the five Border Patrol facilities we visited had no access to showers, despite the TEDS standards requiring that “reasonable efforts” be made to provide showers to children approaching 48 hours in detention.⁸ At these facilities, children had limited access to a change of clothes; Border Patrol had few spare clothes and no laundry facilities. While all facilities had infant formula, diapers, baby wipes, and juice and snacks for children, we observed that two facilities had not provided children access to hot meals — as is required by the TEDS standards⁹ — until the week we arrived.¹⁰ Instead, the children were fed sandwiches and snacks for their meals. Additionally, while Border Patrol tried to provide the least restrictive setting available for children (e.g., by leaving holding room doors open), the limited space for medical isolation resulted in some UACs and families being held in closed cells.

Overcrowding and Prolonged Detention of Single Adults Have Resulted in Security Incidents and Non-Compliance with TEDS Standards

In the Border Patrol facilities we visited, we also observed serious overcrowding and prolonged detention among adult detainees. TEDS provides that “under no circumstances should the maximum [cell] occupancy rate, as set by the fire marshal, be exceeded.”¹¹ However, at one facility, some single adults were held in standing room only conditions for a week and at another, some single adults were held more than a month in overcrowded cells (see figures 4 and 5).

⁸ TEDS 5.6

⁹ TEDS 5.6

¹⁰ Border Patrol management at these facilities told us there were too many detainees on site to microwave hot meals, and it had taken time to secure a food contract.

¹¹ TEDS 4.7



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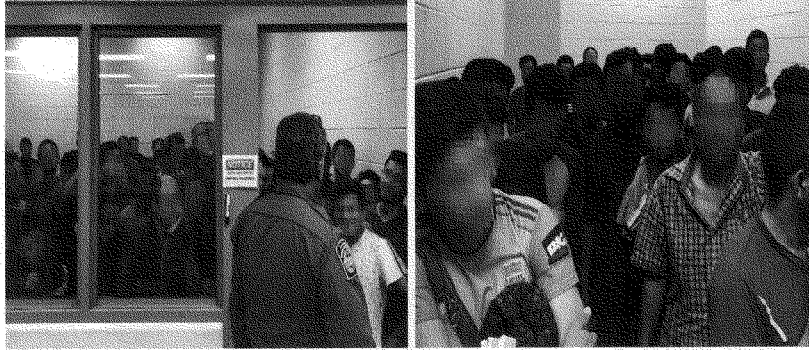


Figure 4. Standing room only for adult males observed by OIG on June 10, 2019, at Border Patrol's McAllen, TX, Station. *Source: OIG*

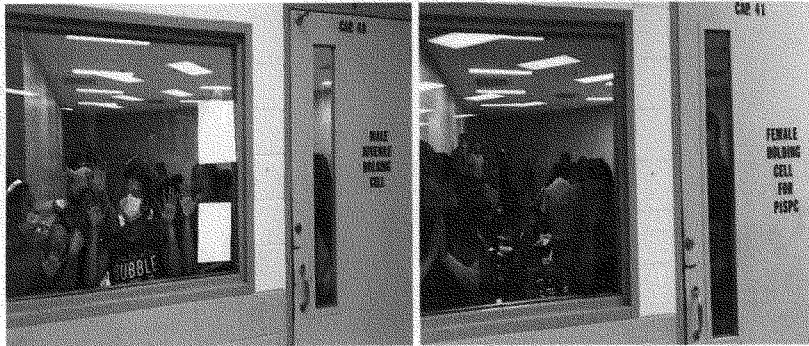


Figure 5. Fifty-one adult females held in a cell designated for male juveniles with a capacity for 40 (left), and 71 adult males held in a cell designated for adult females with a capacity for 41 (right), observed by OIG on June 12, 2019, at Border Patrol's Fort Brown Station. *Source: OIG*

We are concerned that overcrowding and prolonged detention represent an immediate risk to the health and safety of DHS agents and officers, and to those detained. At the time of our visits, Border Patrol management told us there had already been security incidents among adult males at multiple facilities. These included detainees clogging toilets with Mylar blankets and socks in order to be released from their cells during maintenance. At one facility, detainees who had been moved from their cell



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during cleaning refused to return to their cell. Border Patrol brought in its special operations team to demonstrate it was prepared to use force if necessary. Additionally, detainees have attempted to escape while removed from their cells during maintenance.

Senior managers at several facilities raised security concerns for their agents and the detainees. For example, one called the situation “a ticking time bomb.” Moreover, we ended our site visit at one Border Patrol facility early because our presence was agitating an already difficult situation. Specifically, when detainees observed us, they banged on the cell windows, shouted, pressed notes to the window with their time in custody, and gestured to evidence of their time in custody (e.g., beards) (see figure 6).

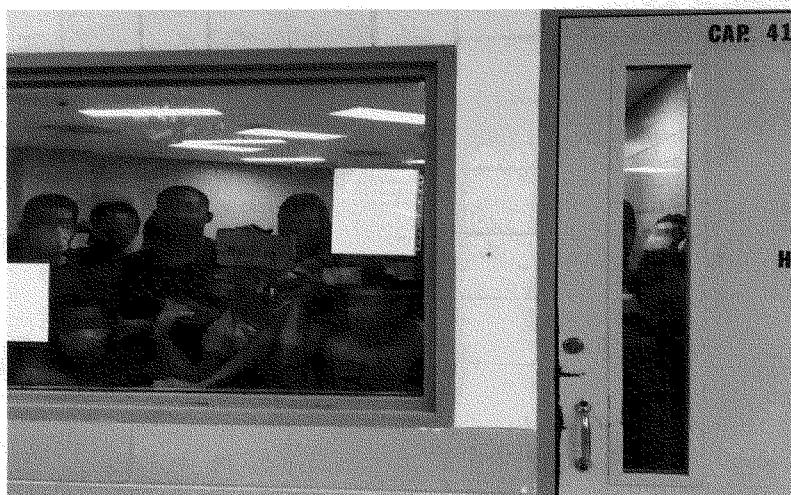


Figure 6. Eighty-eight adult males held in a cell with a maximum capacity of 41, some signaling prolonged detention to OIG Staff, observed by OIG on June 12, 2019, at Border Patrol's Fort Brown Station. *Source: OIG*

In these overcrowded conditions, CBP was unable to meet TEDS standards. For example, although TEDS standards require CBP to make a reasonable effort to provide a shower for adults after 72 hours,¹² most single adults had not had a shower in CBP custody despite several being held for as long as a month. At some facilities, Border Patrol was giving

¹² TEDS 4.11



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detainees wet-wipes to maintain personal hygiene. Most single adult detainees were wearing the clothes they arrived in days, weeks, and even up to a month prior. Further, although TEDS standards require agents to remain cognizant of detainees' religious and other dietary restrictions,¹³ many single adults had been receiving only bologna sandwiches. Some detainees on this diet were becoming constipated and required medical attention.¹⁴

Border Patrol Requires Immediate Assistance Placing Detainees, but ICE Capacity is Limited

Within DHS, providing long-term detention is the responsibility of ICE, not CBP.¹⁵ During the week of our visits, ICE had approximately 54,000 beds occupied nationwide, but was only funded for 42,000 beds. In our discussions with ICE field management about this situation, they explained that their capacity to find additional bed space is strained. According to ICE field management, ICE has already increased capacity at its Port Isabel facility from 800 beds to an "emergency level" of 1,200, and then further increased capacity to 1,550 by adding plastic beds in some cells. However, the facility remains unable to accommodate most Border Patrol detainees. From Port Isabel and other detention facilities in the Rio Grande Valley, ICE can fly detainees to other ICE facilities, but officials said only limited beds are available nationwide. As a result, Border Patrol continues to hold detainees for more than 72 hours in overcrowded conditions while they await transfer.

DHS Management's Response and OIG Analysis

DHS management provided written comments on a draft of this alert. We included a copy of DHS' management comments in their entirety in appendix A. We also incorporated DHS' technical comments in the final alert, as appropriate.

DHS Response:

DHS described the situation on the southern border as "an acute and worsening crisis," and cited measures DHS has taken to expand CBP's capacity on the southern border. Specifically, DHS said it has added two tents capable of holding 500 people each in the Rio Grande Valley, and

¹³ TEDS 4.13

¹⁴ Two of the facilities obtained a contract for hot meals the week of our site visit, but others continued to serve sandwiches.

¹⁵ See 6 U.S.C. § 211(c)(8)(B).



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plans to add another to house single adults by July 29, 2019. DHS also cited examples of CBP's emergency medical response across the southern border. DHS said the number of UACs in Border Patrol custody had been reduced from nearly 2,800 on June 7, 2019, to less than 1,000 on June 25, 2019.

OIG Response:

We recognize the extraordinary challenges CBP faces, and welcome the information that DHS has been able to reduce the number of UACs in custody. However, we remain concerned that DHS is not taking sufficient measures to address prolonged detention in CBP custody among single adults. Although an additional 500 beds in the Rio Grande Valley may reduce overcrowding among single adults, DHS must transfer single adults to ICE custody as quickly as possible; within DHS, long-term detention is ICE's responsibility.



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Appendix A
DHS's Management Comments to the Draft Management Alert

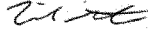
U.S. Department of Homeland Security
 Washington, DC 20528



**Homeland
 Security**

July 1, 2019

MEMORANDUM FOR: Jennifer L. Costello
 Acting Inspector General

FROM: *for* Jim H. Crumacker, CIA, CFE 
 Director
 Departmental GAO-OIG Liaison Office

SUBJECT: Management Response to OIG Draft Management Alert: "DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley" (Project Number 19-039-SRE-CBP)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

DHS performs an essential role in securing our Nation's borders at and between ports of entry, and enforces U.S. immigration law within the interior of the country. U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) officers and agents continually uphold the utmost professionalism while performing essential border security operations. DHS is devoted to the care and processing of the individuals in our custody with the utmost dignity and respect.

The current situation on the Southern Border represents an acute and worsening crisis. Our immigration system is not equipped to accommodate a migration pattern like the one we are experiencing now. In May 2019, an average of over 4,600 people a day crossed our Southern Border illegally or arrived at ports of entry without proper documents. For comparison, in May 2017, that number was less than 700 a day. CBP total enforcement actions during May 2019 were 623 percent higher than in May 2017, and 206 percent higher than the May average over the past seven years (2012-2019).

