

**El Paso Sector Border
Patrol Struggled with
Prolonged Detention
and Consistent
Compliance with
TEDS Standards**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

August 9, 2022

MEMORANDUM FOR: The Honorable Chris Magnus
Commissioner
U.S. Customs and Border Protection

FROM: Joseph V. Cuffari, Ph.D. **JOSEPH V CUFFARI**
Inspector General

SUBJECT: *El Paso Sector Border Patrol Struggled with Prolonged Detention and Consistent Compliance with TEDS Standards*

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JOSEPH V CUFFARI
Date: 2022.08.09
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Attached for your information is our final report, *El Paso Sector Border Patrol Struggled with Prolonged Detention and Consistent Compliance with TEDS Standards*. We received technical comments from U.S. Customs and Border Protection (CBP) and incorporated them in the report where appropriate. We incorporated the formal comments provided by your office.

The report contains four recommendations to improve management of, and conditions in, CBP short-term detention facilities in the El Paso area of West Texas and New Mexico. Your office concurred with one recommendation but did not concur with the other three. Based on information provided in your response to the draft report, we consider Recommendation 1 resolved and open and Recommendations 2, 3, and 4 unresolved and open. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions.

Please send your response or closure request to
OIGInspectionsFollowup@oig.dhs.gov.

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

Please call me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General for Inspections and Evaluations, at 202-981-6000.

Attachment



DHS OIG HIGHLIGHTS

El Paso Sector Border Patrol Struggled with Prolonged Detention and Consistent Compliance with TEDS Standards

August 9, 2022

Why We Did This Inspection

As part of OIG's annual, congressionally mandated oversight of CBP holding facilities, we conducted unannounced inspections at five Border Patrol stations and two OFO ports of entry in the El Paso area to evaluate CBP's compliance with applicable detention standards.

What We Recommend

We made four recommendations to improve management of and conditions in CBP short-term detention facilities on the Southwest border.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

During our unannounced inspections in October 2021 of seven U.S. Customs and Border Protection (CBP) facilities in the El Paso area of West Texas and New Mexico, we found that U.S. Border Patrol held 493 migrants in custody longer than specified in the applicable standards, which generally limit detention in these facilities to 72 hours. Despite prolonged detention times, none of the facilities we inspected was overcrowded. We also observed Border Patrol using an Office of Field Operations (OFO) port of entry to process migrants, a practice that created operational efficiencies but was not sufficiently documented. We found that Border Patrol held some migrants placed for expulsion under Title 42 authorities for longer than 14 days, which is inconsistent with Border Patrol policy. In addition, when Border Patrol expelled migrants under Title 42, agents recorded them in the tracking system as "Not in Custody" despite migrants being placed in custody temporarily prior to being expelled.

CBP did not meet two other TEDS standards we evaluated. Specifically, we found inconsistent implementation of standards related to segregating juveniles from unrelated adults or legal guardians and providing interpretation to detained individuals. However, Border Patrol and OFO took consistent measures in facilities we inspected to meet such TEDS standards as providing access to medical care, showers, a change of clothing, blankets and mats, and food and snacks.

CBP Response

CBP concurred with one recommendation but did not concur with the other three. We consider Recommendation 1 resolved and open and Recommendations 2, 3, and 4 unresolved and open.



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Abbreviations

CBP	U.S. Customs and Border Protection
CDC	Centers for Disease Control and Prevention
COVID-19	coronavirus disease 2019
CPC	Central Processing Center
ERO	Enforcement and Removal Operations
ICE	U.S. Immigration and Customs Enforcement
MOA	memorandum of agreement
MOU	memorandum of understanding
OFO	Office of Field Operations
TEDS	National Standards on Transport, Escort, Detention, and Search
UC	unaccompanied children
U.S.C.	United States Code



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Introduction

With holding facilities in many of the 328 ports of entry and 135 U.S. Border Patrol stations, U.S. Customs and Border Protection's (CBP) ability to meet the 2015 *National Standards on Transport, Escort, Detention, and Search* (TEDS)¹ and provide reasonable care for detainees from apprehension to transfer or repatriation can vary greatly. Facility conditions can vary between those operated by the Border Patrol (sectors and stations) and those operated by the Office of Field Operations (OFO) (field offices and ports of entry) because of differences in mission, policies, and procedures of these two CBP sub-components. Facility conditions can also fluctuate considerably across Border Patrol sectors because of geography, infrastructure, and a variety of other factors.

In fiscal years 2020, 2021, and 2022, Congress mandated that the Office of Inspector General conduct unannounced inspections of CBP holding facilities. In FY 2021, we inspected facilities in the Rio Grande Valley,² San Diego,³ and Yuma⁴ areas and reported our findings for each. This report describes the results of our FY 2022 inspection in the El Paso area of West Texas and New Mexico. Border Patrol's El Paso sector is one of nine sectors that run along the Southwest border. The sector spans 125,500 square miles, includes 264 miles of border, and covers the entire state of New Mexico and two counties in West Texas. We inspected five Border Patrol holding facilities and two OFO ports of entry in October 2021. Figure 1 shows the locations of the facilities we inspected.

¹ The TEDS standards govern CBP's interaction with detained individuals. CBP, *National Standards on Transport, Escort, Detention, and Search*, Oct. 2015.

² *Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities*, OIG-22-22, Jan. 27, 2022.

³ *CBP Border Patrol Stations and Ports of Entry in Southern California Generally Met TEDS Standards*, OIG-22-26, Feb. 7, 2022.

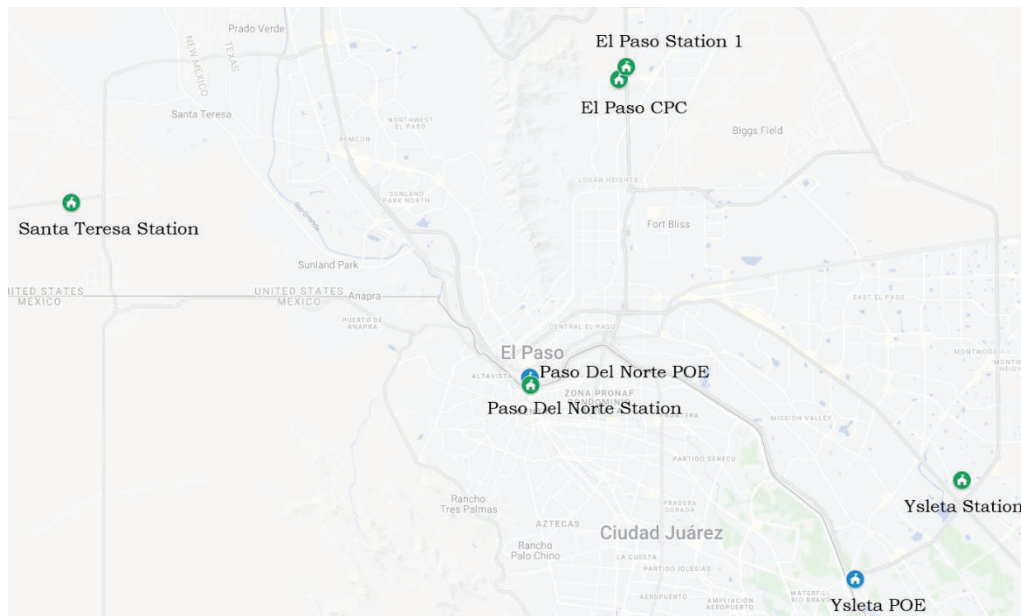
⁴ *Yuma Sector Border Patrol Struggled to Meet TEDS Standards for Single Adult Men but Generally Met TEDS Standards for Other Populations*, OIG-22-38, Apr. 14, 2022.



