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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JENNY LISETTE FLORES., *et al.*,

Plaintiffs,

v.

MERRICK B. GARLAND, Attorney
General of the United States, *et al.*,

Defendants.

Case No. CV 85-4544-DMG-AGR_x

**EXHIBIT A TO PLAINTIFFS’
RESPONSE TO NOTICE OF
REQUEST FOR EXTENSION OF
SPECIAL
MASTER/INDEPENDENT
MONITOR TERM (ECF NO. 1237)**

[HON. DOLLY M. GEE]



April 6, 2022

U.S. Department of Homeland Security
Office of Civil Rights and Civil Liberties
Compliance Branch, Mail Stop #0190
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528-0190
Sent via Email: CRCLCompliance@hq.dhs.gov

**RE: Abuse of Unaccompanied Minors in Customs and Border Protection
Custody, January to December 2021**

I. INTRODUCTION

Immigrant Defenders Law Center (“ImmDef”), on behalf of its clients, submits this complaint to the Department of Homeland Security (“DHS”) Office of Civil Rights and Civil Liberties (“CRCL”), documenting the systemic abuses unaccompanied children face while in Customs and Board Protection (“CBP”) custody. This complaint is filed jointly with other complaints filed by Kids in Need of Defense (“KIND”), Florence Immigrant and Refugee Rights Project (“FIRRP”), and Americans for Immigrant Justice (“AIJ”) regarding similar abuses reported by the unaccompanied children they serve. The case examples contained in these other complaints substantiate the complaints made herein and vice versa. Together, we urge CRCL to take steps toward investigating CBP’s systemic abuse of unaccompanied children and adopting measures to prevent the continued violations of unaccompanied children’s human rights.

ImmDef is a Southern California-based 501(c)(3) nonprofit organization whose mission is to achieve universal representation for immigrants in removal proceedings. Founded in 2015, ImmDef pursues this mission by providing pro bono services to and advocacy for Southern California’s most marginalized immigrant and refugee communities.

The Children’s Representation Program (“CRP”) is the largest of ImmDef’s direct representation programs. As a subcontractor of the Office of Refugee Resettlement (“ORR”), through funding received from the Vera Institute for Justice and other sources, ImmDef provides no-cost representation to Los Angeles-area unaccompanied children in removal proceedings.¹ Every year, ImmDef provides hundreds of locally detained and released unaccompanied children with various social and legal services including Know Your Rights presentations, legal screenings and consultations, case management support, legal and community referrals, and full-scope legal representation. ImmDef’s CRP leadership has been working with unaccompanied children since 2010 and has extensive knowledge and experience representing children in immigration matters.

¹ As referred to here, the Los Angeles area includes seven counties: Los Angeles County, Orange County, Riverside County, San Bernardino County, Ventura County, Santa Barbara County, and Kern County.



As a universal representation program, ImmDef's CRP attorneys and staff zealously advocate to ensure their unaccompanied child clients receive the full benefit of protections under the TVPRA, the *Flores* Settlement Agreement, and other applicable law. Through our CRP intake process, children are also asked about their treatment in CBP custody. ImmDef is alarmed and disappointed by our clients' consistent reports of mistreatment by CBP officers.

II. VIOLATIONS

The treatment of unaccompanied children in CBP custody is largely governed by two sources: (1) the *Flores* settlement agreement; and (2) the TVPRA. The *Flores* settlement agreement was born out of the *Reno v. Flores* class action litigation and set minimum standards for the detention, treatment, and release of unaccompanied children. Several years later, Congress passed the Trafficking Victims Protection Reauthorization Act ("TVPRA"), which both codified the protections established in *Flores* and set forth new rights for unaccompanied children, who Congress described as a "particularly vulnerable population" to whom the country "owes a special obligation" to treat "humanely and fairly."² Together, these authorities govern how DHS and its subcomponents, including CBP, treat and process unaccompanied children.

For over a decade, legal services providers nationwide have documented CBP's violations of these protections and the discrete rights of unaccompanied children. CBP has violated the following rights and protections guaranteed to unaccompanied children in their custody:

- (1) Treatment "with dignity, respect, and special concern for their particular vulnerability as minors," i.e. an environment free from verbal, physical, and sexual abuse;³
- (2) "Access to... drinking water and food as appropriate;"⁴
- (3) "Access to... medical assistance if the minor is in need of emergency services;"⁵
- (4) Right to "[a]dequate temperature control and ventilation;"⁶
- (5) "Access to toilets and sinks;"⁷
- (6) "Transfer... to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child;"⁸ and
- (7) Right to remain "segregate[d] from unrelated adults."⁹

² 154 Cong. Rec. S10866 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein).

³ *Flores v. Reno* ("*Flores*"), No. CV 85-4544-RJK (Px), Stipulated Settlement Agreement at ¶ 11 (C.D. Cal. Jan. 17, 1997), <http://www.aila.org/File/Related/14111359b.pdf>.

⁴ *Id.* at ¶ 12.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ 8 U.S.C. 1252(b)(3)

⁹ *Flores* at ¶ 12



A. ImmDef's Findings

In 2021 alone, ImmDef's Detained Youth Empowerment Program ("DYEP") provided Know Your Rights presentations and conducted legal screenings for at least 2,356 unaccompanied children, many of whom were detained in CBP custody for more than the statutorily mandated 72-hour limit; denied food, water, and medical care; and even subject to verbal, physical, and sexual abuse. During these legal screenings, DYEP staff asked children to describe their experience being processed through the U.S. immigration system, with a focus on the conditions in CBP custody. After intake, staff and attorneys entered information into ImmDef's data tracking platform, Cerenade, and any incident reports were saved to the client's profile. The following anecdotes are based on attorney and staff input in Cerenade. While these numbers and stories are already egregious, we estimate the true number of violations to be much higher due to reporting inconsistencies from tender-aged and traumatized children as well as human error involved in data input.

The right to be free from verbal, physical, and sexual abuse: Of the children that ImmDef encountered, eighty-five reported verbal harassment or abuse, twenty-four reported physical abuse, and two reported sexual abuse.

L.A.C. is a sixteen-year-old child from Honduras who was detained in a *hielera*¹⁰ and kicked by CBP officers while she slept if she did not get up fast enough. During her time in CBP custody, she reported that she was hungry and did not receive enough food.

P.A.M. is a sixteen-year-old child from Mexico who was seven-months pregnant while in CBP custody. CBP officers pulled P.A.M.'s hair while conducting a body search and grabbed her ankle without warning, causing her to lose her balance. In the *hielera*, CBP officers insulted P.A.M. and other children, called them animals, and shut doors in their faces. P.A.M. was ultimately hospitalized for two days because she began experiencing contractions and had a high-risk pregnancy. CBP refused to give her the discharge documents that had important information for her follow up appointments.

Unfortunately, these experiences are not novel. CRCL complaints and investigative reports by advocacy organizations track CBP's longstanding physical and verbal abuse of children in its custody. In 2014, legal services providers nationwide filed a CRCL complaint (hereinafter "2014 Complaint") on behalf of 116 children, more than fifty percent of whom experienced verbal abuse such as name-calling, death threats, swearing, and yelling.¹¹ Other

¹⁰ Throughout this complaint, the word *hielera* is used to refer to CBP custody. *Hielera*, which roughly translates to "ice box," is the word used by most children to describe CBP custody due to the extremely cold temperatures maintained in those facilities.

¹¹ See Complaint from Ashley Huebner, National Immigrant Justice Center; Joe Anderson, Americans for Immigrant Justice; James Lyall, ACLU Border Litigation Project; Erika Pinheiro, Esperanza Immigrant Rights Project; Lauren Dasse, Florence Immigrant Rights & Refugee Project to Megan H. Mack, Officer for Civil Rights and Civil Liberties, Department of Homeland Security and John Roth, Inspector General, Department of Homeland Security



organizations have likewise documented frequent insults, including calling children animals or criminals, the use of homophobic slurs, and threatening withholding of food and sexual abuse.¹² Children who cried or asked for help were mocked and taunted by officers.¹³

Physical abuse is also rampant. At the time of apprehension, children reported being restrained in three-point shackles, enduring prolonged periods of forced sitting or standing in uncomfortable positions, being hit by patrol cars, being thrown to the ground and restrained, and being tased by CBP officers.¹⁴ Once detained, officers kicked children to wake them up in the morning, used shackles—even on pregnant women—and hit or used excessive force to bully and intimidate children during questioning.¹⁵ In one report, AI Justice also documented an instance of a child being bitten by a CBP dog and then being refused medical attention to treat the wound.¹⁶

Finally, unaccompanied children have long reported sexual abuse by CBP officers. The 2014 Complaint describes incidents of officers patting down and strip-searching children—sometimes of the opposite sex and without witnesses present—while also verbally harassing them.¹⁷ In addition, girls have reported invasive searches upon apprehension involving inappropriate touching, sexual comments, and sexual threats.¹⁸ These children are without any immediate recourse, as shown by CBP ignoring at least one child's repeated complaints following sexual abuse by two adult detainees.¹⁹

The right to drinking water, food, and medical attention: ImmDef has encountered 172 children who were not given adequate food and water, and twenty-three children who suffered medical neglect.

R.M.M. is a seventeen-year-old child from Guatemala who was detained in CBP custody for eight days, during two of which he received *no* food, causing him to experience head pains and stomach problems. He received medication for three days, but his later requests

11, 18, <https://www.acluaz.org/sites/default/files/documents/DHS%20Complaint%20re%20CBP%20Abuse%20of%20UICs.pdf> (Jun. 11, 2014).

¹² See ACLU Border Litigation Project, ACLU Border Rights, University of Chicago Law School, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection 18, 25, https://www.dropbox.com/s/lplnnufjbwci0xn/CBP%20Report%20ACLU_IHRC%205.23%20FINAL.pdf?dl=0 (May 2018).

¹³ See Americans for Immigrant Justice, Do My Rights Matter? The Mistreatment of Unaccompanied Children in CBP Custody 28, 40–42, <https://aijustice.org/wp-content/uploads/2020/10/Do-My-Rights-Matter-The-Mistreatment-of-Unaccompanied-Children-in-CBP-Custody.pdf> (Oct. 2020).