The current migration flow and the resulting humanitarian crisis are rapidly overwhelming the ability of the Federal Government to respond. In March 2019, CBP encountered over 103,000 illegal border crossers and inadmissible aliens. In April 2019, that number exceeded 109,000—the highest monthly levels in more than a decade. CBP



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facilities are at peak capacity, primarily due to record numbers of Unaccompanied Alien Children (UAC) awaiting placements with the U.S. Department of Health and Human Services (HHS). As of June 7, 2019, nearly 2,800 UACs were waiting in Border Patrol stations that were not built nor equipped to house them. By June 25, 2019, however, that number had reduced to under 1,000.

During this extraordinary influx, DHS has taken steps to ensure an elevated standard of care in response to the current humanitarian crisis and has directed additional personnel and resources to the border. Examples include:

- CBP's Rio Grande Valley Sector added a soft-sided structure capable of holding up to 500 people on May 3, 2019, and a second soft-sided structure, capable of holding an additional 500 people on June 19, 2019. A third soft-sided structure to house single adults is projected to be operational by July 29, 2019.
- CBP has obligated over \$49 million for medical services for those in custody.
- CBP has and continues to take steps to address the health and safety of those in custody. For example, Border Patrol agents are taking an average of 77 people to the hospital every day – over 18,000 people since October 1, 2018. Further, agents spent 211,010 work hours during this same period with people in custody and in the hospital rather than patrolling the border.
- CBP is expanding existing medical service contracts in the busiest areas on the Southwest Border to provide medical assessments and basic level medical services to all minors and to any adult that is in need while in CBP custody.
- Border Patrol agents have saved thousands of lives – people overcome by the elements – including people found suffering from dehydration, heat stroke, hypothermia, drowning, injuries, and left for dead by smugglers in some of the most remote areas of our border as they enter the country illegally. For instance, agents have rescued over 3,400 people so far since October 1, 2018 and hazardous water rescues are up nearly 400 percent over the previous fiscal year.

Throughout this crisis, CBP continues to do everything it can to promptly transfer, transport, process, release, or repatriate those in our custody. However, without Congressional action to address legal and judicial loopholes, families and UACs will continue to be incentivized by the smuggling organizations to make the dangerous journey and be encouraged by the likelihood that families will not be detained during their immigration proceedings. As more migrants become emboldened by these loopholes, CBP expects this influx to not only continue, but also to escalate.

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Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.



Appendix B
Management Alert Distribution

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Under Secretary Office of Strategy, Policy, and Plans
Assistant Secretary for Office of Public Affairs
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Commissioner, CBP
CBP Component Liaison

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Chief, Homeland Security Branch
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Ms. LOFGREN. Before moving to questions, I'd like to recognize the chairman of the full committee, Mr. Nadler, for his opening statement.

Chairman NADLER. Thank you, Madam Chair.

The title of today's hearing, "Overcrowding and Prolonged Detention in CBP Facilities," barely begins to convey the inhumane conditions children and families in CBP custody are experiencing in facilities along the southern border.

Today, we'll focus on six Texas CBP facilities recently examined by the inspector general's office, which documented a culture of utter neglect and disregard for migrants that is profoundly disturbing. The IG's report is bad enough that it must not be read in a vacuum. We also cannot ignore the reports of sexual assault and retaliation against children at the Yuma Processing Center in Arizona, nor can we overlook the racist and misogynous Facebook postings by current and former CBP officers that dehumanize migrants and disparaged female Members of Congress.

Not only did CBP leadership know about this group, it now appears that the chief of the Border Patrol herself was a member. This is the context in which we must consider the horrible conditions in CBP facilities.

On May 30, 2019, the IG issued a management alert that focused on dangerous overcrowding of single adults at the Del Norte Processing Center, including the packing of 900 individuals into a space with a maximum capacity of 125, and holding 41 individuals in a cell designed to hold 8. This overcrowding made it impossible for men and women to lie down, and some were forced to stay in standing room only conditions for days and even weeks. The photos accompanying the management alert powerfully illustrate the misery and suffering at these facilities.

Although the DHS concurred with the IG's recommendations, the agency claims that it will not be able to correct these problems until November 30, 2020, nearly 18 months from now. It is outrageous that DHS leadership could read this report and decide that men, women, and children could be detained in these deplorable, horrible conditions for 18 more months.

Just 5 weeks later on July 2, the IG issued another management alert that focused on the dangerous overcrowding and prolonged detention of children and adults at five CBP facilities in the Texas Rio Grande Valley. The IG documented that some 1,500 children and adults were held in short-term holding rooms longer than the 72 hours generally permitted, including more than 50 children 7 years old or younger who had been detained for over 2 weeks.

Most of these individuals had not showered for the entire duration of their detention, even though several of them had been held for as long as a month. And most were still wearing the clothing they arrived in, days, weeks, and even up to a month before. That we would treat any human being this way is unconscionable. And this situation cannot be blamed solely on the increased number of asylum seekers arriving at the southern border.

CBP made a choice here. ICE and the Department of Health and Human Services have the mandate and infrastructure to detain individuals for longer than 72 hours. If those facilities are full, how-

ever, CBP has the authority to release individuals and families after completion of intake processing.

There is no doubt that the overcrowding and conditions documented in the six Texas facilities warranted release of some—of at least some of these asylum seekers. But it appears to be the Trump administration’s policy to continue holding children and families in such conditions as a form of torture in order to deter others from coming. This is neither necessary nor conscionable nor sustainable.

There is a humanitarian crisis in Central America and the Trump administration’s policies are now creating a humanitarian crisis in our country too. The IG has done a great service to our Nation by regularly and impartially reviewing CBP conditions. Their findings require prompt action consistent with American laws and American values. Later this week, the Judiciary Committee plans to take up legislation to address deficiencies in CBP custody facilities.

I thank the chair of the subcommittee, Ms. Lofgren, for holding this important hearing. I appreciate Ms. Shaw appearing today to discuss her office’s findings. I’m glad for her testimony, and I yield back the balance of my time.

Ms. LOFGREN. The chairman yields back.

Mr. Collins will certainly be recognized, if he is able to come. Otherwise, we will invite him to put his statement into the record.

But to be even, I’ll go to Mr. Armstrong for his questions, since Mr. Buck has asked that we go to him next.

Mr. ARMSTRONG. Thank you, Madam Chair.

On May 30, 2019, the OIG report found conditions of overcrowding at the El Paso Del Norte Processing Center. The report on page 2 noted that total apprehensions during the first 7 months of fiscal year 2019 have already surpassed that of the total apprehensions of each of the same time period this fiscal—or for the past 4 years.

It also has a chart comparing, just for the El Paso sector, that same time period, this fiscal year between October and April, compared to last year. And it states that the El Paso sector has seen an increase of 374 percent of unaccompanied alien children, 1,816 percent family units, and 82 percent of single adults. Are those numbers correct?

Ms. SHAW. Yes, sir, that’s the data we received from CBP.

Mr. ARMSTRONG. And the El Paso sector has experienced the sharpest increase in apprehensions as any other sector, according to the report?

Ms. SHAW. That’s correct.

Mr. ARMSTRONG. So if there were no individuals—I mean, if there were no illegal crossings at the border, there wouldn’t be overcrowding at these facilities?

Ms. SHAW. Well, Border Patrol facilities are specifically for individuals apprehended between ports of entry, so those who present at ports of entry remain there, those who cross the border between go to the BP facilities, Border Patrol.

Mr. ARMSTRONG. So yes?

Ms. SHAW. Yes. If we had no one crossing between points of entry, there would be no one in those facilities.

Mr. ARMSTRONG. Your May 30 report noted that further limiting space—available space was the need to separate detainees with infectious diseases, such as chicken pox, scabies, and the flu, from each other and the general population, and that the facility only had seven general cells and three small isolation cells, right?

Ms. SHAW. That's correct.

Mr. ARMSTRONG. And the report also noted that the ability of ICE to accept single adults into its detention infrastructure is strained, stating that ICE does not currently have sufficient detention bed space to take all Border Patrol's adult detainees, even though the report states in its footnote that ICE accepts single adults into ICE detention facilities as soon as space becomes available.

So even though CBP completes processing of these individuals in a few days, these single adults are backing up in CBP custody because ICE doesn't have the room for them?

Ms. SHAW. That's correct. And that's according to CBP management.

Mr. ARMSTRONG. And the report indicates that overcrowded conditions are a result of, one, high numbers of people crossing; two, the need to separate detainees with infectious diseases; and, three, the inability of ICE to accept single adults from CBP due to lack of bed space.

Ms. SHAW. Those do seem to be some of the factors driving the issue.

Mr. ARMSTRONG. So if Congress doesn't act to do things, such as providing more ICE bed space or by addressing the root causes of the large numbers of migrants arriving on the southern border in the first place, CBP's only option to address the overcrowded conditions would be, what, to release them?

Ms. SHAW. That could be one option, creating more space to detain them, but that wouldn't address the prolonged detention issue.

Mr. ARMSTRONG. And that's kind of one of the problems with the word "immediately." I mean, we say immediately, we want something to happen. But creating more space cannot happen overnight, right? I mean, you have to—I mean, whether it's a tent facility, I mean, it still has to be something that can work.

So, I mean, what's a timeframe to put one of these facilities up if everybody moved as quickly as possible?

Ms. SHAW. I don't have precise statistics on that. I do know that the soft-sided structures are able to be deployed fairly quickly. And in the management response that we received from DHS to the management alert, they indicated that some of those facilities were up and ready to accept individuals, but the more complicated structures were going to take more time.

Mr. ARMSTRONG. And the reason I talk about immediately is the OIG response to DHS' response reiterated that immediate action is needed, and I think everybody agrees with that. But other than those steps that DHS is taking within the confines of the resources Congress has given them, what specifically does the OIG office expect DHS to do?

Ms. SHAW. What we put in our management alert was we were looking for some action to address the issue. The response that we got was that the larger structure would not be ready until 2020.

And so we couldn't consider that a resolved recommendation when we're looking for something immediate.