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Figure 1. Locations of CBP Facilities Visited in October 2021



Source: DHS OIG

Background

CBP's OFO manages U.S. ports of entry, where officers perform immigration and customs functions, inspecting and admitting people who present valid documents for legal entry, such as visas or legal permanent resident cards, and goods permitted under customs and other laws. Between ports of entry, CBP's Border Patrol detects and interdicts individuals and goods suspected of entering the United States without inspection. OFO and Border Patrol are responsible for short-term detention, generally of persons who are inadmissible or deportable from the United States or subject to criminal prosecution. Because CBP facilities are only equipped for short-term detention, CBP may repatriate, release, or transfer detainees to other agencies. As appropriate, CBP coordinates with U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) to place migrants in long-term detention facilities managed by ICE ERO. CBP also coordinates with the U.S. Department of Health and Human Services Office of Refugee Resettlement, the agency responsible for the placement of unaccompanied children (UC), to transfer UCs into that agency's custody.

CBP Standards for Detention at Short-Term Holding Facilities

TEDS standards govern CBP's interaction with detained individuals and specify how detainees should be treated in CBP custody. According to the TEDS standards, every effort must be made to promptly transfer, process, release, or repatriate detainees within 72 hours of being taken into custody, as



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appropriate and operationally feasible.⁵ CBP has an obligation to provide detainees in its custody with drinking water, meals and snacks, access to toilets and sinks, basic hygiene supplies, bedding, and under certain circumstances, showers.⁶ CBP must also ensure that holding facilities are kept clean and are temperature controlled and adequately ventilated.⁷

The TEDS standards also outline general requirements for detainee access to medical care. In late December 2019, CBP enhanced these requirements by adopting CBP Directive No. 2210-004,⁸ which requires “deployment of enhanced medical support efforts to mitigate risk to and sustain enhanced medical efforts for persons in CBP custody along the Southwest Border.” To implement this directive, CBP introduced an Initial Health Interview Questionnaire (CBP Form 2500)⁹ and a Medical Summary Form (CBP Form 2501) to document health conditions, referrals, and prescribed medications for detainees.

CBP Migrant Encounters on the Southwest Border

Our previous fieldwork on the Southwest border showed that high migrant apprehension¹⁰ numbers negatively affect Border Patrol’s ability to meet the

⁵ TEDS 4.1, *Duration of Detention*. For DHS authority to detain individuals, see 6 United States Code (U.S.C.) § 211(c)(8)(B) and 6 U.S.C. § 211(m)(3). TEDS states that 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. The TEDS standards generally limit detention in CBP facilities to 72 hours, with the expectation that CBP will transfer unaccompanied children to the U.S. Department of Health and Human Services, Office of Refugee Resettlement, and repatriate or release families and single adults or transfer to ICE long-term detention facilities or other partners as appropriate.

⁶ TEDS 4.14, *Drinking Water*; TEDS 4.13, *Food and Beverage: Meal Timeframe and Snack Timeframe*; TEDS 5.6, *Detention: Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees*; TEDS 4.15, *Restroom Facilities*; TEDS 5.6, *Detention: Hold Rooms – UAC*; TEDS 4.11, *Hygiene*; and TEDS 4.12, *Bedding*. Under TEDS standards, reasonable effort will be made to provide showers to juveniles approaching 48 hours and adults approaching 72 hours in CBP custody; see TEDS 4.11, *Hygiene: Basic Hygiene Items*; and 5.6, *Detention: Showers – Juveniles*.

⁷ TEDS 4.7, *Hold Room Standards: Temperature Controls*; and TEDS 5.6, *Detention: Hold Rooms – UAC*.

⁸ CBP Directive No. 2210-004, [Enhanced Medical Support Efforts](#), Dec. 30, 2019.

⁹ For seven of the questions on CBP Form 2500, a positive response from a detainee would automatically prompt a more thorough medical assessment. These questions are used to determine whether the detainee has any injury, any symptoms of illness, known contagious diseases, or thoughts of harming self or others.

¹⁰ “Apprehension” refers to the physical control or temporary detainment of a person who is not lawfully in the United States, which may or may not result in an arrest.



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TEDS standards for time in custody and can cause overcrowding.¹¹ As shown in Table 1, encounters¹² of migrant UCs, family units, and single adults on the Southwest border can vary widely by year. Encounters in the El Paso sector, on average, made up 13 percent of the total Border Patrol encounters on the Southwest border between FY 2017 and FY 2022. Border Patrol encounters on the Southwest border fluctuated from year to year, as shown in Figure 2. In FY 2019 DHS faced one of the largest surges of migrants crossing the Southwest border until the coronavirus disease 2019 (COVID-19) outbreak caused a decline in FY 2020. In FY 2021, Southwest border migrant encounters reached a new high of 1,659,206. This trend continues in FY 2022, with an approximately 52 percent increase in migrant encounters in the first 9 months over the same period in FY 2021.

Table 1. Border Patrol Total Encounters on the Southwest Border, FYs 2017 to 2022

Fiscal Year	UCs	Family Units	Single Adults	Totals
2017	41,435	75,622	186,859	303,916
2018	50,036	107,212	239,331	396,579
2019	76,020	473,682	301,806	851,508
2020	30,557	52,230	317,864	400,651
2021	144,834	451,087	1,063,285	1,659,206
2022 to date*	113,576	356,174	1,164,354	1,634,104

Source: CBP enforcement statistics.

Note: Beginning in March 2020, CBP included both Title 42 expulsions and Title 8 apprehensions in its encounter numbers. (Under the U.S. Code, Title 42 is a public health authority and Title 8 is an immigration authority).

* FY 2022 statistics are for October 2021 to June 2022.

¹¹ *Capping Report: CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge*, OIG-20-38, June 2020, p. 8; *DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*, OIG-21-29, Mar. 2021, pp. 11–12.