¹⁴ See Florence Immigrant and Refugee Rights Project, Seeking Protection, Enduring Prosecution: The Treatment and Abuse of Unaccompanied Undocumented Children in Short-Term Immigration Detention 10, 11, 24, 27, <https://www.firrp.org/media/BPA AbuseReport.pdf> (Aug. 2009); Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 10; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 13.

¹⁵ See Americans for Immigrant Justice, Do My Rights Matter? at p. 40.

¹⁶ See *id.* at 46.

¹⁷ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 9.

¹⁸ See *ibid*; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 26.

¹⁹ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 10.



for medical attention were outright denied. Instead, CBP officers yelled at him and called him names.

A.R.B. was seventeen years old when she was detained CBP custody for eight hours. During that time, she was never provided with a meal and was pressured to sign documents that she did not understand.

L.G.O. is a thirteen-year-old child from El Salvador who only received a single meal consisting of cold, rotten food each day she was held in CBP custody. Upon apprehension, her birth certificate was confiscated and never returned to her, and she was not allowed to make any phone calls. Because of the lack of quality food, L.G.O. developed stomach pain, but she never received treatment. She was instead forced to lie on the floor without a mattress. She was unable to sleep because light and noise were constant. L.G.O. was never given the opportunity to shower.

Stories of inedible food, inadequate drinking water, and medical neglect have also been reported in the past. Organizations nationwide have reported that the food in CBP custody is often spoiled or frozen, and the water tastes heavily of chlorine.²⁰ These conditions are especially dangerous for the infants, small children, and pregnant or nursing mothers, whom CBP regularly detains.²¹ This inedible food frequently makes children feel ill and need medical care, which CBP denies.²²

Indeed, advocacy organizations have long documented CBP's rampant failure to provide any medical services, much less adequate medical treatment. Over the past decade, between 50-80% of children in CBP custody have reported medical neglect or inadequate medical care.²³ CBP officers confiscate children's medications, including inhalers; withhold milk, clean diapers, or prenatal medications from pregnant girls and young mothers with infants; refuse to treat injuries or pre-existing medical conditions; and deny requests for doctor and other medical

²⁰ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 11; Florence Immigrant and Refugee Rights Project, Seeking Protection at p. 13; Americans for Immigrant Justice, Do My Rights Matter? at pp. 13, 28; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 20.

²¹ See No More Deaths, A Culture of Cruelty: Abuse and Impunity in Short-Term U.S. Border Patrol Custody 19, <https://nomoredeaths.org/wp-content/uploads/2014/10/CultureOfCruelty-full.compressed.pdf> (2011); Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at pp. 11–15; Americans for Immigrant Justice, Do My Rights Matter? at pp. 30–31; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 13.

²² See ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 20.

²³ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 12; Florence Immigrant and Refugee Rights Project, Seeking Protection at pp. 8–9; Complaint from American Immigration Council, American Immigration Lawyers Association, and Catholic Legal Immigration Network, Inc. to Officer Cameron Quinn, Office for Civil Rights and Civil Liberties; Inspector General Joseph V. Cuffari, Office of the Inspector General; and Christopher A. Wray, Director, Federal Bureau of Investigation 6, <https://www.aila.org/infonet/deprivation-medical-care-to-children-cbp-custody> (Sept. 4, 2019); ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 21.



visits.²⁴ CBP officers openly retaliate against those who request medical assistance, chilling others from ever requesting medical assistance in the first place.²⁵

Right to humane living conditions: ImmDef encountered forty-two children who were held in unsanitary conditions, 126 children who were forced to sleep on the ground or outside, and 452 children who were detained for longer than 72 hours. Many children also reported extremely cold temperatures and privacy violations.

H.G.C. is a sixteen-year-old child from Guatemala who was held in a *hielera* for three days. H.G.C. was also held in a cell that housed other detainees and contained only one, entirely exposed toilet. H.G.C.'s only hope for privacy was to ask his cellmates to move to the opposite side of the room each time he used the bathroom. During his three days in the *hielera*, the lights were always on, causing H.G.C. to lose sense of whether it was day or night.

G.G.G. is a seventeen-year-old child from Guatemala who was detained for four days in a *hielera* that had bathrooms without doors, leaving him and the other children without any privacy while using the toilet. The facility was kept at very cold temperatures, yet G.G.G. never received a blanket thick enough to keep him warm. G.G.G. witnessed CBP officers yell at other kids who did not get up right away at five o'clock in the morning for roll call or who did not immediately obey the commands of CBP officers. During his four days in CBP custody, G.G.G. was only allowed to make one phone call.

O.L.L., an eleven-year-old child from Guatemala, was detained in a *hielera* for seven and a half days under frigid conditions that caused his lips to turn purple. O.L.L. only speaks Spanish, yet officers spoke to him in English. He was only allowed to make one phone call every three days.

E.C.C. is a thirteen-year-old child who, for nine days, was detained in a CBP facility in a small room with thirty-five to forty other people, most of whom were adults and none of whom ever received a toothbrush or soap. The only bathrooms available were not private and were accessible only if E.C.C. asked a CBP officer. CBP officers yelled at E.C.C. in both English and Spanish, including waking him and other children by yelling, "*Levantense cabrones.*"²⁶

²⁴ See ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at pp. 21–23; Americans for Immigrant Justice, Do My Rights Matter? at p. 33; Complaint from American Immigration Council, et al. to Officer Cameron Quinn, et al. at pp. 5–6; Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at pp. 12–14.

²⁵ See Florence Immigrant and Refugee Rights Project, Seeking Protection at pp. 8–9; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at pp. 21–22;

²⁶ This phrase translates to "Get up assholes."



Organizations have long documented these types of violations experienced by ImmDef clients in the past year. Indeed, CBP's facilities are historically unsanitary and inhumane. Children often refer to them as *hieleras*, or "ice boxes," because they are kept at notoriously cold temperatures.²⁷ The lights are on around the clock, causing children to lose sense of time and making sleep difficult.²⁸ Children are regularly given only mylar blankets and are forced to sleep on cold floors or dirty mattresses in overcrowded facilities.²⁹ The conditions are also unsanitary, with CBP denying personal hygiene products and privacy when children use the toilets or showers.³⁰ Some children were not allowed to shower or brush their teeth at all while detained, even when detained longer than 72 hours.³¹

The right to due process: Most of the children that ImmDef encountered reported being forced to sign documents without interpretation as well as the indefinite confiscation of important personal documents.

D.S. is a seventeen-year-old child from Romania who was held in CBP custody for five days. When he was taken into custody, CBP confiscated his passport. He was given a mylar blanket but was never provided a toothbrush or toothpaste. D.S. did not have access to sufficient interpretation services and was forced to sign some documents that were never explained to him in Romanian. D.S.'s passport was never returned to him.

D.S.'s experiences are unsurprising considering CBP's well-known history of violating the fundamental rights of children in its custody. Officers regularly confiscate and refuse to return children's personal belongings like birth certificates, which are later necessary when pursuing immigration relief within the United States.³²

Children are also coerced into unknowingly waiving their rights. Before children may access counsel or a legal service provider, officers have children sign legal documents that are written in English and not described in a child-appropriate manner.³³ Children who ask for

²⁷ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at pp. 11, 13, 15; Americans for Immigrant Justice, Do My Rights Matter? at p. 13; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at pp. 23–24.

²⁸ See National Immigrant Justice Center, Unaccompanied Immigrant Children 3, <https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2016-11/NIJC%20Policy%20Brief%20-%20Unaccompanied%20Immigrant%20Children%20FINAL%20Winter%202014.pdf> (Jan. 2014); Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 11; Americans for Immigrant Justice, Do My Rights Matter? at p. 14.

²⁹ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at pp. 11–16.

³⁰ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at pp. 11, 15; Americans for Immigrant Justice, Do My Rights Matter? at pp. 15, 29; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at pp. 19, 32.

³¹ See Americans for Immigrant Justice, Do My Rights Matter? at pp. 15, 29.

³² See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at pp. 16–17; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 29.

³³ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 16; Florence Immigrant and Refugee Rights Project, Seeking Protection at p. 15; Americans for Immigrant Justice, Do My Rights Matter? at p. 47; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at p. 30.



clarification are met with intimidation tactics that leave them feeling like they have no choice but to sign the document.³⁴ Indeed, children are largely separated from the outside world by way of CBP's regular failure to provide access to telephones.³⁵ Advocacy organizations in 2009, 2014, and 2018, found that many of the children they interviewed were denied an opportunity to call their family, their consulate, or an attorney.³⁶

B. Illustrative Cases

ImmDef encountered several children whose treatment by CBP officers and in CBP facilities was especially egregious and clearly in violation of *Flores* and the TVPRA, as detailed below.

D.C.E. was sixteen years old when he fled to the United States and was processed into the country as an unaccompanied child. D.C.E. was held in a *hielera* for eight days, during which he was harassed, neglected, and denied basic human dignity. CBP officers called him a "gangster," and threatened his aunt. They gave him a mylar blanket, which was not enough to keep him warm. He was not given supplies to brush his teeth or take a full shower, and he did not have privacy when using the bathroom.

While D.C.E. was detained, the lights were always on in the facility, making it difficult for him to distinguish between day and night. His waking hours were marked by meals consisting of old or spoiled food, which made him sick. CBP officers forced D.C.E. to sign paperwork that was not explained to him in his primary language, and he was never explained his rights as an unaccompanied child in U.S. immigration detention.

M.J.C. arrived in the United States when she was fourteen years old and, from the moment she encountered U.S. immigration officers, she was met with hostility. When M.J.C. was first apprehended by CBP, she was handcuffed for approximately twenty-four hours without any food or water. Alone, exhausted from her journey, and afraid for her life, she was forced to sit on the side of the road as CBP officers yelled at her in English, which she did not understand. M.J.C. was cold and wet when she finally arrived at the *hielera*, but rather than give her warm clothes, CBP officers berated M.J.C., saying that "she should've thought about that before coming to the U.S."

M.J.C. spent eighteen days in the *hielera*, where she received almost inedible food and insufficient water. When she requested more water, she received tap water that tasted highly chlorinated and quickly caused her to experience stomach pains. M.J.C. requested medical attention, which CBP officers denied for three days, instructing her instead to lie down or sleep.

³⁴ See Florence Immigrant and Refugee Rights Project, Seeking Protection at p. 15, ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection at pp. 29 – 30.

³⁵ See Complaint from Ashley Huebner, et al. to Megan H. Mack, et al. at p. 17; Florence Immigrant and Refugee Rights Project, Seeking Protection at p. 14.