Mr. ARMSTRONG. Well, and that is even before we talk about judicial injunctions and lawsuits and, I mean, those are going on. I mean, none of this is occurring in a legislative vacuum either.

Ms. SHAW. Uh-huh.

Mr. ARMSTRONG. I mean, we can't prevent people from arriving sick and in need of medical care a segregation in that we've already maxed out ICE bed space. I just go back to, is the only other alternative just to release everybody?

Ms. SHAW. I can't give you an answer on that at this point. What I can tell you is that part of the work that we have ongoing is to look at the root causes and allow us to do the deeper dive that would help us present some recommendations that we think could help solve the problem.

Our management alerts are really meant to shine a light on an issue that is so important or emergent that we don't want to wait to do complete reporting and do the work that goes into creating solutions and recommendations. So this is a preliminary snapshot of the issue. We are doing that more in depth dive at this point and hope to have some very helpful recommendations come out of that work.

Mr. ARMSTRONG. Well, and I appreciate that because I think we need triage and long-term solutions. Thank you.

Ms. LOFGREN. Thank you.

The chairman of the committee, Mr. Nadler, is recognized for 5 minutes.

Chairman NADLER. Thank you, Madam Chair.

And thank you for testifying here today. We appreciate you being here. I want to discuss the two management alerts you put out recently focusing on the inspection of the El Paso Del Norte Processing Center.

As Representative Lofgren mentioned in her opening statement, we visited that facility back in late March, and even then, the facility was extremely overcrowded with people being held for long periods of time. Your inspection found things had deteriorated even further.

Your report provides the following evidence of overcrowding, including photographs. A cell with a maximum capacity of 12 people holding 76, a cell with a maximum capacity of 8 holding 41, a cell with a maximum capacity of 35 holding 155 people.

For each of these cells, which we understand were only examples of the overcrowding at Del Norte, could you please estimate the size of the cell in terms of length and width?

Ms. SHAW. I was not personally there, so I'm going off the same photographs that you have. I could get that information for you as a take-back.

Chairman NADLER. Okay. Can you describe the conditions of the people and the insides of these cells, and understanding that you were not able to speak—as you witnessed them and understanding you were not able to speak with them directly?

Ms. SHAW. Yes. So based on the photographs and the reports back from my team, many of the people in the cells that were over-

capacity were standing shoulder to shoulder. There wasn't room to sit down. There certainly wasn't room to lie down.

Chairman NADLER. So how do they sleep, standing up?

Ms. SHAW. It was a challenge. I think we also reported that in some instances, individuals were standing on top of the toilets in order to get a little extra breathing room. So it was very, very crowded. And, of course, that, you know, contributes to a lot of issues, including possibility for transmitting infectious disease and potentially—

Chairman NADLER. And lack of accessibility of that toilet for use?

Ms. SHAW. Correct.

Chairman NADLER. What steps, if any, was CBP taking to remedy the situation, the situation about the toilets being used for standing on instead of for use?

Ms. SHAW. My understanding is that the conditions were what they were. They were trying to triage as best as possible. As you saw from some of the photographs, many of the individuals at that facility were outside for processing and would never have even seen the inside of the facility. So they're making use of that outside parking lot space as an effort to triage and release some of the pressure on the inside of the facility.

Some of the detainees are moved to other facilities as quickly as possible, but even with those measures in place, it was still overcrowded in a way that our inspectors—

Chairman NADLER. The report says that Border Patrol agents told us, that is your office, some of the detainees have been held in standing room only conditions for days and weeks.

Ms. SHAW. That's correct.

Chairman NADLER. Based on these admissions, is it your understanding that there were people in the facility who had not been able to sit or lie down for days or weeks?

Ms. SHAW. In the most crowded cells, we did not go in to speak directly with the individual detainees, so I can't comment on the personal circumstances. But in standing room only conditions, it's hard to imagine how anybody could have—

Chairman NADLER. And they were there for days and weeks in those conditions?

Ms. SHAW. Correct.

Chairman NADLER. Have you ever been in a CBP detention facility before where there were individuals who were not able to stand for 24 hours, let alone—or to sit for 24 hours, let alone multiple days or weeks?

Ms. SHAW. I have not personally. I know my team has seen overcrowding in its day, but this certainly rose to a new level, which is part of what prompted us to write the management alerts.

Chairman NADLER. And, lastly, I want to draw your attention to a photo on page 6 of the report. Your team observed staff discarding personal items, including backpacks, suitcases, handbags, and a child's doll in a dumpster.

Did you witness CBP staff opening up, reviewing, assessing the condition and/or inventorying the personal items of immigrants before throwing them into a dumpster?

Ms. SHAW. Again, I did not personally witness it, but our team did watch as they confiscated the materials and discarded them, and they were not being individually reviewed.

Chairman NADLER. They were not being individually inventoried, so we don't know what they were throwing out?

Ms. SHAW. Right, for the items in that dumpster. Now, when people did present, their valuables were tagged, things like phones and wallets, but the larger items got discarded.

Chairman NADLER. Now, to the extent you were able to watch CBP staff handling personal items, could you estimate how long an officer took to assess the condition of an item before throwing it in the dumpster?

Ms. SHAW. I don't know. I think it was a fairly fast assessment, but I could get more details on that for you.

Chairman NADLER. Thank you. And, finally, staff told you and your investigators that it was necessary to dispose of all these personal items because they presented a, quote, biohazard, unquote.

Based on your observations regarding staff's treatment of these personal items, were staff in a position to make this assessment that these were all biohazards, and were you satisfied with this justification?

Ms. SHAW. I'm afraid I don't have information on that. I can tell you that under the TEDS standards, typically what should happen is that all of the property should be tagged and should move with the individual through the facility. This was, I think, a relatively new explanation that we've received, the issue of biohazard. It was clear that some of the items were wet and muddy, but others did not appear to be visibly—

Chairman NADLER. It was clear that a lot of the belongings were just being thrown out pell-mell with no regard given to safeguarding the belongings of these people?

Ms. SHAW. They were being collected and discarded, that's correct.

Chairman NADLER. Thank you very much.

My time has expired.

Ms. LOFGREN. The gentleman from Florida, Mr. Steube, is recognized.

Mr. STEUBE. Thank you, Madam Chair.

Ms. Shaw, isn't it true that these locations, El Paso and the Rio Grande Valley, were specifically selected for inspections because those sectors had seen unprecedented increase in the numbers of apprehensions?

Ms. SHAW. That's one of the factors we consider. We also look at complaints we've received through the OIG Hotline, information that we've collected on past inspections. And we also rely on our investigators who are in the field and familiar with the facilities to help us identify where we ought to be looking.

Mr. STEUBE. And by law, CBP is required to place unaccompanied alien children in its custody with Health and Human Services, correct?

Ms. SHAW. I don't know that that's actually the case, but typically, for long-term detention, UACs are handed off from CBP to HHS ORR.

Mr. STEUBE. Yeah. It's my understanding it's required by law that that occurs, and it's supposed to happen within 72 hours. But if HHS doesn't have a shelter space for a child in CBP custody, well, I mean, I don't understand what they're supposed to do if there's not a place to take them. So should CBP simply release the child out onto the streets within the 72-hour period provided for in law for that transfer to occur?

Ms. SHAW. No, I don't think that they should do that. I think that's exactly the issue; they're having to hold people much longer than what's anticipated under the law.

Mr. STEUBE. So it's not really CBP's problem—well, it's a problem, but it's not really their responsibility if they physically don't have anywhere to legally put this child. They're not going to just—as you said, you don't want them to just release the child out and let the child go, because that's going to create a number of different issues. So what are they supposed to do if there's not a place to transfer them to in an HHS bed?

Ms. SHAW. That's exactly the problem that we're seeing. They have limited options, and so they're holding people for longer periods of time than the 72 hours.

Mr. STEUBE. So it's not that Customs and Border Patrol is actively preventing children from being transferred to HHS custody; it's because they don't have a place to take them?

Ms. SHAW. So we did not observe any indication that CBP was actively holding UACs or minors back from transfer. I can't say with absolute certainty, because we haven't finished our work yet, whether CBP has some role in the delays in transfer. That's something we would be looking at. For instance, if it's a manual process and there's missing information.

But CBP has certainly suggested that lack of space at the HHS facilities is part of the problem in terms of the prolonged detention of UACs.

Mr. STEUBE. So in your observation, then, the unaccompanied children are being moved to HHS bed space as soon as possible?

Ms. SHAW. As soon as HHS can notify them of a placement and transportation can be arranged, yes.

Mr. STEUBE. Okay. Both of your reports express concern for the welfare of the CBP officers and agents as well as the individuals in custody. Wouldn't you agree that congressional inaction to address the border crisis is putting our law enforcement personnel at increase in unnecessary risk of illness, anxiety, and violence?

Ms. SHAW. I don't have an opinion on that. I can tell you from our work that it is creating a pressure situation for the agents. We did observe agents stressed, anxious, high incidence of illness, not only of the agents but their families. So it is creating a difficult situation.

Mr. STEUBE. When you talk about disease amongst the individuals coming into custody, and some of those are contagious diseases, so if the officers are being suspected to that—susceptible to that, then that's obviously putting them at risk to get those illnesses?

Ms. SHAW. That's true.

Mr. STEUBE. Your office remained unsatisfied with DHS' responses to the management alerts. And you stated in your testi-

mony that you remain concerned that DHS needs to take immediate steps, and this is along the lines of what Mr. Armstrong was asking. So wouldn't the only other immediate steps to be taken simply to release all single adults, like we are forced to do with family units, and then admit that we have a broken system? What else are you supposed to do with these single adults?

Ms. SHAW. Right. Unfortunately, I don't have an answer for you on what the solution to the problem is. We are doing a deeper dive to try to understand all of the factors and be able to put forward a more comprehensive set of recommendations. But based on our initial observations, which we reported in the management alert, we don't have a position yet on what would solve the problem.

Mr. STEUBE. Well, I mean, we're talking about single adults here. So what if some of those were criminals? I mean, wouldn't it be your position that you don't want criminals released into the American society?