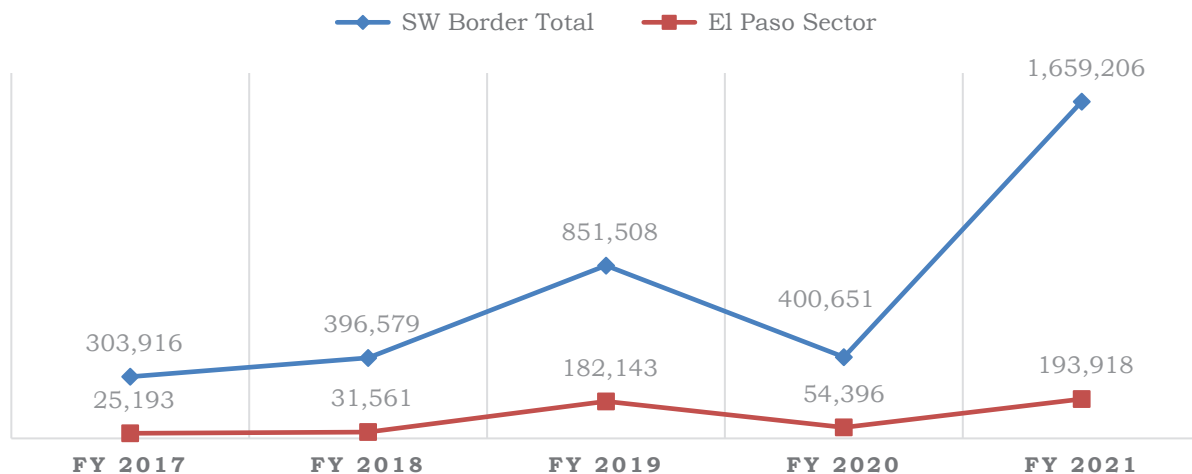
¹² The term “encounter” can refer to two separate actions: (1) apprehension, the physical control or temporary detainment of a person who is not lawfully in the United States, and (2) removals and expulsions, when migrants are removed or expelled to a last country of transit or home country under immigration or public health authorities.



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Figure 2. Total Southwest Border Patrol Encounters and Encounters in El Paso Area, FYs 2017 to 2021



Source: DHS OIG analysis of Border Patrol statistics

The El Paso Sector Centralized Processing Center (CPC) is Border Patrol's main facility in the El Paso area for processing migrants encountered in the area; it also receives transfers from other area stations and from other sectors. The El Paso CPC serves as a short-term detention facility and prepares administrative paperwork, stores detainee personal property, conducts medical screenings, carries out criminal background checks, processes migrants for removal procedures or other immigration outcomes, and coordinates the transfer of detainees to ICE custody.

Title 42 Expulsions

Under Title 42 of the *Public Health Services Act* (42 U.S.C. § 265), the Surgeon General can prohibit the entry of people from foreign countries to avert the spread of communicable diseases.¹³ On March 20, 2020, under Title 42 authorities and in response to the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) issued an order temporarily prohibiting the introduction of certain people from foreign countries traveling from Canada or Mexico, regardless of their countries of origin.¹⁴

¹³ 42 U.S.C. § 265, [Suspension of Entries](#). Expulsions under Title 42 are a public health measure and not considered immigration enforcement.

¹⁴ CDC, order under sections 362 and 365 of the *Public Health Service Act* (42 U.S.C. §§ 265, 268), *Order Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists*. The original order was issued on March 26, 2020. For more information, see [Early Experiences with COVID-19 at CBP Border Patrol Stations and OFO Ports of Entry](#), OIG-20-69, Sept. 2020, pp. 4-5.



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Subsequent CDC orders superseded this order and continued the previously established Title 42 expulsions, such as the August 2021 order that included an exemption for UCs.¹⁵ In practice, CBP implements the CDC order through what it terms “Immediate Title 42” and “Delayed Title 42” procedures:

- “Immediate Title 42” refers to the apprehension and expulsion of amenable migrants back across the Mexican border typically within hours. Amenability may be determined bilaterally with the Mexican Government. Pursuant to 42 U.S.C. §§ 265 and 268 and the CDC order, CBP has expelled more than 1.7 million migrants nationwide from March 2020 to February 2022 with 99 percent of expulsions occurring on the Southwest border.
- Border Patrol uses “Delayed Title 42” for migrants deemed not amenable by the Mexican Government. Border Patrol guidance contained in the order allows for detainment of these migrants for no longer than the COVID-19 incubation period, at the time of our fieldwork 14 days, to coordinate with ICE ERO to arrange flights from the United States back to their countries of origin.¹⁶

Many noncitizens encountered by CBP are not amenable to either immediate or delayed expulsion under Title 42. Reasons include the following:

- Per CDC guidelines, UCs have not been subject to expulsion since January 30, 2021.¹⁷
- Mexico limits which nationalities can be expelled into Mexico.
- Other countries also place restrictions on expulsions. For example, Brazil requires nationals to test negative for COVID-19 and have proper documentation to accept their return.

¹⁵ CDC, orders under sections 362 and 365 of the *Public Health Service Act* (42 U.S.C. §§ 265, 268): [*Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists*](#), effective Aug. 2, 2021, and renewed most recently on Mar. 12, 2022.

¹⁶ Mexico generally accepts Mexican citizens and some other nationalities. However, the policy on who is accepted changes over time and may differ among Mexican states along the Southwest border.

¹⁷ [*Notice of Temporary Exception From Expulsion of Unaccompanied Noncitizen Children Pending Forthcoming Public Health Determination*](#), effective Jan. 30, 2021.



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Noncitizens who cannot be expelled under Title 42 are processed by CBP pursuant to applicable immigration laws, which may result in their removal, entry into immigration proceedings, or referral for criminal prosecution.

Results of Inspection

Our unannounced inspections in October 2021 of five Border Patrol facilities and two OFO ports of entry in the El Paso area and subsequent analysis found that Border Patrol held 493 migrants in custody longer than specified in the TEDS standards, which generally limit detention in these facilities to 72 hours. Despite not meeting this standard, none of the facilities we inspected were overcrowded based on pre-COVID capacity.¹⁸

We observed Border Patrol using an OFO port of entry to process migrants, a practice that created operational efficiencies for Border Patrol but was not sufficiently documented. We also found that Border Patrol held some migrants placed for expulsion under delayed Title 42 for longer than 14 days while awaiting flights, which is inconsistent with Border Patrol policy. In addition, we observed that when Border Patrol expelled migrants under Title 42, agents recorded them in the tracking system as “Not in Custody” despite migrants being placed in custody temporarily prior to being expelled.

CBP did not meet two other TEDS standards we evaluated. Specifically, we found inconsistent implementation of standards related to segregating juveniles from unrelated adults or legal guardians and providing interpretation to detained individuals. However, Border Patrol and OFO took consistent measures in facilities we inspected to meet such TEDS standards as providing access to medical care, showers, a change of clothing, blankets and mats, and food and snacks.

Detainees in Border Patrol Custody Experienced Prolonged Detention Times

We observed prolonged detention times in the El Paso area during our inspection. According to Border Patrol’s custody log,¹⁹ 569 detainees were detained in the El Paso CPC when the OIG inspection team arrived. We found that for 493 of these 569 detainees (87 percent), the total time in Border Patrol

¹⁸ Holding capacities for Border Patrol stations reflect pre-COVID 19 capacities. At the onset of COVID-19, Border Patrol established cell capacity limits at about one-third of normal capacity, but with the high volume of apprehensions, in practice Border Patrol uses pre-COVID-19 capacity.

¹⁹ Border Patrol keeps an activity log to document when detainees are booked in and out and receive medical screenings or medical care, hot and cold meals and drinks, toiletries and showers, wellness checks, and language assistance services.