³⁶ See generally Complaint from Ashley Huebner, et al. to Megan H. Mack, et al.; Florence Immigrant and Refugee Rights Project, Seeking Protection; ACLU, Neglect and Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection.



CBP officers eventually had to take M.J.C. to a hospital after her symptoms worsened. Doctors later confirmed that her stomach problems were caused by the food provided in the *hiesla* and that she was living with an untreated broken arm that she sustained during her journey.

M.J.C. was eventually returned to the CBP facility, where officers withheld her medications and only provided her the same food that made her sick and landed her in the hospital. She became so hungry that she had no option but to eat the dangerous food, which unsurprisingly caused her to experience the same stomach pain. This time, however, she was too afraid to tell the officers that she was in pain and instead suffered in silence.

M.J.C.'s abuse was not limited to withheld medical care and inedible food and water. CBP officers yelled loudly near her ears to wake her up and only gave her a mylar blanket to keep warm despite M.J.C.'s request for a different blanket. She was forced to sleep on a bench or on the ground close to others, in blatant disregard for the risks of such proximity due to the COVID-19 pandemic. M.J.C. was also repeatedly denied requests to use the toilet and was never given a change of clothes—for eighteen days, she wore the same dirty clothes she had arrived in.

Like D.E.C., M.J.C. was forced to sign documents she did not understand. Her requests to make phone calls were either denied or conditioned on her signing paperwork that was written in English. M.J.C. was subject to additional scrutiny and questioning because CBP officers believed she appeared older than indicated on her birth certificate. M.J.C. lived in constant fear during her nearly three weeks in CBP custody.

M.T.P., B.T.P., and A.T.P. are three sisters from Guatemala who were detained in CBP custody for seven days, during which they experienced mistreatment and medical neglect. The T.P. sisters were placed in a dirty, crowded detention facility where they were held with other children who were sick to the point of vomiting. They were not allowed to shower for the first four days they were detained and reported that CBP failed to undertake any efforts to maintain hygiene or social distancing in light of the COVID-19 pandemic. The sisters felt uncomfortable using the toilets in the facility due to the lack of privacy, and they were not provided with sufficient sanitary supplies.

All three sisters experienced issues with the quality of food. M.T.P. became so sick she was forced to stop eating the burritos. Instead, she ate only a cookie and water each day and was afraid to ask CBP officers for alternatives or medicine because she had seen others being yelled at. When B.T.P. asked for medical assistance due to constant headaches, she was first ignored and later told that she would see a doctor. The doctor never arrived.

While detained, the T.P. sisters reported that the CBP officers did not speak Spanish well and did not explain the documents that they asked each girl to sign. They felt forced to sign these documents and were denied the right to place a phone call on multiple occasions.

M.G.G. is a seventeen-year-old child who arrived in the United States from El Salvador and experienced egregious abuse at the hands of CBP officers. When M.G.G. was apprehended, she was verbally harassed. She reported hearing CBP officers refer to her and other children and



families as “motherfuckers” in English, *pendejos*, and *hijos de puta*.³⁷ Upon apprehension, M.G.G. was denied water and witnessed other individuals being physically beaten by immigration officers. M.G.G. arrived with her younger brother, and officers made him pick up trash along the side of the river while they were waiting to be transported to the *hielera*.

When they arrived at the *hielera*, M.G.G. was separated from her brother and did not hear any information about his whereabouts, health, or safety for over three weeks, until she was finally able to make contact with him from the ORR shelter. During her thirteen days in the *hielera*, M.G.G. was never given a blanket or a change of clothes and was only allowed to shower once. By way of explanation, CBP officers swore at her and told her that it “wasn’t a hotel.” Every day, she was woken up early and could not sleep.

M.G.G. also reported that she was given old and rotten food. For thirteen days, she was only fed burritos with rice and apples. When she told CBP officers that she felt sick, they told her to drink more water and exercise. However, she was only given a single small bottle of water each day at 6am.

M.G.G. also reported a lack of COVID-19 precautions and general medical neglect. When she first arrived, M.G.G. was not given a COVID-19 test and later discovered that there were people with active cases of COVID-19 held in the *hielera* with her. She was not provided with a mask. M.G.G. also reported that she felt she was touched inappropriately during the officers’ search of her belongings because she had her identification hidden under her clothes. When she asked to call her mom or for any information about her brother, CBP officers denied her requests.

L.L.C. is a sixteen-year-old child from Guatemala who was detained in a *hielera* for twelve days. When she first arrived at the *hielera*, she was yelled at by the guards and given a single mylar blanket. L.L.C. and the other children slept in a shelter with only a roof but no walls. L.L.C. recalls being very cold but afraid to ask for more blankets after seeing other children get yelled at.

The following day, L.L.C. was transferred to a *hielera* in Texas, where she stayed for the next twelve days. L.L.C. described the walls of the *hielera* as equivalent to a thick nylon, and she was held in a room approximately the size of a conference room with eighty-one other girls. The cell was so crowded that she was forced to sleep pressed up against the person next to her or sitting up. L.L.C. described being extremely cold day and night. She described feeling like she and the other children were being treated like animals.

The food in the *hielera* consisted of burritos that tasted spoiled, and L.L.C. soon became sick. When she reported feeling ill to medical staff, they did not address her concerns. As a result, L.L.C. was forced to skip meals. L.L.C. witnessed similar treatment of other children when they felt sick—CBP officers refused to provide medicine and only told the children to drink more water. L.L.C. reported that the water tasted heavily of chlorine.

L.L.C. also suffered verbal abuse while in CBP custody. She was spoken to in both English and Spanish, and officers would become angry and yell at the children when they did

³⁷ These phrases translate to “assholes” and “sons of bitches.”



not fall asleep immediately. L.L.C. described that it was difficult to sleep because the CBP officers woke them every hour in order to clean the cells and the lights were always kept on.

L.L.C. was only able to brush her teeth three times per week, and she was only able to bathe once during the twelve days she was held in the *hielera*. L.L.C. felt that there was no privacy in the bathrooms, and there were several times when she did not have toilet paper.

Before L.L.C. left the *hielera*, she was forced to sign documents she did not understand. She was only allowed to make one, two-minute telephone call, and during the call a CBP officer stood within earshot.

M.V.P. is a seventeen-year-old child from Guatemala who was detained in a *hielera* for five days, where she experienced abusive and neglectful conditions. While crossing the border, M.V.P. hurt the back of her right knee while jumping over a wall. When she asked to see a doctor in the CBP facility, she was given unidentified pills but did not receive any other treatment or follow up.

M.V.P. reported that she did not eat during her time at the detention center because the burritos given to the children smelled spoiled. She was given only small amounts of water. After four days in CBP custody, M.V.P. began experiencing severe stomach pains and complained to CBP officers. Four hours later, she was taken to a nurse, who did not treat her. After another nine to ten hours of suffering severe pain, M.V.P. was taken to the emergency room, where she was diagnosed with dehydration and put on an IV. When she was discharged from the emergency room, the doctor gave the immigration official paperwork about her condition. M.V.P. believes there was more to her condition than dehydration, but she never received a copy of that paperwork.

In the *hielera*, M.V.P. was confined to a cell with around eighty other people, including women with small children. M.V.P. reported that there was nowhere to sit or sleep the first night, and she slept sitting on a metal bench the following nights. The cell also contained a toilet, which was not closed off from the rest of the space. As a result, M.V.P. and her cell mates were forced to use the mylar blankets that they slept with as makeshift curtains to create privacy for the toilet. M.V.P. was not given any opportunity to shower during her time in CBP custody.

Before M.V.P. was released from CBP custody, she felt forced to sign paperwork that was not explained to her in Spanish.

K.M.A. is a seventeen-year-old child who was detained in a *hielera* for three days, during which time she experienced and witnessed verbal abuse, in part due to her pregnancy. K.M.A. arrived in the United States with a minor friend and witnessed CBP officers take him into a small room and yell at him. Other CBP officers berated K.M.A. because she was pregnant and accused her of providing a false birth certificate. The CBP officers yelled at K.M.A. so much that she cried, and when she asked to call her mother, they refused to allow her to use the phone.

K.M.A. was examined by a nurse while detained in CBP custody, and K.M.A. asked the nurse if it was common for the CBP officers to yell at children in the way she had experienced. The nurse responded that she could not answer the question and instead told CBP officers what K.M.A. had asked her. K.M.A. was then yelled at by two CBP officers, who told her that child immigrants should not come to the United States because it was a waste of taxes. The CBP



officers accused K.M.A. of only coming to the United States so her baby could be a U.S. citizen and so that she could receive welfare. The officers expressed to her that it was not fair that the U.S. government would pay to support her baby.

K.M.A. was also threatened by CBP officers. She was told that she would be put in jail because she was pregnant and because she had brought a fake birth certificate, even though K.M.A. repeatedly assured the officers that it was not fake.

J.N.P. is a sixteen-year-old child who was held in CBP custody for two days, during which she experienced violations of her basic human rights. When J.N.P. was apprehended, CBP officers confiscated her belongings, including a cell phone and identification documents. They threw away her clothing and gave her other clothes that did not fit her. She did not get her documents and cell phone back until she was reunited with her father after being held in an ORR shelter.

Once J.N.P. arrived at the *hielera*, she was forced to bathe with many other girls in one bathroom. There was no privacy except for transparent curtains, and J.N.P. reported feeling very uncomfortable. The girls had to bathe without clothes on, yet officers were present with them in the bathrooms and were rude and disrespectful. When J.N.P. and some of the other girls complained, the CBP officers yelled at them and rushed them out as soon as their five minutes were up. Even after she bathed, J.N.P. developed head lice and dandruff due to the unsanitary conditions.

Throughout her time in the *hielera*, J.N.P. was given egg burritos for every meal, which left her feeling hungry and ultimately gave her stomach pains. When she needed to use the bathroom, there was no privacy—the toilets were separated by walls on the sides but not in the front, and J.N.P. felt uncomfortable using the bathroom because others could see everything. The temperatures inside the *hielera* were kept extremely cold, and J.N.P. was denied blankets or more clothes when she asked. The cold made sleeping difficult, and J.N.P. was forced to sleep on a thin mat pressed up against strangers due to overcrowding. The lights were also left on the entire time, yet when J.N.P. and other children could not sleep, CBP officers only yelled at them. Throughout her time in the *hielera*, J.N.P. was not allowed to make any phone calls.