Ms. SHAW. So when we go in, we're looking at compliance with TEDS standards, and the standards lay out how long people are supposed to stay with CBP. And so we document and report on issues of noncompliance. I'm not going to state an opinion on a broader question about immigration policy.

Mr. STEUBE. So you don't have an opinion as to whether we release criminals from other countries into our country. You don't have an opinion on that?

Ms. SHAW. I have an opinion, but I'm here in my official capacity as a member of the IG community. I'm not here to express my personal opinion.

Mr. STEUBE. Okay. I yield back to the chair.

Ms. LOFGREN. The gentleman yields back.

The gentlelady from Washington, Ms. Jayapal, is recognized.

Ms. JAYAPAL. Thank you, Madam Chair.

And thank you, Ms. Shaw, for being here. Is it true that there could be many reasons for why there is overcrowding in CBP related to policy choices that the administration is making?

Ms. SHAW. We have not done the work yet to determine what the root causes are, but we expect that they're going to be a range of issues that come together and create a set of circumstances.

Ms. JAYAPAL. Right. That is why in fact you're doing the root causes examination, to see why—and why folks are backing up at the border.

Ms. SHAW. Precisely.

Ms. JAYAPAL. Earlier, you said that—you were discussing the ports of entry question, and you said that apprehensions are up, and that is for between the legal ports of entry, correct?

Ms. SHAW. That's right.

Ms. JAYAPAL. And so what happens when you have a policy that blocks the legal ports of entry for people to enter into? Is it reasonable to say that people then, if they can't come through the legal ports of entry, would then be crossing between the legal ports of entry because we've actually closed those legal ports of entry?

Ms. SHAW. So we have not done extensive work on that, but in our family separations report that we put out last fall, we did identify an instance of at least one, possibly two, individuals who had suggested that there could be an uptick in illegal border crossings

when there's a backup at the port of entry, but that's something that we would need to look into.

Ms. JAYAPAL. Thank you. I just wanted to make sure I'm responding to my colleagues across the aisle who are implying that somehow border crossings are up, but the reason they're up is because, in part—and you're going to look at this, so you don't need to answer this question—because the Trump administration has instituted metering, which has essentially closed the legal ports of entry. And as Ms. Lofgren said, we have been to the border many times actually now, and we have actually watched this happening where people are turned back from legal ports of entry because of metering.

You didn't look at, in your report, whether or not ICE beds were actually filled to capacity or whether or not HHS had space; you just asked CBP. Is that correct?

Ms. SHAW. That's correct. And we did speak with ICE and HHS—or maybe just ICE—and got some preliminary information on that, but we haven't independently corroborated that information.

Ms. JAYAPAL. So if ICE beds are filled, it could be because we're overusing detention itself. I just want to quote, this was in an article in ProPublica—no, actually, I think it was Wall Street Journal that said: By talking about this as a resource issue, DHS is trying to convince people that the problem is a lack of adequate facilities in which to detain people rather than the overuse of detention itself.

And before I go to my next questions, I want to call your attention to a BuzzFeed article on July 10 of 2019, where Carla Provost, the CBP border chief, said that HHS didn't have bed space, as you had mentioned. But HHS is quoted in that article, Mr. Weber, as saying that it has taken every unaccompanied child that was referred.

So, in other words, there was nobody that Border Patrol referred that HHS didn't take. So I hope when you look at the root causes, you will really carefully examine what space was actually available.

I want to follow that up for your other—as you go into the root causes discussion—ProPublica on July 12 of 2019, said that—this is another piece that I think needs to go to the question that the chairman raised about the actions and the attitude of Border Patrol. But Border Patrol agents were passing around a commemorative coin mocking care for migrant children and just indicated that we should keep the caravans coming so that the money could continue to flow.

Let me go to healthcare. Given the severe overcrowding and condition that people arrived in, did the team believe that there were enough healthcare staff, including doctors and nurses, onsite to treat illnesses on arrival or as a result of the overcrowding?

Ms. SHAW. So access to medical care is something that we look at. We haven't reported on it yet. We're preparing a capping report to cover all of our unannounced inspections for this year, which will be a more comprehensive look at our findings. It will include access to medical care.

I will tell you that beyond sort of a fairly straightforward look at what sort of medical care they're providing in terms of accessed individuals, emergency services, we at DHS OIG don't really have the subject matter expertise at this point to evaluate the quality of that care or to reach a final conclusion about whether it's sufficient. Something that we are considering, funding permitting, is to try to contract to bring in some of that expertise, so that's something that we could consider looking at in future work.

Ms. JAYAPAL. And the last thing I want to raise is, according to notes contained in the FOIA that record discussions between DHS OIG and CBP and ERO leadership, there was situations in which a mother gave birth and then was returned to CBP custody until the mother could be transferred to ICE custody.

Is it your understanding that the newborn accompanied the mother when she was returned to CBP detention? And what justification, if any, did the CBP provide for continuing to detain a newborn baby and a post-partum mother?

Ms. SHAW. I'm sorry, I don't have any information about that particular case.

Ms. JAYAPAL. Thank you. I yield back.

Ms. LOFGREN. The gentlelady yields back.

The gentleman from California is recognized.

Mr. MCCLINTOCK. Thank you, Madam Chairman.

First, just to continue that point, whether they're coming through legal ports of entry or crossing the border between ports of entry, have we seen an increase in illegal immigration over this past year?

Ms. SHAW. I can tell you, based on the apprehension data that we got, that there's a significant increase, particularly in El Paso sector and the Rio Grande Valley.

Mr. MCCLINTOCK. Not just an increase, but a significant increase where they're coming through the legal ports of entry or coming illegally across the border itself?

Ms. SHAW. That's correct.

Mr. MCCLINTOCK. Can you tell us, as these illegal immigrants are entering our country, what is being done to screen for disease, criminal records, verify their actual identity, as well as an actual family relationship with the children they're bringing?

Ms. SHAW. So I can't—I don't have the details on it. CBP does initial processing. At that point, if the adult has arrived with a minor child, they do what they can, sort of operationally feasible, to evaluate the parental relationship between the child and the parent. They do a screening for medical, which can vary from asking someone how they're feeling or if they have any illnesses to actually looking for indications of illness.

Mr. MCCLINTOCK. Okay. Suppose someone were coming through a legal port of entry through, say, San Francisco or New York.

Ms. SHAW. Did you say a legal port of entry?

Mr. MCCLINTOCK. A legal port of entry. A legal immigrant entering this country. How is the screening for these issues, disease, criminal record and the like, how is that conducted, and how does that differ with those that are coming illegally across our southern border?

Ms. SHAW. Oh, I see. So when someone presents at a port of entry without travel documents?

Mr. MCCLINTOCK. Correct.

Ms. SHAW. Right. I would have to get back to you to determine whether there are any material differences in the way that they are processed. I'll get back with my staff—

Mr. MCCLINTOCK. I'd appreciate that.

Ms. SHAW [continuing]. And get you some details on that.

Mr. MCCLINTOCK. One of the great concerns is that there is very little screening going in as far as disease. If you're simply asking somebody how they're feeling, you're obviously not screening very thoroughly for disease. If you're not actually able to verify their identity, run criminal records, it doesn't sound like you are doing very much to screen for criminals entering the country. And with the actual family relationships, I'm told, perhaps you can help me on this, that there is a fairly large percentage of children being brought into this country by illegal immigrants who are not actually related to them.

Ms. SHAW. I've heard those reports. We have not done any work on that issue.

Mr. MCCLINTOCK. Well, let me ask you. You're the inspector general, why aren't you doing work on that issue?

Ms. SHAW. It's a resource issue, but it's something that we are constantly considering. We're looking at issues, doing a risk-based analysis to determine where best—

Mr. MCCLINTOCK. I would think that those issues are absolutely critical to the security of our southern border and absolutely central to what's going on down there right now.

Ms. SHAW. Very important issues, absolutely.

Mr. MCCLINTOCK. Let me just expand on the point that Mr. Steube raised. A child was apprehended by Customs and Border Patrol, they've got to be released within 72 hours under the Flores Agreement. Is that correct?

Ms. SHAW. Yes.

Mr. MCCLINTOCK. And if the CBP apprehends children, they're only allowed to release them to HHS?

Ms. SHAW. If it's an unaccompanied alien child, the child is supposed to be transferred into HHS custody.

Mr. MCCLINTOCK. And that's not just a choice; that has to happen. They're legally required to release these children to that one Federal agency, correct?

Ms. SHAW. I believe that's correct.

Mr. MCCLINTOCK. And the TVPRA requires that these unaccompanied children being released to the HHS, the HHS is then supposed to process the children, find their relatives and foster care for them. So the Federal law requires them to be released solely to HHS. The Department regulations and consent decree requires this all to be done within 72 hours, but that's not happening, right?

Ms. SHAW. Correct. We have prolonged detention in many cases.

Mr. MCCLINTOCK. So the CBP is between a rock and a hard place. They're violating their own regulations and the Flores Agreement by keeping these children, but they'd be violating the TVPRA by releasing these children to anyone other than HHS, who doesn't

have the capacity to accept these children. Is that essentially what's going on?

Ms. SHAW. CBP cannot unilaterally effect a transfer to ICE or HHS. They need ICE and HHS to find a suitable placement.

Mr. MCCLINTOCK. How important is the \$4.6 billion that the President requested months ago and that House Democrats delayed for several months before finally releasing it a week or two ago?

Ms. SHAW. We have not looked at that. We do have ongoing work that is evaluating what CBP's plan is for deploying those funds.

Mr. MCCLINTOCK. How long will it take those funds to be deployed?

Ms. SHAW. I couldn't tell you, but I know some of them are meant to be spent this year. So there's a very small window in which it could be spent.

Mr. MCCLINTOCK. Thank you.

Ms. LOFGREN. The gentleman yields back.

The gentleman from California, Mr. Correa, is recognized for 5 minutes.

Mr. CORREA. Thank you, Madam Chair.

And I want to thank Inspector Shaw for being here today and testifying.

You decided to spot check El Paso Norte Inspection Processing Center. You mentioned you had some complaints, complaint hotline. Who put in those complaints that was one of the reasons you made that inspection happen quickly?

Ms. SHAW. So just to clarify for the record, that's generally how we identify where we want to go with our unannounced inspections. That doesn't suggest that we got a particular complaint about any particular facility. It's one of the factors that we look at.