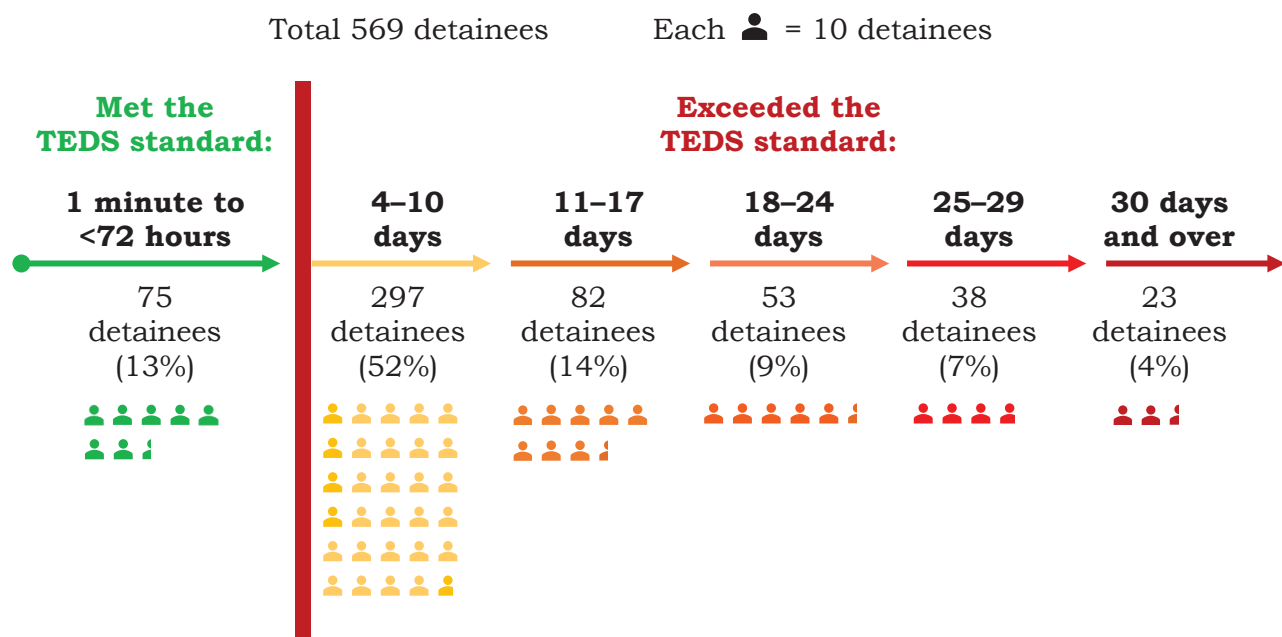


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custody exceeded the 72 hours TEDS standard. Border Patrol held 23 of these detainees (4 percent) for 30 days or longer. Only 75 detainees (13 percent) were in Border Patrol custody for less than the TEDS standard of 72 hours. Nine family units with minors were held in Border Patrol custody longer than 72 hours, with some of these family units held by Border Patrol for 9 and 12 days after apprehension.²⁰ UCs were not held for longer than 72 hours. Figure 3 presents the overall time spent in Border Patrol custody for all 569 detainees.

Figure 3. Overall Time Detainees Spent in Border Patrol Custody, October to November 2021



Source: DHS OIG analysis of Border Patrol data

Note: For one detainee (<1%), the time in custody could not be determined.

Border Patrol officials told us that they coordinate with ICE ERO to transfer detainees from Border Patrol's short-term detention facilities to long-term detention facilities managed by ICE ERO. However, ICE ERO did not have available capacity in these facilities, requiring Border Patrol to hold many of these migrants beyond the 72-hour TEDS standard. In addition, Border Patrol and ICE ERO officials told us they coordinate to arrange for ICE ERO flights to return detainees to their countries of origin when appropriate. However, ICE ERO flights for some of these detainees were canceled, resulting in the prolonged detention of these migrants in Border Patrol's El Paso CPC. Border Patrol eventually processed 556 of the 569 detainees and issued detainees a

²⁰ According to TEDS, family units are an at-risk population and should be processed expeditiously to minimize the length of time in custody.



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Warrant of Arrest/Notice to Appear at a future immigration hearing and transferred them to ICE ERO, which makes the final decision to continue to detain or release them into the United States while they await an immigration hearing.²¹

Overall time spent by the 569 detainees in Border Patrol custody was not always spent entirely at the El Paso CPC. CBP transported approximately 270 of the detainees at the El Paso CPC from the Yuma area, 8 from the Rio Grande Valley area, and 3 from the Big Bend area. Border Patrol transfers detainees from one facility to another to prevent or reduce overcrowding. However, this practice increases detainees' total time in Border Patrol custody. We found that of the 281 migrants transferred from other sectors to the El Paso CPC, 277 arrived close to or had already exceeded the 72-hour time-in-custody standard.

CBP Holding Facilities in the El Paso Area Were Not Overcrowded

The five Border Patrol and two OFO holding facilities that we inspected in the El Paso area were not overcrowded. As shown in Figure 4, the El Paso CPC was not crowded on the day of our inspection. It was accepting detainees from other Border Patrol stations in the El Paso area and had also received transfers from outside areas such as Yuma, the Rio Grande Valley, and Big Bend.

²¹ Although detention of inadmissible migrants is generally required, CBP and ICE both have limited authority to release inadmissible migrants from their custody into the United States. CBP and ICE may release migrants with a Notice to Appear instructing them to appear before an immigration judge on a future date.



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Figure 4. Migrants with Sufficient Cell Space at El Paso CPC, Observed October 26, 2021

Source: DHS OIG photo

We observed no overcrowding at two other facilities we inspected — the Santa Teresa Border Patrol station and Ysleta OFO port of entry, as shown in Figures 5 and 6. However, migrant apprehensions, processing, and detention were fluid in these facilities. For example, a review of the Santa Teresa station custody log on the morning of October 28 revealed the station had 73 migrants in custody. When we inspected the station approximately 1 hour later, the holding rooms were not overcrowded, and the station held approximately 30 migrants who were being processed to leave the station within hours. Border Patrol agents at the Santa Teresa station told us that the detainees they encounter are either processed and transported to the El Paso CPC or expelled to Mexico under Title 42 and do not stay long at the station.



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Figures 5 and 6. Migrants with Sufficient Cell Space at Santa Teresa Border Patrol Station (left) on October 28, 2021, and Ysleta OFO Port of Entry (right), Observed October 27, 2021

Source: DHS OIG photos

When we arrived at the Ysleta port of entry on October 27, 2021, the custody log showed that the facility had one migrant in custody. While we were inspecting the facility, Border Patrol brought approximately 15 migrants in for processing. Border Patrol records show that 52 migrants in total were processed by Border Patrol in the facility that day and either transported to the El Paso CPC or expelled to Mexico under Title 42.

Four of the other facilities we inspected were not overcrowded and had few or no migrants in custody: Border Patrol El Paso Station 1 had four, Border Patrol Paso Del Norte Station had nine, Border Patrol Ysleta Station had none, and OFO Paso Del Norte port of entry had one.