Due to the poor conditions, J.N.P. also developed a migraine in addition to head lice and stomach pains. When she asked for help, she was given a pill that did not help her symptoms. She was afraid to ask for another because the CBP officers made her feel nervous, and she felt that she would be in trouble for asking.

On her way out of the *hielera*, J.N.P. witnessed CBP officers shoving other kids to get them to move faster. She was pressured to sign documents that were not explained to her, but she refused.

III. DEMANDS

The examples included in the concurrently filed complaints demonstrate that CBP's abuse of children is common and widespread. It is not limited to one child or one instance. It is not limited to the conduct of a "bad apple" employee within the agency. It is not limited to even a rogue or remote CBP outpost that lacks training and resources. The sheer number of children



who have reported abuse, many of whom told us that they fear retaliation and were afraid to speak up, suggests that these examples are but a fraction of the actual total. For each story included herein and in the concurrently filed complaints, there are likely an equal number of children who experienced the same but were too afraid to report. Existing complaints show that CBP engages in a pattern and practice of treatment that relies on overcrowded facilities; a lack of adequate food, water, medical care, and privacy; and verbal and physical abuse of the most vulnerable immigrants.³⁸ This is unacceptable.

CBP is an agency that has shown itself to be incapable of providing adequate care to immigrant children in its custody, as evidenced by the stories in this complaint. Worse still, the agency's treatment of unaccompanied children is marked by horrific conditions, outdated facilities, and abuse. This agency cannot and should not hold children without significant reforms. We demand that the government create a child-friendly, trauma-informed reception system that relies on trained child welfare professionals working in the best interest of the children in their custody.

Below, we offer recommendations that will move CBP toward this goal in the short term. However, we also call on the federal government to reimagine and reinvent the system for caring for unaccompanied immigrant children. In so doing, we urge DHS and CBP to involve stakeholders to inform their decision-making and ensure the best interests of children are at the center of future policymaking.

1. ***Strict Adherence to the TVPRA and the Flores Settlement Agreement:*** CBP should adhere to the requirements laid out in the *Flores* settlement agreement and the TVPRA. Specifically:
 - Children should not be held in CBP custody for more than 72 hours, as these facilities have never been designed to house children for any extended period of time, and their prolonged detention leads to their continued exposure to abhorrent conditions;
 - Children in CBP custody must be provided with an environment that is “safe and sanitary.” This should include adequate access to clean bathroom facilities, toothbrushes, showers, clean clothes, medical care, as well as adequate, unspoiled, and healthful food and water. Age-appropriate food should be provided for infants and toddlers;
 - Children in CBP custody should not be made to sleep on concrete floors in frigid rooms, with bright lights on at all hours of the day and night; and
 - CBP must end the practice of gathering in one room or cell all children who report being ill with no regard or forethought to their health and wellbeing and no access to medical treatment.

³⁸ In fiscal year 2021, DHS referred 122,731 unaccompanied children to ORR. See U.S. Department of Health and Human Services, Fact Sheet: Unaccompanied Children (UC) Program 2, <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf> (Feb. 17, 2022)



2. ***Protect children's right to privacy:*** CBP officials must respect children's right to privacy and implement policies and standards that protect children's right to privacy. Specifically, CBP should ensure that children are afforded individual privacy in shower and bathroom facilities. Also, CBP should immediately remove cameras from sensitive locations, such as bathrooms and enact more child-friendly best practices to ensure the safety of children in those locations.
3. ***Adherence to and enforcement of the CBP National Standards on Transport, Escort, Detention and Search (TEDS):*** All CBP officials should consider the best interests of the child in all decisions, as required by 2015 TEDS Standard 1.6. Moreover, CBP should promptly promulgate guidelines, like those proposed in the 2016 *Interagency Framework on Considering the Best Interests of Unaccompanied Children*, to ensure that all CBP officials consider children's best interests in every decision from the first encounter through processing, detention, and release or transfer. CBP should also make the TEDS standards enforceable to help ensure that all children are receiving appropriate care in CBP facilities. CBP should regularly conduct reviews and inspections at all facilities holding children to ensure compliance with the TEDS standards and order corrective action and additional training when violations are found. CBP should also regularly review the TEDS standards for additional improvements to further promote the safety and wellbeing of children in CBP custody.
4. ***Provide the same standards of care centered on the best interests of children as required in ORR facilities:*** CBP's standards of care should be centered on advancing the best interests of children. Accordingly, CBP should meet or exceed standards of care recommended by pediatric health and child wellbeing experts, including access to clean bathroom and shower facilities that allow for individual privacy; clean, age-appropriate clothing; adequate bedding, food, water, and personal hygiene time and products; adequate medical care; telephone access to contact family; and the ability to remain with trusted family caregivers but separated from unknown adults. Facilities should be temperature-controlled, have adequate lighting, and bright lighting should not be kept on 24 hours a day.
5. ***Mandatory training of CBP officers and staff:*** CBP officers and staff should be trained regularly on topics such as cultural competency, basic human rights, trauma-informed approaches, child development, de-escalation techniques, harm reduction, and the basics of trafficking and asylum.
6. ***Access to a phone with a complaint hotline and telephonic access to legal services providers:*** CBP must make available to all minors in its custody a confidential telephone through which children can make outgoing calls, connect with an attorney, and access a private hotline to report abuse. Any child that asks to make a phone call must be allowed to do so at any time.



7. ***Access to interpreters:*** CBP should ensure access to interpreters for children in its custody. This includes hiring bilingual officers, training officers in language assessment, and providing full-time access to an interpretation service that includes indigenous language interpreters.
8. ***Implement proper surveillance practices in line with privacy laws:*** Insofar as a CBP facility subjects its detainees to video surveillance, it must develop and make publicly available policies that require reasonable record retention consistent with federal and state privacy protections and allow access to said recordings when requested by CRCL, OIG, CBP, or other investigatory agencies and stakeholders, as part of an investigation into abuse.
9. ***Hire child welfare professionals:*** Consistent with Congress's directive as part of the Consolidated Appropriations Act, 2022, DHS should hire state-licensed child welfare professionals at all southern land border facilities.³⁹ Child welfare professionals possess the expertise necessary to ensure the safety and well-being of unaccompanied children in CBP custody. These professionals should conduct protection screenings of arriving children, ensure appropriate care, and maintain children's family unity. They should also be permitted to facilitate reasonable telephonic contact with confirmed family members.
10. ***Access to legal counsel:*** CBP should prioritize access for legal services providers in CBP detention centers. LSPs should have the ability to meet with children in confidential spaces, have access to rosters of children in CBP custody, and access to areas in the CBP facility where children are held in order to monitor conditions.

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³⁹ See Consolidated Appropriations Act, 2022, Explanatory Statement, Division F—Department of Homeland Security; <https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-F.pdf> (2022).



IV. CONCLUSION

ImmDef urges the Office of Civil Rights and Civil Liberties to investigate and address the longstanding violations alleged herein and to take all steps necessary to bring CBP personnel and facilities in compliance with the *Flores* Settlement Agreement and the TVPRA. We also urge CBP and DHS to initiate stakeholder discussions to usher in the changes outlined above.

Please do not hesitate to contact me via e-mail at Hcomstock@immdef.org or by telephone at (213) 340-7676 with questions or inquiries for additional information concerning the complaints raised above. We look forward to continued communication with you concerning these alarming reports.

Sincerely,

A handwritten signature in black ink, appearing to read "Hannah Comstock".

Hannah Comstock | Managing Attorney
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cc: U.S. Department of Homeland Security
Office of Inspector General, Mail Stop #0305
245 Murray Lane SW
Washington DC 20528-0305
Sent via Email: JointIntake@dhs.gov; jointintake@cbp.dhs.gov

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2022, I served the foregoing EXHIBIT A on all counsel of record by means of the District Clerk's CM/ECF electronic filing system.

/s/Peter Schey
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JENNY LISETTE FLORES., *et al.*,

Plaintiffs,

v.

MERRICK B. GARLAND, Attorney
General of the United States, *et al.*,

Defendants.

Case No. CV 85-4544-DMG-AGR_x

**EXHIBIT B TO PLAINTIFFS’
RESPONSE TO NOTICE OF
REQUEST FOR EXTENSION OF
SPECIAL
MASTER/INDEPENDENT
MONITOR TERM (ECF NO. 1237)**

[HON. DOLLY M. GEE]



April 6, 2022

Department of Homeland Security
Office for Civil Rights and Civil Liberties
Compliance Branch, Mail Stop #0190
2707 Martin Luther King Jr Ave
SE Washington, DC 20528-0190
Sent via Email: CRCLCompliance@hq.dhs.gov

DHS Office of Inspector General/MAIL STOP 0305
Attention: Office of Investigations - Hotline
245 Murray Lane SW
Washington, DC 20528-0305
E-submitted at <https://hotline.oig.dhs.gov>

RE: Widespread infringement of the civil rights and civil liberties of Unaccompanied Noncitizen Children held in the custody of CBP: January – December 2021

To All Interested Individuals:

Kids in Need of Defense (KIND) files this complaint on behalf of Unaccompanied Noncitizen Children (UNCs) who experienced civil rights abuses while being detained by U.S. Customs and Border Patrol (CPB) between January and December 2021.¹ This complaint is filed simultaneously with other complaints from Immigrant Defenders Law Center (ImmDef), Florence Immigrant and Refugee Rights Project (FIRRP), and Americans for Immigrant Justice (AI Justice) regarding similar abuses reported by the UNCs they serve. The case examples contained herein substantiate these other complaints and vice versa.

This complaint first provides an overview of the legal standards that define the civil rights and civil liberties of UNCs. Then, it discusses the abuses UNCs experienced in terms of general trends, quantitative and qualitative data, and the scope of our complaint. Next, we highlight five specific cases that are representative of the abuses at large. Finally, we recommend a course of action to both investigate these abuses and prevent further incidents. The names and A-numbers of the specific complainants are set forth in Appendix A.

I. Legal Standards

Three main sources define the civil rights and civil liberties of UNCs in CBP custody: 1) The *Flores* Settlement Agreement; 2) the Trafficking Victims Protection Reauthorization Act (TVPR), and 3) the

¹ Some of these incidents took place during a high level of apprehensions, and it is critical that CBP operations be prepared to respond to such situations while still respecting detainees' rights. A surge in apprehensions cannot be an excuse to violate a UNC's rights.