Mr. CORREA. That hotline, who calls in that hotline? Officers working there? Citizens? Who actually calls in?

Ms. SHAW. We get upwards of 30,000 complaints a year that come from everyone across the country. It might be internal, a DHS employee, it might be a concerned citizen, sometimes it's an advocate for someone who's in detention. So we get the full range.

Mr. CORREA. You have visited dozens of detention centers in your career. Have you ever seen overcrowding or conditions comparable to those that we are seeing today?

Ms. SHAW. So our inspections team, some of whom have been doing this for a decade, had never seen anything like this before.

Mr. CORREA. So looking back at the eighties, nineties, we've had a refugee challenge in this country for a number of years from Central America. What is it that's different this time? I mean, under the Obama administration, I remember, as a State senator, going to visit some of the facilities, and I concur with you, I've never seen anything like this.

In your deep dive, will you be able to determine what the difference is in terms of what has caused this situation to spring up on us all of a sudden?

Ms. SHAW. We will be trying to understand that and identify those issues, within the limits of our jurisdiction. So we oversee the Department of Homeland Security. We will be looking at factors that impact them; we will not be able to opine on broader policy

questions. But certainly, we'll be looking at things like volume and the demographic of folks who are crossing, because obviously, the more family units and UACs we receive, the more constraints there are in space because there are rules about who can—

Mr. CORREA. Again, you talk about the volume, but I know that in the past, we've had time periods when the volumes have been comparable, yet the circumstances that we see here are not comparable.

Ms. SHAW. I do know that in 2014, we saw an influx of unaccompanied alien children crossing. At that time period, we did see high rates. We saw, I think, some overcrowding and prolonged detention, but again, this is something we have not seen before.

Mr. CORREA. And in 2014, did you check those alien children for criminal backgrounds?

Ms. SHAW. DHS OIG?

Mr. CORREA. Yes.

Ms. SHAW. No, we did not.

Mr. CORREA. Or other agencies?

Ms. SHAW. I don't have information on what DHS might have done in those individual cases.

Mr. CORREA. Should we be checking those children for criminal backgrounds?

Ms. SHAW. I don't have an opinion on that. That's not an issue that we've looked at DHS OIG.

Mr. CORREA. Thank you very much. And, again, as you do your deep dive, I hope that your agency—and I think you have done some good work, but I hope you continue to do it. What is it that is different now? Again, I've seen this—I know during the Salvadorian civil war, massive number of refugees. 2014, again, that was a time period I inspected facilities in the State of California, and never have we ever seen these kinds of conditions. And, again, folks at the border being overwhelmed. Border checkpoints. Crossing between border checkpoints.

We've got to figure out what has led to these conditions, and I hope that you do that deep dive, and not policy, but give us some facts, compare and contrast past years versus current years, what have administrations done different that have led to situations less serious than what we have here today?

Thank you, Madam Chair. And with that, I yield the remainder of time.

Ms. LOFGREN. The gentleman yields back.

I would recognize the ranking member of the subcommittee, the gentleman from Colorado.

Mr. BUCK. Thank you very much, Ms. Shaw, for being here today.

We just want to follow up on something the gentleman just asked in terms of comparable volumes. And I understand that this isn't your job, but it is the work of the agency that reports these.

In 2014, the agency reported—and I'm going to ask you if this is correct. I'm not trying to lead you, but just ask you if this is approximately correct. The agency reported approximately 2,000 individuals per day crossing the border. And in 2019, we have between 4- and 5,000 individuals per day crossing the border.

Do those numbers sound approximately correct?

Ms. SHAW. I'm sorry. I personally don't know that information, but I could get back to you with some more details on that.

Mr. BUCK. What I'd like to know is if there were comparable numbers, because I don't believe there were comparable numbers. I think that the surge that we have seen in individuals in the last few months is unprecedented and has put an unprecedented amount of stress and strain on the system. And so, I'd appreciate knowing that.

Ms. SHAW. Sure.

Mr. BUCK. You were at some of these facilities?

Ms. SHAW. Not me personally, my team.

Mr. BUCK. And did your team give you feedback—and I'm going to ask you to take your official hat on off for a second.

But as a person, it pains me to see individuals in this kind of crowded condition. Did anybody express that to you?

Ms. SHAW. On my team?

Mr. BUCK. Yes.

Ms. SHAW. What I can tell you—and I like to stay close to our public reporting. But I can tell you that the day that they completed their second day of inspections, the team was concerned, and immediately emailed me with photographs and a summary of what they had seen. And based on that information, I made an immediate decision that we needed to put out a management alert, and that it needed to be done within 3 to 4 weeks so that we could shine a light on the issue, because it was something that we had never seen before, and because of the risks associated with the overcrowding.

Mr. BUCK. So as a person, there were individuals on the team that were concerned about the conditions that these immigrants were being held in?

Ms. SHAW. Absolutely. They immediately identified the risks associated with that.

Mr. BUCK. Were there also concerns about the staff that—that was there, and the stress that was placed on the staff?

Ms. SHAW. We try to talk to staff when we do these inspections and hear their points of view as well. We did ask them and got information about the higher rates of illness. We did report on some staff experiencing low morale, looking to make early retirement. So we do try to collect that information as well. And we reported on it because we found that also to be a risk factor and concerning.

Mr. BUCK. Well, I guess what I'm trying to figure out is, were there any staff that were happy that they were working in these kinds of conditions and happy that they were trying to—that they were holding people as they were being held? It sounds like a very stressful situation for everybody.

Ms. SHAW. Our observation was that everybody was challenged by the circumstances.

Mr. BUCK. And we heard the word "torture" used earlier by the chairman of the full committee. Did your staff or team see any torture? You know what torture is. You're an attorney.

Ms. SHAW. Yes.

Mr. BUCK. There is an international norm for torture. Did you see or your team see—

Ms. SHAW. We did not evaluate whether torture by any sort of legal definition was taking place. What we do look at are the minimum standards which were not being complied with in terms of overcrowding and the conditions there. And so we did find that concerning.

Mr. BUCK. When you do this deep dive, will you be looking at the interior of the country and noting the impact that immigration has, particularly on small, rural communities, where an influx of individuals can literally bankrupt a school district, and putting stress on the school district having monolingual Spanish-speaking or foreign-speaking students in that school district and trying still to educate English-speaking students where class sizes are increasing?

Will you have any deep dive on the effect of that vast numbers of illegal immigrants create on a healthcare system in small or rural communities? Will you have any deep dive on the impact that vast numbers of illegal immigrants have on the justice system in smaller, rural communities?

Ms. SHAW. So that's probably beyond the scope of the work that we will be doing, although we always do look to try to understand effects of the findings that we make. And so, we would be looking at that, but probably not doing the deep dive that I hear you describing.

Mr. BUCK. And will you, in this deep dive, look at the causes of why people are coming to this country in the numbers that they're coming to, and especially taking advantage of the asylum laws, if they're being coached to give certain answers when they arrive in this country? So they don't identify economic reasons for being here, but rather, they identify personal risks and safety reasons.

Ms. SHAW. So we'll follow the facts where they lead us. Doing in-depth research in a foreign country about the circumstances there is probably beyond our scope. But certainly, at the time that folks are presenting or being apprehended, we'll be looking at the reasons that they're giving, we'll be looking at the explanations provided by management, and trying to independently corroborate whatever we can.

Mr. BUCK. And my time is up, and I yield back.

Thank you very much.

Ms. LOFGREN. The gentleman yields back. I'd like to recognize the gentlelady from Texas, Ms. Garcia.

Ms. GARCIA. Thank you, Madam Chair, and thank you so much for putting this hearing together, and Ms. Shaw, thank you for being here today.

And as I understand it, you did not personally visit these centers, but you had a team, right?

Ms. SHAW. That's correct.

Ms. GARCIA. How much time did they spend there?

Ms. SHAW. Two days in one instance. And I'm trying to remember for the June trips if it was 2 or 3 days.

Ms. GARCIA. So they were able to get a good flavor for 2 days or 3 days of all of the operations of these facilities?

Ms. SHAW. Yes.

Ms. GARCIA. Well, were you able to identify—I know you said in your testimony, you mentioned at-risk populations, what you described to be the unaccompanied minor children and their families.

Could you characterize for me just what you mean by at-risk, and what precautions that we're taking for these at-risk populations?

Ms. SHAW. So at-risk is defined in the TEDS standards. And it includes minors, pregnant individuals, people whose safety may be compromised for some other reason. So that's defined, and that's the population that we look at.

And in particular, our unannounced inspections this year were focused primarily on children, so either children who were physically separated from their children while in custody, or who had arrived unaccompanied.

Ms. GARCIA. Would that also include young women that were pregnant or came through, or anyone that came through with any young children?

Ms. SHAW. Yes.

Ms. GARCIA. Like newborns or toddlers?

Ms. SHAW. Yes, pregnant women or women traveling with children.

Ms. GARCIA. Are pregnant women shackled?

Ms. SHAW. Pardon?

Ms. GARCIA. Are pregnant women shackled?

Ms. SHAW. Shackled—I would have to get back to you on that. I don't believe so, but I would have to—

Ms. GARCIA. I know there were some reports of that.

So did you see any children or anyone under 18 years old shackled in any way?

Ms. SHAW. No, I don't believe our team observed anybody in the facilities in shackles.

Ms. GARCIA. Okay. Now, I understand that you said that—you made reference to someone suggesting that it was a ticking time bomb, that the—you know, anybody in the Texas heat that has to be standing up, I would dare say for even less than a day would be—I know I wouldn't be able to handle it.

So what—what, if anything, do you think that they should be doing to avoid the potential of a riot, or some serious, you know, issues happening at any one of these facilities, particularly in the adult area?

Ms. SHAW. Well, I mean, the short answer is any relief that they can give to the system would help certainly with the overcrowding and the prolonged detention.

We don't yet have work that would allow us to propose solutions. That is part of what we're hoping to do with our deeper dive. But before we can make recommendations, we need to better understand the root causes, the full range of root causes, and from there, we can inform our recommendations for the Department.