Procedures for How Border Patrol Processes Migrants in OFO Facilities Were Not Sufficiently Documented

Border Patrol agents told us that they use the Ysleta OFO port of entry for expelling migrants subject to immediate Title 42 authorities because it is operationally more efficient.

Using ports of entry in the El Paso area to expel migrants under Title 42 authorities reduces time and resources spent transporting migrants from where they are apprehended to Border Patrol stations and then back to the border for expulsion. For example, the Deming station is 70 miles roundtrip to and from the Southwest border. Therefore, processing apprehended migrants on the border in the nearby Columbus OFO port of entry is operationally more efficient than transporting the migrants to the Deming station for processing and then transporting them back to the Columbus OFO port of entry for



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expulsion. Although the Ysleta Border Patrol station is only 7 miles from the border, the drive can take 20–40 minutes. Therefore, it is still operationally more efficient for Border Patrol to process migrants in the Ysleta OFO port of entry.

Although this practice creates operational efficiencies, formal documentation or guidance such as a memorandum of understanding (MOU) or memorandum of agreement (MOA) and standard operating procedures that define roles and responsibilities, coordination, and documentation of migrants have not been established for Border Patrol's use of OFO facilities.

An OFO official told us they should have a formal MOU to govern Border Patrol's use of OFO ports of entry, whereas other officials stated that Border Patrol and OFO are "both CBP" and successfully coordinate their practice of jointly using ports of entry. Therefore, in their view, such documentation is not necessary. The U.S. Government Accountability Office previously reported that formal written agreements such as MOUs and MOAs benefit agencies by clarifying roles and responsibilities.²² In another report, the U.S. Government Accountability Office examined collaborative mechanisms established by DHS components and noted that better integration of field operations could help DHS make more informed decisions and increase mission effectiveness.²³ Documenting and clarifying agreements and procedures would reinforce and sustain Border Patrol and OFO collaborative efforts and formalize promising practices.

Border Patrol's Implementation of Title 42 Needed Improvement

During our inspection of the El Paso CPC and subsequent analysis, we found that 125 migrants initially processed for delayed Title 42 were held by Border Patrol for more than 14 days, which is inconsistent with Border Patrol guidance. Border Patrol guidance allows migrants waiting to be expelled under delayed Title 42 procedures to be held for up to 14 days; after 14 days Title 42 expulsions may no longer apply to such detainees.

Border Patrol and ICE ERO officials told us they coordinated to arrange ICE ERO flights back to Ecuador for these 131 migrants and that between October 19 and October 29, three ICE ERO flights were scheduled and then canceled because pilots were not available. Border Patrol agents told us that, in these instances when the migrants were detained for longer than 14 days

²² *Managing for Results – Key Considerations for Implementing Interagency Collaborative Mechanisms*, GAO-12-1022, Sept. 2012.

²³ *Department of Homeland Security – Opportunities Exist to Enhance Visibility over Collaborative Field Mechanisms*, GAO-13-734, Sept. 2013.



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awaiting Title 42 expulsions, Border Patrol policy was not followed. Border Patrol reissued the guidance to sector leadership in January 2022 to increase awareness and compliance.

Because the 131 Ecuadorian migrants were not expelled under delayed Title 42, Border Patrol eventually processed all 131 Ecuadorian migrants under Title 8 immigration authorities and placed them into immigration proceedings by issuing them a Warrant of Arrest/Notice to Appear before an immigration court. These migrants were then transferred to ICE ERO and eventually released into the United States to await an immigration hearing.

We also observed Border Patrol procedures and practices for immediately expelling migrants under Title 42, during our inspection of the Ysleta port of entry. Border Patrol brought family units and single adult males into the OFO facility and initiated procedures for their immediate expulsion to Mexico. Border Patrol had apprehended these migrants, taken them into custody, and transported them to the Ysleta port of entry, where we observed them inventorying migrants' personal property, conducting medical screenings, gathering biometric data, and placing them in holding cells. Despite these procedures, Border Patrol guidance issued in April 2020 instructs agents to log such migrants as "Not in Custody"²⁴ in the e3 tracking system.²⁵ Figures 7 and 8 show some of the migrants logged by Border Patrol as "Not in Custody" in the Ysleta port of entry during our inspection.

Border Patrol agents explained that these expulsions are considered "migrant encounters," not arrests or apprehensions that require detention, and therefore Border Patrol enters them in e3 as "Not in Custody." Border Patrol agents agreed that the practice of entering migrants in e3 as "Not in Custody" does not accurately reflect that they are in temporary custody. The e3 system is not set up to record Title 42 expulsions, however, because Title 42 is a public health order and not an immigration processing pathway; therefore, Border Patrol established this temporary practice. Border Patrol agents explained that because the Title 42 order is temporary and is expected to be rescinded, altering the e3 system and changing the practice now would be too resource-intensive and ultimately "not worth it."

²⁴ In Title 42 litigation, DHS makes the distinction that noncitizens in temporary physical custody for Title 42 processing by DHS components are not in DHS' legal "custody."

²⁵ The e3 system is Border Patrol's primary system for collecting biographic, encounter, and biometric data for migrants encountered or apprehended.



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Figures 7 and 8. Migrants Processed by Border Patrol as “Not in Custody,” Observed October 27, 2021

Source: DHS OIG photos

Border Patrol agents also expressed concerns that “a lack of consequences” from immediate Title 42 expulsions is at least partially leading to increases in repeat encounters (recidivism) and record numbers of encounters in the El Paso area and along the Southwest border. Agents explained that although Border Patrol can refer for prosecution migrants who attempt multiple illegal entries, the number of prosecutions is insignificant and does not act as a deterrent.

CBP data indicates that recidivism made up more than a quarter of encounters on the Southwest border in FY 2020 and FY 2021 (26 percent and 27 percent, respectively). In contrast, repeat crossers in FY 2018 and FY 2019, before Title 42 authorities were implemented, were recorded at 11 percent and 7 percent, respectively. Nationwide, Border Patrol continued to see high rates of recidivism. For example, during the first 5 months of FY 2022, 27 percent of migrant encounters were repeat crossers.

Border Patrol in the El Paso area experienced a 50.8 percent increase in encounters during the first 9 months of FY 2022 compared to the same 9 months in FY 2021, as shown in Table 2.



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Table 2. Comparison of Total Border Patrol Encounters in the El Paso Area, First 9 Months of FYs 2021 and 2022

Demographic	No. of Encounters*		Percent Change
	FY 2021 Oct. 2020–June 2021	FY 2022 Oct. 2021–June 2022	
UCs	15,870	17,148	8.1%
Family units	15,241	36,548	139.8%
Single adults	104,222	150,336	44.2%
Totals	135,333	204,032	50.8%

Source: Border Patrol encounter statistics

* Encounter data includes Border Patrol Title 8 apprehensions, Title 8 inadmissible noncitizens, and Title 42 expulsions.