CBP National Standards on Transport, Escort, Detentions and Search (TEDS). In 1997, parties to the class action litigation *Reno v. Flores* stipulated to standards for the detention, release, and treatment of UNCs, commonly known as the *Flores* Settlement Agreement. Important protections delineated in the *Flores* Settlement Agreement and applicable to this complaint include:

1. The right to be treated with dignity, respect, and special concern for the particular vulnerability of minors;
2. The right to be held in facilities that are safe and sanitary, with adequate ventilation and temperature control;
3. Access to toilets and sinks;
4. Access to drinking water and food; and
5. Access to medical assistance.

The TVPRA delineates many important protections for UNCs, the most applicable of which is the requirement that CBP transfer UNCs to the custody of ORR within 72 hours of detention, barring exceptional circumstances. 8 U.S.C. § 1232(b)(3). Finally, the TEDS also contain many important guidelines concerning the treatment of UNCs, the most pertinent of which are the following:

1. CBP employees must act with utmost integrity and professionalism. (Standard 1.2)
2. CBP employees must treat all individuals with dignity and respect, perform their duties in a non-discriminatory manner, and respect individual rights and due process. (Standard 1.4)
3. Officers/Agents will consider the best interest of the juvenile at all decision points beginning at the first encounter and continuing through processing, detention, transfer, or repatriation. Officers/Agents should recognize that juveniles experience situations differently than adults. (Standard 1.6)
4. Clean bedding must be provided to juveniles. (Standard 4.2)
5. Food and water should never be used as a reward, or withheld as punishment. Food provided must be in edible condition (not frozen, expired or spoiled). (Standard 4.13)
6. CBP staff will treat all at-risk populations (including UNCs) with dignity, respect, and special concern for their particular vulnerability. (Standard 5.1)
7. Every effort must be made to transfer UNCs from CBP to ORR custody as soon as possible, but no later than 72 hours after determining that a child is a UNC. (Standard 5.6)
8. Juveniles will be given access to basic hygiene articles, and clean bedding. When available, juveniles will be provided clean and dry clothing. (Standard 5.6)
9. Juvenile detainees will be offered a snack upon arrival and a meal at least every six hours thereafter, at regularly scheduled mealtimes. At least two of those meals will be hot. Juveniles must have regular access to snacks, milk, and juice. (Standard 5.6)
10. Reasonable efforts will be made to provide showers, soap, and a clean towel to juveniles who are approaching 48 hours in detention. (Standard 5.6)
11. Hold rooms for UNCs must provide adequate temperature control and ventilation. (Standard 5.6)



12. Any physical or mental injury or illness observed by or reported to an officer/agent should be reported to a supervisor and appropriate medical care should be provided or sought. (Standard 5.6)
13. At no time will restraints be used in a punitive manner or in a manner that causes detainees undue pain. Barring exigent circumstances, officers/agents must not use restraints on pregnant detainees or juveniles. (Standard 5.7)

KIND received widespread reports that CBP officers routinely violated the *Flores* Settlement Agreement, the TVPRA, and the TEDS, resulting in this complaint.

II. General Trends

KIND is the contracted legal service provider at twelve Office of Refugee Resettlement (ORR) shelters located in New York City, Houston, Atlanta, and Seattle. From January through December 2021, KIND staff met with approximately 4,515 minors while they were in ORR custody in these locations, to conduct legal screenings. The primary purpose of these screenings was to determine if the minors qualify for legal relief from removal, and a small portion of the screening generally included discussing their time in CBP detention. During these screenings, minors reported civil rights violations about their apprehension and detention by CBP that fall into three broad categories: 1) Approximately 1,745 minors, or 38.6% of minors screened, reported a prolonged detention of greater than 3 days in CBP custody. 2) Approximately 455 minors, or 10.6% of the minors screened, indicated that they lacked access to sufficient food, water, medical attention, or other basic necessities while in detention. 3) A significant number of minors reported that they had been mentally or physically harmed while in CBP custody. As these numbers do not reflect any violations that children declined to disclose as part of legal screenings, as they draw from meetings with 4,515 minors, whereas CBP recorded more than 146,000 encounters of unaccompanied children in Fiscal Year 2022,² and as ImmDef, FIRR, and AI Justice have filed similar complaints, KIND believes that the numbers cited herein represent only a small portion of the abuses that CBP agents and officers have perpetrated against UNC's in CBP custody.

a. Prolonged Detention

Because the TVPRA requires CBP to transfer UNC's to ORR custody within 72 hours of apprehension barring "exceptional circumstances," this complaint defines a prolonged detention as anything greater than 3 days. 8 U.S.C. § 1232(b)(3). The average length of detention was 7.5 days for minors reporting a prolonged detention. Over 1,700 minors reported being detained by CBP for more than 72 hours, and more than 130 reported being detained longer than two weeks. These prolonged periods enhance children's vulnerability to harms such as those addressed below.

b. Physical, Mental, and Gender-based Harm

UNC's experienced a variety of physical and mental harm while in CBP custody, in direct violation of the *Flores* Settlement Agreement and several TEDS standards. At least two minors reported having

² CBP, "CBP Releases Operational Fiscal Year 2021 Statistics" (Jan. 3, 2022); <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-operational-fiscal-year-2021-statistics>.



guns pointed at them when they were being detained by officers, and another reported hearing shots fired when officers attempted to detain her and members of her group. Other children report having handcuffs that were placed on them so tightly that they left painful red marks on their wrists that did not immediately go away after the handcuffs were removed. We received widespread reports of officers who woke up sleeping children, often in the early morning or middle of the night, by screaming at them, kicking them, hitting them, kicking the mats they were sleeping on, or pulling the mats out from under them. We also received reports of officers shoving children, grabbing and pulling them by the ear, arm, or clothing, and using intimidating body language. Children described officers who yelled aggressively, used foul language, called them names, told them they were undeserving of help or respect, accused them of being criminals or lying, and threatened to deport them. Children report being called “cabron” (asshole), “puta” (bitch or slut), “pendejo” (stupid), “mierda” (shit), “burro” (donkey, ass, or idiot), “cerdo” (pig), “waste of time,” “criminal,” and “liar.”

Many older children described being threatened and intimidated by officers who did not believe they were minors. For example, one girl who wishes to remain anonymous was 17 years old when officers detained her in August 2021. She was held in CBP detention for approximately five days. While in detention, she felt singled out and harassed by a particular officer who did not believe that she was a minor. The first time she met the officer, he grabbed her by the arm and pressured her to sign a document affirming that she was a minor. She encountered this officer again multiple times and felt threatened, scared, and intimidated every time. The officer called her a liar and threatened to throw her in jail and deport her. The officer claimed to have worked closely with the Guatemalan government for 10 years, which he felt qualified him to know whether she was a minor or an adult. The minor reports that she was not the only person targeted in this way. The officer seemed to think that anyone who was taller or heavier-set was an adult, and he called them liars and threatened to throw them in jail or deport them.

Children also described officers who threw away their personal belongings. Others describe officers throwing their food or belongings on the floor, rather than directly handing these items to the children. One child stated he felt like he and the other children with him were treated “like animals.” Finally, children report having been so terrified by the violent and aggressive behavior of officers that they cried or were unable to sleep or eat. They describe feelings of extreme anxiety and sadness. Some have nightmares about their time in CBP detention and experience other psycho-somatic symptoms, such as shaking or crying, when recalling the harm they suffered.

KIND staff also received reports of gender-based harm while minors were detained. For example, a female minor, who wishes to remain anonymous, was 17 years old at the time she was detained for approximately 14 days. She states that she was treated very poorly by officials and that they woke her up every morning by kicking her. She also describes an incident when she experienced gender-based shame because officers yelled at her to leave a bathroom, but she did not have time to finish taking care of her needs before several male officers came into the restroom. This experience left her feeling humiliated and exposed.



c. Lack of Access to Sufficient Food, Medical Attention, or Other Basic Necessities

Reports regarding a lack of access to sufficient food were also widespread, explicitly violating terms of the *Flores* Settlement Agreement and TEDS standards. Children described being given food that was frozen, undercooked, or spoiled and therefore inedible. Other children report becoming nauseated or vomiting after eating the food. Many children describe going hungry because they received meager portions of food, often described as “snacks,” only once or twice a day. Some describe missing meal distribution because they were in the bathroom; others, being denied water for several hours after asking for it.

Children also regularly complained of inadequate medical attention while in custody, again in direct violation of the *Flores* Settlement Agreement and TEDS standards. Many children reported having symptoms such as fever, ear infection, nausea, stomach pain, sore throat, cough, chills, headaches, and/or body aches while detained, but they were denied access to adequate medical attention when they reported these symptoms to officers. Instead, officers regularly told minors to drink more water or gave the children cough drops or allergy medicine, rather than allowing them to speak with a trained medical professional. One minor, who felt feverish and had a very sore, swollen throat, remembers asking to see a doctor. Officers told her that she could only see a doctor “if she was dying.” Another minor, who was a teenager mother, reports begging officers to take her baby to the doctor after her baby became very ill. The officers first told her that she shouldn’t have left her country if she didn’t want her baby to get sick, and that there would be no “preferential treatment” for her. When the baby’s condition worsened, officers finally agreed to take him to the hospital, where doctors told the mother that the baby had a bacterial infection, likely caused by food he had eaten in detention.

The *Flores* Settlement Agreement requires that UNC be held in facilities that are “safe and sanitary,” and the TEDS make clear that UNC should have access to basic hygiene items and regular showers. However, children reported a widespread lack of basic sanitation and personal hygiene in CBP detention. Sick and well children were kept together in the same overcrowded facilities. Children report that they were never or rarely able to shower and change clothes, even when detained for several days or weeks. Some report wearing the same clothing during their entire detention – clothing that was often very dirty and sometimes wet from having crossed a river. They report having no or limited access to toothbrushes and toothpaste. For example, one minor, who was detained for several weeks, remembers that there were never enough toothbrushes for each child, so they had to take turns deciding who would be able to brush their teeth. Some children report that officers denied them access to the bathroom when they needed it. Others report that officers got angry or humiliated the children when they asked to use the bathroom at a time the officer felt was inconvenient.