Ms. GARCIA. Most of those, again, are impacted by policy decisions made by members all the way from the White House down on how people should be treated, and how they should be handled. Don't you agree?

Ms. SHAW. I haven't done the work yet. We will report faithfully our findings.

Ms. GARCIA. Tell me again when you plan to do this deep dive?

Ms. SHAW. We've started the work. It's a deep dive, so it's going to be a lengthier evaluation. It's not something we would want to rush. At the same time, we understand it's very time sensitive, so we're going to be working as expeditiously as we can to get the reporting out.

Ms. GARCIA. So what did people at these facilities tell you that the folks were eating?

Ms. SHAW. I'm sorry. Could you repeat that?

Ms. GARCIA. What were they eating?

Ms. SHAW. What were they eating? So there was a range. I know baloney sandwiches, sometimes if it was possible, frozen food that had been heated.

Ms. GARCIA. Was it the famous frozen burrito?

Ms. SHAW. It may have been in some instances.

Ms. GARCIA. Whoever has that contract is doing well.

Ms. SHAW. Okay. So as we reported in one of the management alerts, the children who were supposed to have at least two hot meals a day had not received them until the week of our arrival. And so, what we saw was really a range. There was not a lack of food, but, you know, hot meals and—

Ms. GARCIA. It was not hot?

Ms. SHAW [continuing]. And a variety.

Ms. GARCIA. I know in emergency situations, we always talk about three hots and a cot. They're not, for sure, getting a cot. They're for sure not getting even two hots, not even one hot—

Ms. SHAW. Until the week of our inspection, correct.

Ms. GARCIA. We understood through an FOA request that there was no food contract and two employees were using their work credit cards to order \$10,000 worth of food for each day.

Ms. SHAW. That's correct.

Ms. GARCIA. Did you find that?

Ms. SHAW. Yes. I believe that's what we've reported.

Ms. GARCIA. And do you know why they're not able to correct that?

Ms. SHAW. I think it was a timing issue. My understanding is that they have addressed the food contracting issue. If it's the instance that I'm thinking of, it just took them longer.

Ms. GARCIA. Just quickly, for the record. I sat on the Education Committee of the Texas State Senate, and there was never a school district that came to us to tell us that they were bankrupt because of any migrant children overflow or any Spanish speakers. I mean, I think that is one of the big myths that goes along, among many others, about topic of immigration.

Ms. LOFGREN. The gentlelady's time has expired.

Ms. GARCIA. Thank you.

Ms. LOFGREN. And we would turn now to the gentlelady from Florida, Ms. Mucarsel-Powell.

Ms. MUCARSEL-POWELL. Thank you, Madam Chair.

Thank you, Ms. Shaw. Thank you for coming in and testifying, and for that report.

The report that was issued by your office showed that the administration is detaining people in horrible, inhumane conditions at the border. There's severe overcrowding. At some facilities, a cell

that is meant for 35 people has over 155 people that are kept in standing room cells for days, sometimes weeks, as you mentioned, no place to lie down or really have any breathing room. I think we're losing all human decency in this country.

The reports also show that there are not showers available, toilets and sinks are not available for the people that have been apprehended.

And what was so shocking to me is that I heard Vice President Pence, when he visited the facilities last week and he saw these inhumane conditions, and he saw for himself the overcrowded cells that we are showing this afternoon in the hearing, and his comments were, what we saw today was a facility that is providing care that every American would be proud of.

And so I ask you, Ms. Shaw, from what your office saw at these facilities, are these conditions something Americans should be proud of?

Ms. SHAW. So I obviously can't comment on the conditions that Vice President Pence observed. But from the conditions that our team observed during our two unannounced inspections, we found serious issues with the overcrowding and prolonged detention, which are not in compliance with CBP's own standards for minimum care.

Ms. MUCARSEL-POWELL. You believe we could do better than that?

Ms. SHAW. I think what our reporting shows is that there is room for improvement.

Ms. MUCARSEL-POWELL. So—and also to reply to some of my colleagues across the aisle that say that we haven't provided the resources, I want to remind everyone here today that in 2017, the House of Representatives sent \$12.2 billion to CBP, and the Democratic majority House of Representatives has sent to date, in 2019, \$14.7 billion.

So the resources are there. The apprehensions are high, because we are not processing asylum requests, and because this administration has chosen to detain people seeking refuge and asylum.

A question that I want to turn to now is the OIG's management alert about the Rio Grande Valley facilities.

The report states that 31 percent of the children held at these facilities had been there longer than 72 hours. 165 of the children have been living in these horrible conditions for weeks.

Ms. Shaw, isn't this prolonged detention of the children in violation of the Flores agreement?

Ms. SHAW. The Flores agreement does seek to have children moved out within 72 hours.

Ms. MUCARSEL-POWELL. And what were the reasons that the CBP gave you for holding these children for so long?

Ms. SHAW. So CBP's assessment, the individuals that we spoke with, indicated that it was a lack of space available to take both minors and single adults.

We have not finished our deep dive to independently corroborate whether that's true or whether there are other issues impacting that, but that is something that we will be looking at very carefully.

Ms. MUCARSEL-POWELL. And did your team find that the children were being kept in cells like we described, overcrowded cells, where there's not even enough room for them to lay down, or with basic health/sanitation resources?

Ms. SHAW. So the cells that we observed holding family units, so people with children, and then also unaccompanied alien children, were overcrowded. It, in some instances, didn't allow for laying down a mat, even though it was possible to lay down.

So the situation was very crowded, maybe not as significant as what we saw at the El Paso Del Norte facility, but certainly, concerning and made compliance with the TEDS standards very difficult.

Ms. MUCARSEL-POWELL. Did the team that visited the facilities talk about the demeanor of the children?

Ms. SHAW. They did. You know, as you might expect, there's a range, but that is something that we observe when we go on site. And, you know, we saw overcrowding, people who had been there a long time, children who were confused about their circumstances and what was happening.

Ms. MUCARSEL-POWELL. So it was clear also that we continue to separate children from their families at the border?

Ms. SHAW. Well, I can tell you in CBP facilities, at a minimum, there is physical separation happening all the time, simply because the rules dictate what populations are allowed to be detained in the same space with others. So there may be instances where parents are separated from their children while they're in physical custody. We didn't evaluate whether legal separations or separations with a legal impact were happening. That was outside the scope of my—

Ms. MUCARSEL-POWELL. And my last question—

Chairman NADLER. The lady's time has expired. And—

Ms. MUCARSEL-POWELL. Quickly, age range for the kids that are being detained that your team saw?

Ms. SHAW. We saw a vast range. But I think at one of the facilities, or at least in the Rio Grande Valley, we saw at least 50 UACs under the age of 7.

Ms. MUCARSEL-POWELL. Thank you.

Ms. LOFGREN. The gentlelady from Texas, Ms. Escobar, is recognized.

Ms. ESCOBAR. Madam Chair, thank you so much for holding this hearing today. I'm very grateful for it.

Ms. Shaw, thank you for being here.

I think it is very important that we focus on solutions. And while some of my colleagues on the other side of the aisle want to focus on resources, I would like to remind them that there was an emergency supplemental passed in February, there was another emergency supplemental passed a couple—a few months later, and things haven't changed. And so for many of us, it's not simply a question of resources; it's a question of policy.

I represent El Paso, Texas, which is at the very heart of your investigation. And I have seen these conditions over and over again. And so, I'm asking you questions coming from a place of deep knowledge of what's happening in my own community.

So we've been hearing for a long time that the conditions in CBP are this way because ICE beds for single adults are not available. Isn't it true that CBP has the ability to release migrants from custody the same way that ICE does?

Ms. SHAW. I'm sorry. I couldn't answer that question for you.

Ms. ESCOBAR. It does. And I'd like for you to include that in your deep dive, please.

What justification, if any—if any of your investigators asked, did CBP provide to explain why it is refusing to release people, even though migrants are suffering in appalling conditions for weeks on end?

Ms. SHAW. That's not something that we reviewed as part of these inspections.

Ms. ESCOBAR. I would like for you all to follow up on that, please.

Is it your understanding that ICE beds are available, but that the agency is refusing to accept single adults in order to ensure bed availability for increased interior enforcement, such as the recent raids the administration has ordered?

Ms. SHAW. I don't have any information on that. I'm sorry.

Ms. ESCOBAR. I would love for the OIG to look into that, because, obviously, one has to wonder how can the administration conduct such significant interior ICE raids if there are no beds available? So I would very much like for you to look into that.

Also, Ms. Shaw, are you aware that the El Paso—at Border Patrol Station 1, there is a pretty significant soft-sided facility?

Ms. SHAW. I believe that's correct, yes.

Ms. ESCOBAR. Okay. And my staff visited Border Patrol Station 1 the week before there was a congressional delegation visit to Clint, and there were 200 women who had been held for over a month outdoors in 90-plus degree heat. And just yards away there was a nearly empty soft-sided facility.

Do you know why that is?

Ms. SHAW. That's not something that our teams observed, so I'm afraid I don't have any information about that.

Ms. ESCOBAR. Okay. Would you all look into that, please? Would you mind, as a follow-up?

I would also ask if you believe there are other policy decisions by the administration, such as family separation, that has exacerbated the increasing number of individuals arriving at our border, that by separating families, we could very well—or the Trump administration could very well have made a challenging situation far, far worse?

Ms. SHAW. So as part of our root cause analysis, we will be looking at various factors. One could be policy. But we don't make policy on behalf of the Department. We evaluate compliance with policy. But in looking at cause and effect, it's something that might come up.

Ms. ESCOBAR. There is something else I would like for you all to look into.

At the El Paso ICE detention facility, we have heard from lawyers that there are a number of single adults in long-term detention, some up to a year, some longer than a year, essentially being held by the administration even though they don't have a criminal

record, even though they have a sponsor in the country. And have you all looked at anything like that?

Ms. SHAW. So we haven't looked at that specific issue, but we also conduct unannounced inspections of ICE facilities to evaluate their compliance with their own standards. And so in the course of doing that, we do interview individuals, hear about how long they've been detained and collect evidence about that.

Ms. ESCOBAR. I would urge you to do that, only because we keep hearing over and over again that we need more ICE beds. Again, the interesting detail, there is going to be—there has been, starting Sunday, ICE raids all over the country. Where will people go if there are full ICE beds. And also, would like for you to look at that long-term detention.