Border Patrol's El Paso CPC Did Not Fully Meet Two Additional TEDS Standards

Border Patrol in the El Paso area did not meet two additional TEDS standards at the time of our inspection. Specifically, we found inconsistent implementation of standards related to segregating juveniles from unrelated adults or legal guardians and providing interpretation to detained individuals.²⁶

In the first instance, although the TEDS standards specify that detainees younger than 18 years should not be held with unrelated adults, the El Paso CPC could not comply with the requirement due to its physical design. We observed that the large holding pod design of the El Paso CPC made it difficult for Border Patrol to balance the TEDS standards related to maintaining family unity with those affording women and children separation from unrelated men.²⁷ As shown in Figures 9 and 10, we found that, in its efforts to maintain family unity, Border Patrol in the El Paso CPC held several families together in large, open-area holding pods without separation of children from unrelated adults or women from men. However, we also observed that this holding area was visible to Border Patrol personnel and monitored by video surveillance.

²⁶ TEDS 1.7, *Reasonable Accommodations and Language Access*.

²⁷ TEDS 4.3, *General Detention Procedures* contains subsections on *Gender Segregation*, *Juvenile/Adult Segregation*, and *Family Units*. The subsections state that (1) male and female adult detainees will be segregated at all times when in hold rooms; (2) detainees younger than 18 years will not be held with adult detainees, unless the adult is an immediate relative or legal guardian; and (3) generally, family units with juveniles should not be separated. TEDS allows for exceptions to these procedures on a case-by-case basis.



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The El Paso CPC's processes and procedures for making exceptions to these TEDS standards were not sufficiently documented.



Figures 9 and 10. Multiple Migrant Family Units Detained in the Same Holding Area, Observed October 26, 2021

Source: DHS OIG photos

In the second instance, we found the TEDS standards' requirement that all instructions and relevant information be communicated to a detainee in a language or manner the detainee can comprehend was not always adhered to. One detainee we interviewed at the El Paso CPC who spoke Georgian stated that in their case, efforts were not made by Border Patrol agents to provide interpretation services. Without capacity to understand English or Spanish, the detainee had to follow what other migrants were doing without understanding what was happening, including search procedures prior to showering.

We conducted our interview with this detainee using an interpreter who was available in minutes by telephone via the Border Patrol's contracted interpretation service. The detainee told us they were apprehended in Arizona and tried to explain to Border Patrol the importance of their personal religious items during processing and inventory of personal property. However, these items were discarded by Border Patrol. The detainee also reported using a medicated cream prior to apprehension but did not have access to the medicated cream while in detention and had difficulties communicating with Border Patrol. According to the Border Patrol custody log, onsite medical staff determined "no medical conditions found" for this detainee, and there were no notes in the log to indicate that interpretation services had been provided during processing, inventory of personal property, medical screening, or at any other time during the detainee's 18 days in Border Patrol custody.

Despite not fully meeting all TEDS standards, Border Patrol and OFO facilities that we inspected in the El Paso area took consistent measures to meet TEDS standards governing access to hygiene items, blankets and mats, food and



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water, cleaning of facilities, and maintaining appropriate temperatures. All standards for UCs were met.

At all Border Patrol and OFO facilities we inspected in the El Paso area, contracted medical staff were available to screen migrants for injuries, illnesses, and mental health symptoms and provide medical services. We observed and interviewed medical contractors and found compliance with both the TEDS standards and CBP Directive No. 2210-004, *CBP Enhanced Medical Support Efforts*, for persons in CBP custody on the Southwest border. Medical contractors used the standard CBP Form 2501, Medical Summary, to document detainee medical records. Additionally, medical contractors followed special procedures for UCs, pregnant women, and other at-risk detainees and could provide prescription medications and facilitate isolation or a hospital visit as needed.

Recommendations

We recommend the Chief of the Border Patrol:

Recommendation 1: Identify strategies and solutions to manage delays in detainee transfers to partner agencies, determine the best practices that can be implemented, communicate these best practices across the sector, and ensure a process exists for their implementation.

We recommend the El Paso Sector Chief, Border Patrol, and El Paso Director, Field Operations, CBP:

Recommendation 2: Clarify and document existing procedures to formalize Border Patrol's use of OFO facilities.

We recommend the El Paso Sector Chief, Border Patrol, CBP:

Recommendation 3: Document processes and procedures for making exceptions to TEDS standards in the El Paso CPC to allow multiple unrelated family units to be detained together in the same pod to maintain family unity during detention.

Recommendation 4: Develop and implement quality assurance and quality control tools to ensure the provision of interpretation services for non-Spanish and non-English speaking detainees, particularly during the medical screening process.



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Management Comments and OIG Analysis

CBP officials concurred with Recommendation 1 but did not concur with Recommendations 2, 3, and 4. Appendix B contains CBP's management response. We also received technical comments on the draft report and revised the report where appropriate. We consider Recommendation 1 resolved and open and Recommendations 2, 3, and 4 unresolved and open. A summary of CBP's management response and our analysis follows.

CBP Response to Recommendation 1: Concur. CBP noted numerous actions taken to address this recommendation, including weekly reports on Southwest border lines of effort for resource and personnel deployments, detainee movement coordination, coordination with partners and whole-of-government planning efforts, and the establishment of incident command systems.

OIG Analysis: We consider these actions responsive to the recommendation, which we consider resolved and open. We will close this recommendation when CBP submits documentation showing the efforts described in its management response.

CBP Response to Recommendation 2: Non-concur. Border Patrol in the El Paso sector routinely uses OFO ports of entry to process and expel migrants and regularly works together to meet CBP's mission. Therefore, clarifying and documenting operating procedures are not necessary.

OIG Analysis: We do not consider CBP's actions responsive to the recommendation, which is unresolved and open. We recognize that OFO and Border Patrol are both components within CBP and work closely together. However, not clarifying and documenting procedures for this practice results in unclear roles and responsibilities and a lack of accountability. Although CBP representatives explained that the use of the port of entry by both CBP components was a standard practice, we found no guidance outlining this practice to clarify the parameters of the arrangement. The lack of procedures creates operational risks and vulnerabilities for CBP should there be an incident while Border Patrol is processing migrants in an OFO port of entry. We will close this recommendation when CBP submits documentation that clarifies the arrangement for Border Patrol's use of OFO facilities in the El Paso sector.

CBP Response to Recommendation 3: Non-concur. Border Patrol noted that it uses the TEDS standards related to family unity and at-risk detainee vulnerability assessments to inform its decision-making when multiple family units are held together in cells or pods.



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OIG Analysis: We do not consider CBP's actions responsive to the recommendation, which is unresolved and open. TEDS standards identify numerous factors to take into consideration when assigning family units to holding cells. Placing family units that include minors in holding cells with multiple unrelated adults from other family units inherently puts the safety of those minors at greater risk and could expose them to adults with criminal histories, mental health conditions, or communicable diseases if they are not properly vetted. Documenting the processes and procedures for making placement exceptions outside of TEDS standards would better prepare the facility to make decisions to mitigate the risks of placing many unrelated families in the same room. We will close this recommendation when CBP submits documentation showing internal operating procedures outlining the factors that agents should consider when making these decisions at the El Paso CPC.