Both the *Flores* Settlement and the TEDS specify that UNC should be held in facilities with adequate ventilation and temperature control. However, minors widely reported being held in freezing cold cells (commonly referred to as “la hieleira” or “the icebox”) with no windows and concrete floors. As protection against the cold, children described being provided with aluminum emergency blankets that were uncomfortable and did not keep them sufficiently warm. Many children report being crowded into small spaces with large numbers of people, resulting in insufficient space to sit or lie down. Children



generally described the sleeping arrangements as mats on the concrete floor. However, due to overcrowding, there were often not enough mats for all the children, and many were compelled to try to share mats or to sleep on the concrete floor or concrete benches. Many children report being unable to sleep in detention because the lights were always on, even at night. Others report being woken up in the middle of the night (often in an aggressive manner) so their cell could be cleaned, or so children could speak with officers.

III. Representative Cases³

The following accounts are shared with the consent of the minors involved and are demonstrative of the thousands of complaints KIND received regarding treatment of UNC's in CBP custody from January – December 2021.

Debra* was 15 years old when two male immigration officers detained her in Arizona on or about October 9, 2021. The officers never gave their names, but she remembers they wore green uniforms. She was very frightened when she encountered the officials. One of them violently grabbed her by the sweater, forced her face-down to the ground, and put his knee in her back while handcuffing her. She was in a great deal of pain, and it was extremely difficult to breathe. She lay face-down on the ground for approximately 2 minutes, with the officer's body pressure on her back. The officer was violent and aggressive, and Debra was terrified. The officer did not speak to her in a language she could understand except when he told her in Spanish to "get up" off the ground. During this violent encounter, she sustained abrasions and bruises to her face and legs, and she was sore, especially on her back and shoulders, for several days after the encounter. The photos included in Appendix B were taken on October 14, 2021, approximately 5 days after the incident. Abrasions and bruises are still visible on her face, and bruises are visible on her leg. She also reports having bruises on her thighs but did not feel comfortable having this part of her body photographed. After her apprehension, Debra was taken to a detention facility and spoke with a medical provider for 2 minutes or less, but they told her there was nothing they could do for her injuries. They did not clean her injuries or provide her with any bandages. She was also interviewed by a female immigration officer who explained that she was the "police of the police." The woman introduced herself, but Debra does not recall the woman's name. She does, however, remember that the woman was wearing a blue uniform. The woman in the blue uniform interviewed Debra for about 20 minutes, asked about her injuries, and took photos. However, nobody explained what would be done with the information obtained during the interview. She was not advised of her rights while in detention. Debra begins to cry whenever she thinks about the immigration officer's violence toward her, and she does not like discussing the trauma that she experienced.

Nathaniel* was 17 years old when CBP officers detained him in Texas on or about March 3, 2021. What he remembers most about his time in CBP detention is that it was extremely cold, that he barely slept, and that he did not receive sufficient food, so he was almost always hungry. He thought he would only be there for 3 days, but he was there for approximately 12. He was only permitted to shower

³ The minors are identified in the body of this complaint by pseudonyms. However, the attached Appendix A includes their actual names and A numbers.



2 or 3 times while he was detained. Officers would only let him sleep for short durations of time before they would wake him up to conduct roll call, speak with children, or clean the cell. There was not enough space in the cell for everyone to sleep at the same time. It was a horrible experience for him. He says that the other children cried a lot, because the officers were not nice to them, but he did not want to elaborate on what he meant because he was afraid to share further details.

Abel, Cameron, and Mikayla* are siblings. They were respectively 5, 6 and 15 years old when they were detained by CBP officers on or about March 18, 2021 in Texas. They spent approximately 16 days in detention. Officers believed that Mikayla was Abel and Cameron's mother, rather than their sister, and they called her a liar when she said she was a minor. They tried to get her to say that she was an adult and that she was the mother of the boys, and eventually made her sign a document stating that she was a minor. Abel was not able to discuss his experience in detention, possibly as a result of his young age and the trauma that he experienced there. Cameron stated that he had a stomachache while in detention and that he did not like the food. He said it was a horrible experience but was unable to elaborate further. Mikayla shared that on approximately the 5th day of their detention Cameron, Abel, Mikayla, and other detained children became very sick after eating rice and tortillas that they believed were spoiled because they tasted sour. Other food they ate tasted under-cooked. Mikayla reports that they had stomach cramps, fever, and other flu-like symptoms. She vomited 2 or 3 times. Her brothers were sicker than she was and vomited multiple times a day, multiple days in a row. Mikayla alerted CBP officers at least 5 times that they were sick, but the officers did nothing to help them. Officers told her they did not have medication or medical personnel available to help the children. Mikayla remembers that they said, "This is not a hospital, and we are not doctors. We cannot help you." Mikayla asked if they could eat anything else instead of the food which had made them ill. Officers replied that they would either eat what was given to them or not eat at all, and that it was not their concern whether the children ate or not. Mikayla was very worried about her little brothers, who continued getting sick. At one point the boys stopped eating altogether because they vomited anything they ate. Later, the boys only ate apples or drank juice.

Mikayla further reports that during their 16-day detention, she and her brothers were only permitted to shower and change their clothes approximately 3 times, and that they were only permitted to brush their teeth twice. They were held with approximately 100 children, in a cell that Mikayla estimates could only fit 25 children comfortably. The cell did not have any windows. Mikayla reports that she hardly ever slept while in detention and that she was completely exhausted by the time that she left. It was difficult to sleep because the rooms were so crowded, the lights were almost always on, and the officers woke the children regularly to clean the cell. Furthermore, there was not sufficient space for all the children to lie down at the same time, and children quarreled over a very limited number of sleeping mats available. Mikayla stated that the children were "practically sleeping on top of each other." Mikayla also reports that the cell was kept extremely cold and the aluminum blankets that they were given did not keep them warm.

Mikayla also reports that one particular officer was very aggressive and threatening. She does not know his name but described him as a bald man in a green uniform. This particular officer terrified the children because he threatened to beat 6-year-old Cameron with a nightstick because he was



lethargic as a result of his illness and did not want to leave a room when ordered to do so. He eventually lifted Cameron up by his T-shirt. The officer threatened to beat the children with a nightstick many times during their detention. He almost always yelled when he spoke to them, and he told the children that if they didn't want to be treated the way they were being treated then they never should have come to the United States.

Mikayla reports that she cried every day, multiple times a day, while she was in detention because the conditions were so horrible and because of the deep fear and anxiety she felt as a result of the officer's threats and their ongoing illness. She shows signs of being very nervous and uncomfortable when discussing the trauma she experienced.

IV. Recommended Course of Action

KIND calls on the DHS Office for Civil Rights and Civil Liberties and the Office of the Inspector General to investigate these widespread reports of abuses of UNC's detained by CBP, and we request a copy of any written report stemming from that investigation. Furthermore, CBP should immediately and fully adhere to all TVPRA, *Flores* Settlement Agreement, and TEDS requirements, including those governing the timely transfer to ORR custody of unaccompanied children arriving at the U.S.-Mexico border, whether at or between ports of entry. Finally, consistent with Congress's directive as part of the Consolidated Appropriations Act, 2022, DHS should hire state-licensed child welfare professionals at southern land border CBP facilities.⁴ These professionals should conduct protection screenings of arriving children, ensure appropriate care, and maintain children's family unity. Unlike unlicensed CBP agents, officers, and other personnel, child welfare professionals possess the expertise necessary to ensure the safety and well-being of unaccompanied children in CBP custody.

We look forward to continued communication with you regarding these troubling trends. Please do not hesitate to reach out at csessions@supportkind.org or 623-444-5745. Thank you for your attention to this this urgent matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "CSM", is written over a horizontal line.

Carly Sessions

National Senior Attorney

⁴ See Consolidated Appropriations Act, 2022, Explanatory Statement, Division F—Department of Homeland Security; <https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-F.pdf>.

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2022, I served the foregoing EXHIBIT B on all counsel of record by means of the District Clerk's CM/ECF electronic filing system.

/s/Peter Schey
Counsel for Plaintiffs
CENTER FOR HUMAN RIGHTS &
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JENNY LISETTE FLORES., *et al.*,

Plaintiffs,

v.

MERRICK B. GARLAND, Attorney
General of the United States, *et al.*,

Defendants.

Case No. CV 85-4544-DMG-AGR_x

**EXHIBIT C TO PLAINTIFFS’
RESPONSE TO NOTICE OF
REQUEST FOR EXTENSION OF
SPECIAL
MASTER/INDEPENDENT
MONITOR TERM (ECF NO. 1237)**

[HON. DOLLY M. GEE]



April 6, 2022

U.S. Department of Homeland Security
Office of Civil Rights and Civil Liberties
Compliance Branch, Mail Stop #0190
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528-0190

Sent via Email: CRCLCompliance@hq.dhs.gov

Re: Abuse of Unaccompanied Non-Citizen Children in Customs and Border Protection Custody Between January and August 2021

1. Introduction

The Florence Immigrant and Refugee Rights Project is a 501(c)(3) non-profit organization that provides free legal and social services to adults and unaccompanied children facing immigration removal proceedings in Arizona. The Florence Project provides an array of legal services to unaccompanied children placed in federally funded shelters in Arizona, including age-appropriate legal orientations, a legal intake with every child to screen for legal relief, and direct representation of children in immigration court or before the U.S. Citizenship and Immigration Services (“USCIS”). The Florence Project also refers children to attorneys after release from the custody of the Office of Refugee Resettlement (ORR). In addition, the Florence Project has a dedicated team of social workers who provide services to certain vulnerable detained unaccompanied children.

The children we serve have arrived at ORR shelters after spending time in the custody of Customs and Border Protection (“CBP”). As part of our legal intake, we ask children about their treatment in CBP custody. We have long been alarmed by our clients’ reports of verbal and physical abuse while in CBP custody. In 2009, we documented many of these complaints in a report, “Seeking Protection, Enduring Prosecution.”¹ We are disheartened that many of the same abuses continue more than a decade later. We submit this complaint to document the systemic abuse of unaccompanied immigrant children in the custody of CBP and

¹ Available at <https://www.firrp.org/media/BPAbuseReport.pdf>

urge the Office of Civil Rights and Civil Liberties to take broader investigative action.