And I just want to say in closing that I find it deeply troubling that at a hearing where we're looking at really horrific conditions for people in our custody, that we get a request from the ranking member that you look at the impact that Spanish speakers are having on schools in rural America.

Thank you for your time today.

Ms. LOFGREN. The lady's time has expired.

The gentlewoman from Texas, Ms. Jackson Lee, is recognized for 5 minutes.

Ms. JACKSON LEE. I thank the chairwoman. I add my appreciation for the hearing at this time.

I thank the Assistant Attorney Inspector General, Ms. Shaw, thank you for your presence here.

I noticed the date on the initial report coming from your visit to the various sites. It says May 30th.

Was that the date that the Secretary received your report?

Ms. SHAW. No, that was the date the report was published for the public. We send over draft reports for management comment.

Ms. JACKSON LEE. What date did the Secretary get the report?

Ms. SHAW. For May 30th, I believe we sent it to them on May 20th.

Ms. JACKSON LEE. On May 20th. Thank you.

Ms. SHAW. Yes.

Ms. JACKSON LEE. And so as you well know, you have seen a series of congressional groups, and as well, the Vice President. And I assume you watched television, social media, and you've seen some similar sites that you have seen, that you saw when you inspected? Is that accurate?

Ms. SHAW. I think so, yeah.

Ms. JACKSON LEE. And so, can you explain to me why the Secretary of Homeland Security and his staff, from May 20th to July 2nd and July 1st, when I was in the area, and then just last week, last Thursday for the Vice President, why conditions were exactly the same?

Ms. SHAW. I can't comment on what the conditions were at the time of their visits, so I wouldn't be able to compare them to what we saw.

Ms. JACKSON LEE. Well, do you look at television?

Ms. SHAW. I actually don't—

Ms. JACKSON LEE. Okay. If it—

Ms. SHAW [continuing]. Don't watch too much television.

Ms. JACKSON LEE. If it was overcrowding, is that not a challenge that what you reported on May 20th was still going on, on last Thursday?

Ms. SHAW. Again, I can't comment on—

Ms. JACKSON LEE. But if it was, would that be a problem?

Ms. SHAW. Overcrowding of facilities is noncompliance with TEDS standards and that can be a problem.

Ms. JACKSON LEE. And it is what you reported to the Secretary; is that not correct?

Ms. SHAW. Correct.

Ms. JACKSON LEE. All right. And in your report—let me read into the record—you said: This is for your action is our final management alert—management alert, DHS needs to address dangerous overcrowding among single adults at El Paso Del Norte Processing Center, the purpose of which is to notify you of urgent issues that require immediate attention and action.

If those same conditions were at another site, say McAllen—you may not have visited there—would that also require urgent attention?

Ms. SHAW. Depending on the seriousness of the issue, potentially, yes.

Ms. JACKSON LEE. But if it was the same as what you saw—if it was—this is obviously a hypothetical.

Ms. SHAW. This level of overcrowding was significant enough that we put out a management alert before continuing our deeper dive.

Ms. JACKSON LEE. Do you believe it's important that you have the opportunity to visit without notice?

Ms. SHAW. Yes. I think that that helps us get the best—

Ms. JACKSON LEE. And is that important, as far as you can relate, to have the opportunity to visit without notice as relates to oversight?

Ms. SHAW. For our oversight, we consider it important to be able to come unannounced and see issues as they are that day.

Ms. JACKSON LEE. And it might likely be as important for Members of Congress on the Oversight Committees?

Ms. SHAW. I don't have an opinion on that. I'm sorry.

Ms. JACKSON LEE. At least you mentioned that oversight warrants having the opportunity to visit.

Let me ask about morale, without notice. Morale. Did you take note of the fact that morale among the staff might be challenged, the Border Patrol, and also that they're experiencing a lot of illnesses? What impact would that have?

Ms. SHAW. All we reported were our observations and the information we collected. Certainly, it seems to be contributing to a very stressful environment. I think folks generally seemed tired and overworked. Beyond that, I don't have any additional information.

Ms. JACKSON LEE. You watched a lot of men standing in a crowded circumstance?

Ms. SHAW. Yes, in one of the detention holding cells.

Ms. JACKSON LEE. With that kind of crowded atmosphere, without making any judgments about those individuals, is that something that could possibly create a violent situation, violent response, a natural, normal response, a frustration among those who

were detained, not that they are violent, but because of the conditions?

Ms. SHAW. I can't make a general statement, but I can say that when we observed, particularly in the Rio Grande Valley, that tensions were very high and that as soon as our presence was known among the detainees, they did sort of express frustration and try to get our attention. And it became serious enough that we actually ceased our work and didn't press further, which we would typically do, just in order to make sure that we were maintaining the safety for both personnel, DHS personnel, and the detainees.

Ms. JACKSON LEE. And you saw children who were likewise—

Ms. LOFGREN. And the lady's time has expired.

Ms. JACKSON LEE [continuing]. Situated? Thank you for your presence here.

Ms. LOFGREN. The gentlelady from Pennsylvania is recognized for 5 minutes.

Ms. SCANLON. Thank you, Chair Lofgren, for calling this really important hearing.

And thank you, Ms. Shaw, for your work.

I just wanted to turn to the July 15 report that you have given to us today.

Just to summarize a couple of the top-line findings. So my understanding is that this report, and the one from May and the one from earlier in July, all come from the Inspector General's office conducting unannounced inspections at CBP.

Ms. SHAW. I'm sorry. The July 15th report, is that—

Ms. SCANLON. That's your statement for today—

Ms. SHAW. Oh, okay.

Ms. SCANLON. That was submitted.

Ms. SHAW. Got it. Thank you. Just wanted to make sure I was on the same page.

Ms. SCANLON. Sure.

And so on the first page of that, it indicates that your inspectors observed dangerous overcrowding and prolonged detention. Is that right?

Ms. SHAW. Correct.

Ms. SCANLON. Okay. And that included noncompliance with standards applicable to children, including lack of access to hot meals, showers, and change of clothes, right?

Ms. SHAW. Correct.

Ms. SCANLON. And those findings led you to publish two alerts raising the issues to the attention of DHS leadership and requesting immediate action, right?

Ms. SHAW. Correct.

Ms. SCANLON. And you recommended that the Department of Homeland Security take immediate steps to alleviate dangerous overcrowding and prolonged detention?

Ms. SHAW. That's right.

Ms. SCANLON. Okay. And then in your conclusions, you say that the Department has not developed a long-term plan to address these issues; is that right?

Ms. SHAW. That's our understanding, yes.

Ms. SCANLON. Okay. And that the Department's response to your management alerts is not sufficient?

Ms. SHAW. Correct.

Ms. SCANLON. Okay. Now, before December 2018, no child had died in Customs and Border Patrol custody in a decade. But at least seven children have died in custody of Customs and Border Patrol since last year.

So I think all of us have a lot of concerns about what goes beyond being a troubling statistic but a horrifying fact, is that children are dying in American custody at the border, correct?

Ms. SHAW. Yes. I think we have confirmed that we have ongoing investigations into several of those deaths.

Ms. SCANLON. Okay. I wanted to follow up on an exhibit or a figure that Chairman Nadler was looking at and asked a couple of questions. It was figure 5 from the May 30th, 2019, report. Okay. And the explanation for that photo just kind of stopped me in my tracks.

It indicates that your team saw hundreds of detainees in lines surrendering their valuables to Customs and Border Patrol. So money and phones. But your team also observed staff discarding all other detainee property such as backpacks, suitcases, and handbags in a nearby dumpster.

And then figure 5, which we have up now, showing backpacks, handbags, and a doll. These are the detainees' personal possessions, correct?

Ms. SHAW. Correct.

Ms. SCANLON. Okay. And it is not standard policy to throw away the personal possessions of people seeking asylum in this country, is it?

Ms. SHAW. No. The TEDS standards that govern this say that you should be bagging and tagging property, and it typically would be stored and then given back to the alien when they're released.

Ms. LOFGREN. The gentlelady's time has actually expired, because we got a late start on the clock.

Ms. SCANLON. Oh.

Ms. LOFGREN. And I'm wondering if you could yield back so I can just make a few comments, and then we will go to vote, because we are over our time.

Ms. SCANLON. Of course. I yield back.

Ms. LOFGREN. Yield back.

I would just like to make a couple of points.

First, Dilley was empty and Berks was empty when these pictures were taken. So there was capacity in ICE that was unused.

It took the Obama administration 10 days to build a surge capacity in 2014 when there was a surge of individuals coming over, primarily unaccompanied minor children. And it is not correct that this is illegal—208(a)(i) of the Immigration and Nationality Act provides that individuals seeking asylum may do so, either at ports of entry, or between ports of entry. So it would be a misnomer to say this is illegal entry. In fact, it is provided for in the Immigration and Nationality Act.

I'd just like to say, confirm, that you, in your further looking, will take a look at the Border Patrol Facebook group and 9,500 current and former Border Patrol members whose postings were racist and dehumanizing.

Is that part of what you're going to be looking at?

Ms. SHAW. So one of projects that we recently put a proposal together for and that we will be doing is looking specifically at who within the DHS senior leadership was aware of it, how they utilized that site, if at all, and what action has been taken.

Ms. LOFGREN. Thank you. We have reports out of Yuma that are horrifying about conditions, and also, sadly a report, unconfirmed, about an allegation of sexual assault by a border patrol agent against a 15-year-old Honduran girl.

Can you confirm that you're looking into these incidents as well?

Ms. SHAW. I can confirm that we are investigating the circumstances surrounding the allegations of the individual.

Ms. LOFGREN. I would ask, if possible, within your scope, that you take a look to see whether there are other allegations of sexual abuse that have come in or can be confirmed. We want to make sure that none of that is happening.

I understand that you did an inspection of Clint before conditions deteriorated. Do you plan to take another look at that situation, and are you going to continue to take a look at these border patrol stations?

Ms. SHAW. We do intend to continue our unannounced inspections next year. We don't advertise where we're going.

Ms. LOFGREN. Of course not.

Ms. SHAW. So they'll be truly unannounced. But, yes, we'll continue to monitor the situation carefully.