CBP Response to Recommendation 4: Non-concur. Border Patrol has tools in place to ensure interpretation services are used for non-Spanish and non-English speaking detainees.

OIG Analysis: We do not consider CBP's actions responsive to the recommendation, which is unresolved and open. We agree that Border Patrol has the tools to use the interpretation services, but we also observed that these tools are not being consistently used. At multiple points during the Georgian detainee's time in custody, Border Patrol should have ensured that interpretation services were provided in the detainee's preferred language and documented the use of interpretation services in the custody logs. We are particularly concerned that the lack of effective communication with detainees during medical screenings could result in an unnoticed and untreated health condition worsening and potentially becoming a health emergency. We will close this recommendation when CBP submits documentation showing quality assurance mechanisms are implemented to address this issue at the El Paso CPC.



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Appendix A

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* Pub. L. No. 107-296) by amendment to the *Inspector General Act of 1978*.

Our objective for this unannounced inspection was to determine whether CBP complies with the TEDS standards and other relevant policies and procedures related to length of detention and conditions of detention at CBP short-term migrant holding facilities in the El Paso area of West Texas and New Mexico.

Prior to our inspections, we reviewed relevant background information from congressional requests, nongovernmental organizations, and media reports.

Between October 26 and 28, 2021, we visited five Border Patrol facilities (El Paso Station 1, El Paso CPC, Paso Del Norte Station, Ysleta Station, and Santa Teresa Station) and two OFO ports of entry (Paso Del Norte and Ysleta) in the El Paso area.

Our inspections were unannounced; we did not inform CBP we were in the sector or field offices until we arrived at the first facility. At each facility, we observed conditions and reviewed electronic records and paper logs as necessary. We also interviewed a limited number of CBP personnel, medical contractors, and ICE personnel. We interviewed individuals who were detained using language assistance services to provide interpretation. We photographed examples of compliance and noncompliance with the TEDS standards. For example, we took photographs to document the presence of food and supplies and photographed the conditions of cells.

With the number of detainees arriving and departing each day, conditions at facilities could vary by day. Our conclusions from the inspections are, therefore, limited to what we observed and information obtained from detainees, CBP staff, and medical contractors at the time of our site visit. We conducted additional interviews with CBP staff and requested additional documentation after site visits to supplement our review.

Within the TEDS standards, we prioritized standards that protect children, derived from the *Flores Agreement*²⁸ and the *Trafficking Victims Protection Reauthorization Act of 2008*.²⁹

²⁸ *Flores Settlement Agreement* of 1997.

²⁹ Pub. L. No. 110-457, § 235(b)(3), 122 Stat. 5044, 5077 (2008); see also 8 U.S.C. § 1232(b)(3).



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We also focused on the TEDS standards regarding medical care, including provisions to:

- ensure medical records and medications accompany detainees during transfer (TEDS 2.10);
- ask detainees about, and visually inspect for, any sign of injury, illness, or physical or mental health concerns (TEDS 4.3);
- take precautions to protect against contagious diseases (TEDS 4.3);
- identify the need for prescription medicines (TEDS 4.3);
- have a process for medical emergencies (TEDS 4.10); and
- take precautions for at-risk populations (TEDS 5.0).

This review describes CBP's process for providing access to medical care but does not evaluate the quality of medical care provided to those in CBP custody.

We conducted this review in October 2021 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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Appendix B
CBP Comments on the Draft Report

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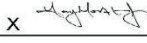


**U.S. Customs and
Border Protection**

July 14, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Henry A. Moak, Jr.
Senior Component Accountable Official
U.S. Customs and Border Protection


X
Signed by: HENRY A. MOAK JR.
7/14/2022

SUBJECT: Management Response to Draft Report: “El Paso Sector
Border Patrol Struggled with Prolonged Detention and
Consistent Compliance with TEDS Standards”
(Project No. 22-006-ISP-CBP)

Thank you for the opportunity to comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

CBP leadership is pleased to note OIG’s recognition of CBP’s U.S. Border Patrol (USBP) and Office of Field Operations (OFO) taking consistent measures in providing medical care, showers, a change of clothing, blankets and mats, food and snacks to individuals in CBP’s custody. The OIG also acknowledged that CBP enhanced the October 2015 National Standards on Transport, Escort, and Detention, and Search (TEDS) standards for persons in custody’s access to medical care in emergencies, by adopting CBP Directive No. 2210-004, “Enhanced Medical Support Efforts,” dated December 30, 2019, which requires deployment of enhanced medical support efforts to mitigate risk to, and sustain enhanced medical efforts for, persons in CBP custody along the Southwest Border.

CBP remains committed to complying with its policies, including but not limited to TEDS, by providing reasonable and appropriate care for persons in CBP’s custody. For example, USBP utilizes every effort to ensure people in custody are processed and released within 72 hours in accordance with TEDS. Additionally, USBP coordinates daily with U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), non-government organizations, and local stakeholders in the community to facilitate the orderly and timely release of people in CBP’s custody.

USBP personnel in the El Paso Sector also employ several ongoing strategies and solutions on a continuous basis to ensure the reasonable care for detainees. This includes,



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but is not limited to: (1) accounting for operational feasibility needs to ensure family unity within CBP facilities; (2) addressing security concerns, such as the physical safety of families in custody in CBP's facilities; and (3) ensuring that the mental health of those in custody is granted an equal level of concern as their physical health.

The draft report contained four recommendations, one with which CBP concurs (Recommendation 1) and three with which CBP non-concurs (Recommendations 2-4). Enclosed find our detailed response to each recommendation. CBP previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG's consideration.

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.

Enclosure



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Enclosure: Management Response to Recommendations Contained in 22-006-ISP-CBP

OIG recommended that the Chief of Border Patrol:

Recommendation 1: Identify strategies and solutions to manage delays in detainee transfers to partner agencies, determine the best practices that can be implemented, communicate these best practices across the sector, and ensure a process exists for their implementation.

Response: Concur. This recommendation is similar in nature to Recommendation 3 from OIG's report OIG-21-29¹, which the OIG closed as implemented on January 31, 2022, following a number of CBP's actions noted below.

- As of June 2021, USBP Law Enforcement Directorate developed and disseminates weekly reports regarding the Southwest Border (SWB) Lines of Effort (LOE). The weekly report provides a regular update to leadership and stakeholders regarding SWB activity, resources, and personnel deployments to increase officer safety and the safe transportation, detention, and processing of those in CBP custody. In addition, the SWB LOE were identified as vital activities necessary to prevent, mitigate and respond to irregular mass migration events. LOE range from increasing medical support to expanding detention capacity.
- In fiscal year (FY) 2021, CBP established the Commissioners Action Group and Movement Coordination Cell to coordinate the movement of noncitizen unaccompanied children (NUC), monitoring of migration patterns, and meeting requirements during unprecedented events.

Since closure of Recommendation 3, from OIG's report OIG-21-29, CBP has taken the additional actions noted below:

- Through a whole-of-government approach, since June 2021, CBP proactively engages with various stakeholders to plan operational responses and set requirements necessary to deploy resources to the SWB. Integrated planning efforts and exercises include impacted CBP Sectors and Field Offices, CBP Headquarter Components, and other agencies, such as the Federal Emergency Management Agency, ICE and the Department of Health and Human Services' Office of Refugee and Resettlement.