This complaint is filed concurrently with other complaints from Immigrant Defenders Law Center (ImmDef), Kids in Need of Defense (KIND), the Young Center for Immigrant Children's Rights, and Americans for Immigrant Justice (AIJustice) regarding similar abuses reported by the unaccompanied non-citizen children (UNC) they serve. The case examples contained in the concurrently filed complaints substantiate the complaints made herein, and vice versa.

2. Our Data Set

The Florence Project tracked abuse reports for a span of nine months between January 1 and August 13, 2021. During that time, our staff completed intakes with approximately 6,000 unaccompanied children. **Out of those six thousand intakes, the Florence Project documented over 900 reports of abuse and legal violations by CBP. Thus, approximately 15 percent of children we interviewed who passed through CBP custody were victims of abuse at the hands of CBP. That number is unacceptably high and likely undercounts the instances of abuse because many children remained afraid to report it.** We then filed more than 130 CRCL complaints at the request of the children who suffered:

- Excessive detention,
- Illegal and inhumane confinement, including holding children in cells/rooms with adults,
- Verbal abuse,
- Physical abuse and mistreatment,
- Deprivation of medical care,
- Failure to provide sufficient food/hydration, and in some cases not providing any,
- Family separation,
- Physical abuse and mistreatment, and
- Human rights violations.

3. Observations of Human Rights Violations of Unaccompanied Children in CBP Custody

While in United States CBP custody, immigrant children have been subjected to conditions that threatened their health and safety:

A. CBP regularly detains children in excess of the 72-hour limit, which facilitates abuse: 792 children we spoke to reported being held in CBP holding centers for longer than 72 hours. This is a direct violation of the Flores Settlement Agreement and the Trafficking Victims Protection Reauthorization Act which mandates that unaccompanied children cannot be held in CBP custody for longer than 72 hours. CBP holding centers are not designated to accommodate children for these excessive periods of time.

The excessive time spent in inappropriate custodial settings facilitates abuse. Children reported government officials insulting them and threatening them with deportation. CBP officers at the holding centers also shoved children, kicked children awake, and hit children on their heads and hands according to reports by our clients. During these excessive stays at the holding centers, children reported not receiving enough food. They also reported being unable to shower regularly and substandard medical assistance. Our clients reported the following:

- One child reported being held for five days in the holding center. CBP did not allow the child to make any phone calls and told the child that “no one loves” the child. CBP officer mocked child as the officer said it. The child was held with a large number of other children and was only given a couch to sleep on. The child only had one opportunity to shower. The child observed cameras inside the showering area and felt very uncomfortable.
- One child reported being detained for nine days and not receiving enough food. The child reported only eating twice a day and often going hungry.
- One child reported being held for ten days and not being allowed to make a phone call during that time.
- One child reported being held for ten days and receiving little water even though the child kept asking for more. CBP officers swore at the child and called the child a “criminal.”
- One child reported being held for six days and going hungry because the child did not receive sufficient food.
- One child spent nine days at the holding center and reported having to share a bed with two other children. The child reported being so cold that the child became sick.
- One child reported being detained for seven days in a room with about 70 people in it. There was no room to sit or sleep in this area because it was so full.

- Two children reported being held for 18 days in the holding center.
- One child reported being in the holding center for 13 days and was not given enough food during this time. The child was not allowed outside during this time.
- A 16-year-old child was detained for six days in poor conditions and lacked adequate food. The child reported stomach pains from the food the child received and was not given medical attention when it was requested. The child was very cold in the holding center. The child reports that the child's cousin with whom the child travelled was held until the cousin's 18th birthday, at which point the cousin was transferred directly to an adult detention center, separating the child from the only family member with the child. A 16-year-old child reported being held for eight days and observed other young children having to sleep on the floor because of a lack of beds.
- A child was detained for ten days and was hungry the entire time. During that time, the child was never let out of the room where the child was held.
- A child reported being held for seven days and receiving insufficient food.
- Two children reported being held for six days and being served cold and bad-tasting food.
- One child reported being detained for 17 days in the holding center.
- One child reported being held for eight days in a cramped cell with 32 other children. The child was not given a mattress to sleep on.
- A child reported being held for 16 days and experienced verbal abuse by CBP officers during this time.
- One child was held at the holding center for 13 days and was only given one water bottle a day. The child was threatened with deportation and was only allowed three showers during the stay.
- One child was in the holding center for 14 days and only allowed to shower once the entire time. The child was also not given enough food during this time.

B. CBP Regularly houses children in rooms with adults who are strangers to them: More than 25 children reported being held in holding centers in rooms/areas with unrelated adults. These adults were not family or known to the children. Many of the children reported feeling afraid. This is a violation of the basic civil and human rights of children as well as a direct violation of

the Flores Settlement Agreement, which requires that children be held in separate accommodations from unrelated adults.

C. CBP officers verbally abuse children in detention: 85 children reported verbal abuse by the officers in charge of taking care of them. Children reported being insulted and yelled at several times.

- One child was called a criminal and cussed at by an officer.
- A child reported to us that an officer called her a “bitch”.
- One child report being called a “*pendejo*” (asshole) by an officer.
- A child reported being screamed at by an officer asking the child why the child came to the United States.
- One child reported that CBP officers yelled at the child until the child cried.
- A child was yelled at and threatened with deportation by the CBP officers.
- A child reported being called a “*cabron*” (asshole/dumbass) by an officer.
- A child reported being called “a piece of shit” by an officer.

D. CBP officers physically abuse detained children: 28 children reported CBP physical abuse to the Florence Project.

- A 17-year-old minor witnessed CBP agents use a Taser gun on other children as a punishment. The child was in constant fear after seeing other children being tased on the hand and neck. Although the child looked away each time this happened, the child was able to hear the cries of the impacted children.
- One child reported that an officer yelled at the child and threw the child to the ground. The officer held the child on the floor by putting a knee on the child’s back.
- One child reported that a person cleaning the holding center stepped on the child’s fingers and insulted the child when the child complained. The child witnessed CBP officers kick another child three times for sleeping in the wrong place.
- A child reported witnessing an officer kick another child in the head.
- A child reported being woken up by officers kicking the children and their mattresses.
- Children reported being woken by officers slapping their bed sheets.
- A 17-year-old child reported that a CBP officer shoved the child.

E. CBP denied necessary medical care and ignored children's requests for medical care: Approximately 14 children reported being sick or getting sick while in CBP holding centers and not receiving adequate care.

- One child reported that the food provided made the child sick with a headache. When the child examined the wrapped of the burritos served by CBP, they were expired.
- One child reported having COVID symptoms. CBP officers ignored the child until the child insisted on a COVID test. Upon testing positive, CBP officers refused to assist the child when the child requested toilet paper and water.
- A child who spent nine days at the holding center reported being so cold that the child became sick with a cold.
- One child reported getting stomach pains after eating frozen food. The child asked for medical attention but never received it.
- A child held for five days was very cold and became sick but was not given medical attention despite a request to see a medical provider.
- A child reported that the quality of food was bad. The child stated that food was spoiled and other children would not eat it because it made the child sick. The child stated that the water tasted strongly of chemicals.
- One child stated that the child's sister became sick with a respiratory illness and the nurse told her to just drink water and didn't provide medicine or a COVID test.
- A child reported being sick for five days while detained. Although the child was vomiting and had diarrhea, the officers did not provide medical attention. One officer told the child that "if you want medication, you have to stay five more days in detention." In those five days, the child only ate fruit because the other foods offered made the child feel sick.
- A child reported that the child felt sick while in CBP custody. A CBP officer examined the child and said that the child was fine, but the illness worsened. After the child arrived in ORR custody and was seen by medical professional, the child was immediately instructed to begin taking medication. The child believed that CBP's failure to provide medical assistance allowed the condition to worsen.

F. CBP failed to provide children with privacy, especially in intimate settings. Seven different children reported feeling unsafe due to cameras being placed in rooms where they were showering.

- A 17-year-old child who was at the holding center for nine days was only allowed to shower twice while detained. The child reported feeling unsafe because there were cameras in the showers.
- A 17-year-old child reported that cameras in the shower stalls made the child feel uncomfortable.
- A 12-year-old child reported seeing cameras in the showers while at the holding center.
- A 16-year-old child reported seeing cameras in the showers while at the holding center.
- A 16-year-old child reported seeing cameras in the showers and in the bathrooms while at the holding center.
- A 15-year-old child reported cameras in the bathroom while at the holding center.
- A 17-year-old child reported being uncomfortable because the security cameras faced the shower stalls.

4. Recommendations

The examples included in the concurrently filed complaints demonstrate that CBP's abuse of children is widespread. It is not limited to one child at one instance. It is not limited to the conduct of a "bad apple" employee within the agency. It is not limited to even a rogue remote CBP outpost that lacks training and resources. The abuse of children in CBP custody is common. The sheer number of children who have reported abuse, many of whom told us that they fear retaliation and were afraid to speak up, thus suggesting that these numbers are a fraction of the actual problem, shows that CBP engages in a pattern and practice of treatment characterized by overcrowded facilities, a lack of adequate food, water, medical care, and privacy, and the verbal and physical abuse of the most vulnerable immigrants.

This is unacceptable. Our organizations offer suggestions to improve the treatment of unaccompanied children in the paragraphs below. We believe that these will offer immediate solutions to ameliorate some of the problem.

While these recommendations will help in the short term, we call on the federal government to reimagine and reinvent the system for caring for unaccompanied immigrant children. CBP is an agency that, through these complaints, has shown itself to be incapable of providing adequate care. Worse still, the agency's treatment of unaccompanied children is marked by horrific conditions, outdated

facilities, and abuse. This agency cannot and should not hold children. We demand that the government create a child-friendly, trauma-informed reception system that relies on trained child welfare professionals working in the best interest of the children in their custody.