Ms. LOFGREN. I'd just like to close with this.

We have a large number of people seeking freedom at our border pursuant to the Immigration and Nationality Act. Some of them will qualify; some of them will not. But we are seeing a management failure here, the unwillingness or inability to use facilities that are available, instead piling people up in these border patrol stations. The Family Case Management Program that was fully funded at the beginning of this year, that had a nearly 100 percent track record for people showing up to their asylum hearings, has not been implemented, with no explanation at all.

So I appreciate your appearance here today, your good work. I think we will see you again.

And I will now conclude today's hearing, understanding that without objection, all members have 5 legislative days to submit additional written questions for the witness or additional materials for the record.

Without objection, the hearing's adjourned.

[Whereupon, at 6:54 p.m., the subcommittee was adjourned.]

APPENDIX

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CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS



HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

HEARING ON DANGEROUS OVERCROWDING AND PROLONGED DETENTION AT CBP FACILITIES

JULY 15, 2019 – 5:30 PM
2141 RAYBURN

- Thank you, Mr. Chairman for convening this important hearing on the overcrowding and prolonged detention at facilities.
- Thank you to our witness, Diana Shaw, Assistant Inspector General for Special Reviews and Evaluations for the Department of Homeland Security, Office of Inspector General.
- I have spoken to you all about my trips to the border and have expressed my grave concern about what is happening in the detention centers.
- When I hear from Ms. Shaw and read about these conditions, I continue to think about **baby Roger**, a very young child, who should not have been subject to these conditions.
- According to the American Association of Pediatricians, which met with children in CBP custody in June, "the smell of sweat,

urine and feces" was the first thing that hit them when they walked in the door.

- To know that two facilities had not provided children access to hot meals — as is required by the TEDS standards — and instead, the children were fed sandwiches and snacks for their meals.
-
- Two recent "Management Alerts" issued by the DHS Office of Inspector General (OIG) in May and July 2019 informed us that the overcrowding of the detention centers is beyond capacity.
- CBP is considered "at capacity" when detainee levels reach 4,000.
- However, between May 14 and June 13, 2019, CBP detained more than 14,000 people per day—and sometimes as many as 18,000.
- A cell with a maximum capacity of 12 held 76 detainees; a cell with a maximum capacity of 8 held 41 detainees, and a cell with a maximum capacity of 35 held 155 detainees.
- Border Patrol agents told DHS inspectors that some of the individuals had been held in standing-room-only conditions for days or weeks.
- There is limited access to showers and clean clothing, and individuals have been wearing soiled clothing for days or weeks.
- Individuals were standing on toilets in the cells to make room and gain breathing space, thus limiting access to the toilets.
- While DHS concurred with the recommendation made to alleviate overcrowding at the Del Norte Processing Center, it identified November 30, 2020 as the date on which the situation would be corrected.

- In July, Border Patrol was holding about 8,000 detainees in custody at the time of the DHS OIG visit, with 3,400 held longer than the 72 hours generally permitted under the Transport, Escort, Detention, and Search (TEDS) standards.
- Of those 3,400 detainees, Border Patrol held 1,500 for more than 10 days.
- Border Patrol data indicated that 826 (31 percent) of the 2,669 children at these facilities had been held longer than the 72 hours generally permitted under the TEDS standards and the Flores Agreement.
- It is very concerning that CBP has reported the deaths of four children and six adults in CBP custody.
- Although CBP headquarters management has been aware of the situation at PDT for months and detailed staff to assist with custody management, DHS has not identified a process to alleviate issues with overcrowding at PDT.
- Within DHS, providing long-term detention is the responsibility of U.S. Immigration and Customs Enforcement (ICE), not CBP.
- El Paso sector Border Patrol management said they are able to complete immigration processing for most detainees within a few days, but have not been able to transfer single adults into ICE custody quickly.
- In some instances ICE officers tell CBP they cannot take the detainees.
- In other instances, ICE initially agrees to take some adult detainees, but then reverses the decision.
- As a temporary solutions, we know that CBP has constructed a 500-person holding capacity soft-sided structure at El Paso Station, will construct an additional tent by July 31, 2019, and will open a Centralized Processing Center within 18 months.

- CBP will continue to review the number of migrants in custody at Border Patrol stations to determine available space and transfer subjects accordingly.
- The Border Patrol, through its single point of contact at El Paso Sector, will continue to communicate with ICE to improve the migrant transfer process.
- The estimated completion date is November 30, 2020 which is too far in the future for the pressing issue we are having today!
- Border Patrol agents has said that some single adults had been held in standing-room-only conditions for days or weeks. Border Patrol management on site said there is an ongoing concern that rising tensions among detainees could turn violent.
- Border Patrol's custody data indicates that 826 (31 percent) of the 2,669 children at these facilities had been held longer than the 72 hours generally permitted under the TEDS standards and the Flores Agreement.
- Dangerous overcrowding among single adults in PDT requires immediate action.
- I appreciate my colleague, Rep. Zoe Lofgren, for introducing the Northern Triangle and Border Stabilization Act (H.R. 3524), which would establish short-term custody standards for all CBP facilities, require oversight of these facilities, and mandate the creation of an online tracking system for individuals held in custody.
- I also applaud Rep. Raul Ruiz for introducing the Humanitarian Standards for Individuals in Customs and Border Protection Custody Act (H.R. 3239), which would require CBP to perform an initial health screening on all individuals in CBP custody and ensure that each individual in custody has access to water, sanitation and hygiene, food and nutrition, and safe shelter, among other provisions.

- I look forward to our discussion on H.R. 3239 on Wednesday to discuss insurance of sanitary conditions while people are being detained.
- Thank you for convening this hearing, Chairman and I look forward to hearing from the witnesses.
- I yield back.



CWS Statement to the U.S. House Committee on the Judiciary, pertaining to its hearing "Overcrowding and Prolonged Detention at CBP Facilities" on Monday, July 15, 2019

As a 73-year old humanitarian organization representing 37 Protestant, Anglican, and Orthodox communions and 25 refugee resettlement offices across 17 states, **Church World Service (CWS) urges Congress to recognize the importance of providing children and families access to life-saving protection and humane treatment at the border.** Children, families, women and men are fleeing violence, gang conscription, trafficking and sexual exploitation in the Northern Triangle. Individuals seeking safety within the region and in the United States have clear and compelling protection concerns and the United States has moral and legal obligations under international and U.S. law to see that individuals seeking protection are not returned back into the hands of traffickers and others who seek to exploit them. These asylum seekers, however, are being held in detention facilities, which do not meet federal safety and sanitation guidelines. CWS urges Congress to put an end to the dehumanizing practices occurring in CBP facilities.

CWS is strongly opposed to immigrant and family detention and any proposal that would undermine Flores protections. Detention in DHS custody is plagued with systemic abuse and inadequate access to medical care. Numerous reports have revealed the systemic human rights abuses, sexual assaults, and dehumanizing conditions that exist in the detention facilities overseen by the current administration. These exceedingly overcrowded detention centers are unsanitary, unhealthy, unsafe and are leading to extreme, and sometimes fatal, mental and physical health outcomes for children. These conditions and abuses are unconscionable and are not a result of a lack of funding or resources, but rather, are the result of intentional policies put in place to deter children and families from seeking protection. The American Association of Pediatrics has found that family detention facilities do not meet basic standards for children and "no child should be in detention centers or separated from parents." CWS demands that Congress reject any proposal that would expand family detention or violate the *Flores* agreement's long-standing consensus that children should not be detained for longer than 20 days. CWS also urges Congress to cut funding for detention, deportations, and border militarization - and to exert robust oversight over DHS detention centers to end harmful abuses.

CWS remains gravely concerned by reports of ongoing family separation. A recent report has uncovered evidence that DHS has continued the systemic practice of child separation, long after the June 20, 2018 Executive Order that supposedly ended this harmful policy. DHS officials continue to illegally separate children from their parents based on faulty and unproven claims of criminal activity or other characteristics that are unrelated to a parent's ability to care for their child. This practice neglects due process and is extremely harmful to both children and their parents. CWS urges Congress to see the administration end family separation, eliminate criminal prosecution for migration-related offenses, and ensure swift family reunification.

CWS urges the administration to rescind its April 2018 information-sharing agreement between DHS and the Department of Health and Human Services (HHS) that turns HHS into an immigration enforcement agency. This practice prolongs family separation and results in children remaining in unsafe and unsanitary detention facilities for far too long. The agreement "requires HHS to share the immigration status of potential sponsors and other adults in their households with DHS to facilitate HHS's background checks." The population of detained unaccompanied children ballooned, and the Office of Refugee Resettlement (ORR) at HHS continues to share information about all potential sponsors with DHS, needlessly prolonging child detention since sponsors are afraid to come forward out of concern about immigration consequences for themselves or a loved one. We demand that the administration immediately revoke this agreement so that children can be released as soon as possible and sponsors are not forced to choose between caring for their children or risking deportation.

Congress and the administration should utilize community-based, least-restrictive alternatives to detention (ATDs) that connect individuals with family members, faith-based hospitality communities, and local services to help them navigate the legal system. The Family Case Management Program (FCMP) is effective and less expensive than detention, connecting people with legal counsel, providing case supervision, and helping with child care. The program is 99% effective at having families show up for check-ins and court appearances and also ensures departure from the United States for those who are not granted protection.

CWS is equally troubled by any proposal that would weaken or eliminate provisions in the Trafficking Victims Protection Reauthorization Act (TVRA), which provides important procedural protections for unaccompanied children in order to accurately determine if they are eligible for relief as victims of trafficking or persecution. Weakening existing legal protections, especially for children, undermines the United States' moral authority as a leader in combating human trafficking and increases vulnerabilities for trafficking victims by curtailing access to due process, legal representation, and child-appropriate services. CWS urges the administration and Congress to affirm the right of all people to seek protection and ensure that individuals seeking safety are not returned to their traffickers and exploitation.

Our faith traditions call us to welcome the stranger. CWS calls on the administration to stop detaining children and families - and drastically improve conditions for asylum seekers, unaccompanied children, and other vulnerable populations in our care so that all people are treated with the inherent dignity they deserve.