¹ "DHS Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge," dated March 18, 2019



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- In FY 2022, CBP continues to utilize the Commissioner Action Group and Movement Coordination Cell, to coordinate the movement of NUC, the monitoring of migration patterns, and meeting requirements during unprecedented events. These mechanisms continue to support SWB LOE to manage the influx of NUC, family units, single adults; and efforts have resulted in increased efficiencies and standardization of best practices.
- On March 24, 2022, El Paso sector set up an incident command post with stakeholders from ICE/ERO, OFO, and USBP from Big Bend Sector to address local immigration patterns. USBP also set up a regional command Emergency Operations Center (EOC) on March 24, 2022, located in El Paso, Texas named “Region VI.” These command centers coordinate efforts and resources on a large scale to address mass migrations.

The Region VI EOC is staffed by personnel from the USBP, OFO, ICE/ERO, and FEMA. Serving five Incident Command Posts throughout New Mexico and Texas, the Region VI EOC utilizes an Incident Command System construct to provide necessary support to CBP in response to emergency situations – in this case, the 2022 Migrant Surge which is currently affecting large portions of the southwest border.

The Region VI EOC also facilitates communications and collaborates with the Southwest Border Coordination Center in Washington, D.C. to receive support for CBP’s field operations.

- CBP’s Lead Field Commander (LFC) provides leadership within the Incident Command System and ensures that Department operations are focused on “looking forward” (proactive versus reactive) to: (1) prevent and, if required, respond to a surge or mass irregular migration along the SWB; (2) establish and maintain the necessary infrastructure and resources (permanent and temporary) capacity to prevent and respond to a surge or mass irregular migration along the SWB; and (3) establish the necessary communication architecture to address the significant external collaboration and coordination required to facilitate prevention and response efforts with homeland security enterprise partners.

Accordingly, the LFC undertakes efforts to stem irregular migration through regional partnerships across the New Mexico/Southwest Texas Border through detailed partner outreach designed to support the achievement of the other three lines of effort previously described. Across the CBP enterprise, migrants are cared for and detained pursuant to policy, safety protocols, and immigration proceedings.



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It is important to note that TEDS 4.1 states that detainees should *generally* not be held for more than 72 hours in CBP hold room or holding facilities. USBP works to achieve that goal, but over the past year with historic levels of apprehensions, this is not always possible. The second sentence of TEDS 4.1 states “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 operationally feasible.” USBP does not hold individuals beyond this standard. Almost all cases of excessive high time in custody are the results of pending transfer, release, or repatriation. USBP works with partners to make that transfer as efficient as possible including using Case Acceptance System/Review and Approval Portal, having ICE/ERO embeds at Central Processing Centers (CPC’s), working with ICE/ERO to select the most efficient processing dispositions, and working daily with Non-Governmental Organizations and local stakeholders.

CBP requests that the OIG consider this recommendation resolved and closed, as implemented.

OIG recommended that the El Paso Sector Chief, Border Patrol, and El Paso Director Field Operations, CBP:

Recommendation 2: Clarify and document existing procedures for Border Patrol’s use of OFO facilities.

Response: Non-concur. USBP’s El Paso Sector has routinely used Ports of Entry (POE) to effect expulsions under Title 42 of the Public Health Services Act (Title 42). During the OIG’s site visit in October 2021, an isolated incident occurred, in which USBP used the POE for mobile processing due to connectivity issues. Normally, undocumented noncitizens are processed outside of the POE and escorted back to Mexico through the POE for immediate expulsion under Title 42. However, it is important to note that CBP’s OFO and USBP already regularly work together to meet CBP’s mission, as both organizations are components within CBP and have sufficiently established operating relationships that would make a memorandum of understanding, standard operating procedure, or other formalization of this relationship unnecessary. In fact, OIG acknowledged that Border Patrol’s use of OFO facilities was operationally efficient, and therefore it is an unnecessary use of CBP’s limited time and resources to create further processes and procedures.

CBP requests that the OIG consider this recommendation resolved and closed.

OIG recommended that the El Paso Sector Chief, Border Patrol, CBP:



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Recommendation 3: Document processes and procedures for making exceptions to TEDS standards in the El Paso CPC to allow multiple unrelated family units to be detained together in the same pod to maintain family unity during detention.

Response: Non-concur. The El Paso Sector already employs several ongoing strategies and solutions when assigning family units in custody to specific holding areas. Although TEDS and USBP policies prioritize the principles of family unity, there is no expectation in TEDS or other policies that each family will be separated into individual cells or pods. As such, family units are kept together, and multiple family units are held together in cells or pods with other family units of similar makeup.

Because the demographics and volume of the population of people in custody is transitory and constantly changing, USBP must take a number of factors into consideration when assigning people in custody to pods for short-term holding. Specifically, TEDS policy is used when assigning individuals or families to holding areas; and all the parts of the policy are taken into account in this process. Pursuant to TEDS section 4.2, for example, when housing families together, exceptions can be made for gender segregation and juvenile/adult segregation based on the family unit and the at-risk detainee determination process. Further, according to TEDS section 4.3, generally, family units with juveniles should not be separated. However, when it is necessary to separate juveniles from the parent(s) and/or legal guardian(s), within CBP's holding facilities, TEDS already contains specific guidance for officers and agents to follow to meet their operational office's policies and procedures and appropriate legal requirements, and document the holding arrangement in the appropriate electronic system(s) of record. Accordingly, CBP determined that current processes, procedures, and standards sufficiently address the intent of this recommendation and ensure that both family unity and the safety of individuals in those family units are protected while in custody.

CBP request that the OIG consider this recommendation resolved and closed.

Recommendation 4: Develop and implement quality assurance and quality control tools to ensure the provision of interpretation services for non-Spanish and non-English speaking detainees, particularly during the medical screening process.

Response: Non-concur. USBP currently has tools in place to ensure interpretation services are used for non-Spanish and non-English speaking detainees, and CBP can find no record of the individual whose experience was the basis for this recommendation having made a request for these services. For example, the individual whose experience was noted by the OIG had previously undergone a medical interview three times (twice in Tucson, AZ and once in El Paso, TX). In



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reviewing this individual's records, USBP did not find evidence that the individual requested interpretation services during any of these three previous screenings.

Further, CBP Form 2500, "Alien Initial Health Interview Questionnaire," can be completed by either CBP employees or contracted medical personnel, and is documented in the system of record with hard copies placed in the A-file. Generally, individuals receive a health interview via the CBP Form 2500 upon entry into USBP facilities. Depending on the responses, some questions trigger automatic medical assessments, which are performed by health care professionals. According to the "USBP Enhanced Medical Support Efforts Implementation Plan," dated June 4, 2020, the health interview shall be conducted by medical personnel or by USBP agents, as appropriate, and in the primary language preferred by the person in custody, using language interpretation services, if needed.

CBP request that the OIG consider this recommendation resolved and closed.



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Appendix C

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Appendix D **Report Distribution**

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