The following changes must also be implemented immediately:

- 1) ***Strict adherence to the TVPRA and the Flores settlement agreement:*** CBP should adhere to the requirements laid out in the *Flores* settlement agreement and the TVPRA. Specifically:
 - Children should not be held in CBP custody for more than 72 hours, as these facilities have never been designed to house children for any extended period and their prolonged detention leads to their continued exposure to abhorrent conditions.
 - Children in CBP custody must be provided with an environment that is safe and sanitary. This should include adequate access to bathroom facilities, toothbrushes, showers, clean clothes, medical care, as well as adequate and edible food and water. Age-appropriate food should be provided for infants and toddlers. Children should not be made to sleep on concrete floors in frigid rooms with bright lights on all hours of the day and night. CBP must provide adequate medical services to children in their custody, including mental health services.
- 2) ***Protect children's right to privacy:*** CBP officials should implement policies and standards that protect and respect children's right to privacy. Specifically, CBP should ensure that children are afforded individual privacy in shower and bathroom facilities. CBP must immediately remove cameras from sensitive locations such as bathrooms.
- 3) ***Adherence to and enforcement of the CBP National Standards on Transport, Escort, Detention and Search (TEDS):*** All CBP officials should consider the best interests of the child in all decisions, as required by 2015 TEDS Standard 1.6. Moreover, CBP should promptly promulgate guidelines, like those proposed in the 2016 *Interagency Framework on Considering the Best Interests of Unaccompanied Children* to ensure that all CBP officials consider children's best interests in every decision from the first encounter through processing, detention, and release or transfer. CBP should also make the TEDS standards enforceable to ensure that all children are receiving appropriate care in CBP facilities. CBP should regularly conduct reviews and encourage external reviews and inspections by non-

governmental organizations and legal services providers and at all facilities holding children to ensure compliance with the TEDS standards and order corrective action and additional training when violations are found. Results or summaries of these reviews should be publicly available. CBP should also regularly review the TEDS standards for additional improvements to further promote the safety and wellbeing of children in CBP custody.

- 4) ***Standards of care centered on the best interests of children:*** CBP's standards of care should be centered on advancing the best interests of children. Accordingly, CBP should meet or exceed standards of care recommended by pediatric health and child wellbeing experts, including access to clean bathroom and shower facilities that allow for individual privacy; clean, age-appropriate clothing; adequate bedding, food, water, and personal hygiene time and products; adequate medical care; telephone access to contact family; and the ability to remain with trusted family caregivers but separated from unknown adults. Facilities should be temperature-controlled, have adequate lighting, and lighting should be adjusted to facilitate nighttime sleep.
- 5) ***Mandatory Training of CBP officers and staff:*** CBP officers and staff should be trained regularly on topics such as cultural competency, basic human rights, trauma-informed approaches, child development, de-escalation techniques, harm reduction, and the basics of trafficking and asylum.
- 6) ***Access to a phone with a complaint hotline and telephonic access to legal services providers:*** CBP must provide all minors in its custody with regular access to a confidential telephone that is equipped to make free calls to family and legal services providers and to access a free private hotline available for children to report abuse. Any child that asks to make a phone call must be allowed to do so at any time.
- 7) ***Access to interpreters:*** CBP should ensure access to interpreters for children in CBP custody. This includes hiring bilingual officers trained to recognize language access needs, training officers in language assessment, and providing full-time access to an interpretation service that includes Indigenous language interpreters.
- 8) ***Hire Child Welfare Professionals:*** Consistent with Congress's directive as part of the Consolidated Appropriations Act, 2022, DHS should hire state-

licensed child welfare professionals at all southern land border facilities.² These professionals should conduct protection screenings of arriving children, ensure appropriate care, and maintain children's family unity. Unlike unlicensed CBP agents, officers, and other personnel, child welfare professionals possess the expertise necessary to ensure the safety and well-being of unaccompanied children in CBP custody. Children should be able to be in reasonable telephonic contact with confirmed family members, just as they are in ORR custody.

- 9) ***Access to Legal Counsel:*** CBP should prioritize access for legal services providers in CBP detention centers. LSPs should have the ability to meet with children in confidential spaces (both in person and telephonically), have access to rosters of children in CBP custody, and access to areas in the CBP facility where children are held to monitor conditions.

5. Conclusion

The data herein and that included with the other concurrently filed complaints demonstrates that CBP regularly violates federal law. The abuses documented herein are a pattern and practice at multiple CBP locations throughout the border. The Florence Project urges the Office of Civil Rights and Civil Liberty to investigate immediately and to bring necessary reforms to a system that permits the regular abuse of children. Please do not hesitate to contact me with questions or concerns.

Laura Belous

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² See Consolidated Appropriations Act, 2022, Explanatory Statement, Division F—Department of Homeland Security;
<https://docs.house.gov/billsthisweek/20220307/BILLS-117RCP35-JES-DIVISION-F.pdf>.

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2022, I served the foregoing EXHIBIT C on all counsel of record by means of the District Clerk's CM/ECF electronic filing system.

/s/Peter Schey
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JENNY LISETTE FLORES., *et al.*,

Plaintiffs,

v.

MERRICK B. GARLAND, Attorney
General of the United States, *et al.*,

Defendants.

Case No. CV 85-4544-DMG-AGR_x

**EXHIBIT D TO PLAINTIFFS’
RESPONSE TO NOTICE OF
REQUEST FOR EXTENSION OF
SPECIAL
MASTER/INDEPENDENT
MONITOR TERM (ECF NO. 1237)**

[HON. DOLLY M. GEE]



April 6, 2022

U.S. Department of Homeland Security
Office for Civil Rights and Civil Liberties
Compliance Branch, Mail Stop # 0190
2707 Martin Luther King, Jr. Ave., SE
Washington, DC 20528-0190
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Via email

Re: **U.S. Customs and Border Protection's Consistent Failure to Comply with the Terms of the Flores Settlement Agreement and Their Own Standards on the Transport, Escort, Detention and Search of Unaccompanied Children**

Americans for Immigrant Justice (AI Justice), on behalf of their clients, submit this administrative complaint to the Department of Homeland Security (DHS), Customs and Border Protection (CBP), based on their consistent failure to adhere to their own standards on the Transport, Escort, Detention and Search (TEDS)¹ of Unaccompanied Children (UC) as well as their failure to comply with the terms of the *Flores* settlement agreement². This complaint is filed concurrently with other complaints from other organizations, Immigration Defenders, Kids in Need of Defense and the Florence Immigrant Refugee Rights Project, regarding similar abuses reported by the UCs they serve. We urge CRCL and Office of Inspector General to conduct a full inquiry into mistreatment of UCs and adopt preventative measures to avoid inflicting future harm to children in their custody.

Introduction

AI Justice is a non-profit law firm that provides free legal assistance to immigrants. AI Justice's Children's Legal Program was established in 1999 and has served thousands of unaccompanied children since that time. AI Justice is also the only legal service provider in South Florida that provides pro bono assistance to unaccompanied children detained in Office of Refugee Resettlement (ORR) shelters.

From 2019-2021, AI Justice interviewed approximately 12,731 unaccompanied children who passed through ORR facilities that we serve. This complaint encompasses incidents that took place during that timeframe.

¹ US Customs and Border Protection. *National Standards on Transport, Escort, Detention, and Search*. US Department of Homeland Security, Oct. 2015, www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf.

² *Flores v. Reno*, Case No. CV 85-4544-RJK(Px).



The *Flores* settlement agreement³ and CBP's own National Standards on TEDS⁴ collectively govern the treatment of children in DHS custody. Collectively, the *Flores* settlement agreement, TEDS and the later codified Trafficking Victim Protection Reauthorization Act (TVPRA)⁵ set the standards for the treatment and care of UCs while in CBP holding cells, commonly referred to as “*hieleras*” and “*perreras*,” such as access to “toilets and sinks; professional cleaning and sanitizing at least once per day; drinking fountains or clean drinking water along with clean drinking cups; adequate temperature control and ventilation; and clean bedding.”⁶

Importantly, the TEDS standards state that CBP employees should perform “their duties in a non-discriminatory manner, with respect to all forms of protected status under federal law, regulation, Executive Order, or policy, with full respect for individual rights including equal protection under the law, due process, freedom of speech, and religion, freedom from excessive force, and freedom from unreasonable searches and seizures.”⁷

Our Findings

Despite the requirements of the *Flores* agreement and CBP's own policies, the vast majority of the 12,732 minors who we met with between 2019-2021 reported violations of the *Flores* settlement agreement and CBP's TEDS guidelines.

2019

The data and statements outlined below were originally obtained and published in a report by our office in October of 2020.⁸ Collectively they demonstrate that most of the children interviewed by our office in 2019 were held in deplorable and inhumane conditions in violation of the standards set out by the *Flores* settlement and CBP's own policies and procedures:

³ *Flores v. Reno*. See also United States Code. Title 6, section 279.

⁴ US Customs and Border Protection. *National Standards on Transport, Escort, Detention, and Search*. US Department of Homeland Security, Oct. 2015, www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf, p. 22.

⁵ National Immigration Forum. “Trafficking Victims Protection Reauthorization Act Safeguards Children.” p. 1, immigrationforum.org/wp-content/uploads/2018/05/TVPRA-Advocacy-2018-Final-Final.pdf.

⁶ US Customs and Border Protection. *National Standards on Transport, Escort, Detention, and Search*. US Department of Homeland Security, Oct. 2015, www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf, p. 22.

⁷ *Id.* at 4.

⁸ Americans for Immigrant Justice, *Do My Rights Matter: The Mistreatment of Unaccompanied Children in CBP Custody*, October 2020 found at <https://aijustice.org/do-my-rights-matter-the-mistreatment-of-unaccompanied-children-in-cbp-custody/>.



- **Poor Sleeping Conditions and Freezing Temperatures:** More than 64% of minors AI Justice interviewed complained about the cold temperatures in these facilities. Many children also reported poor sleeping conditions and being given a piece of mylar as a blanket and a thin mattress to sleep on. These aluminum blankets did not provide enough warmth for the very low temperatures of the *hielera* or the holding facility.
- **Lack of Water and Food:** About 40% of unaccompanied minors who were interviewed by AI Justice complained about the lack of food and water in border detention facilities. The 2008 CBP Memo regarding Hold Rooms and Short-Term Custody requires officials to provide juveniles who are detained for longer than eight hours with regularly scheduled hot meals, and to provide snacks and milk upon request for the youngest detained children and pregnant women.⁹ Detained youth said CBP often failed to adhere to this policy.
- **Lack of Access to Personal Hygiene:** Lack of access to shower and ability to practice dental hygiene was frequently reported by the children we interviewed. Likewise, many children reported a lack of privacy and, at times, not being allowed access to a bathroom for hours.
- **Inadequate Medical Care:** Our clients have also reported lack of access to adequate medical care while in CBP custody. The following complaint is one particularly disturbing example of how the lack of medical care and training in CBP custody came dangerously close to resulting in loss of life:
 - I.D.G.M., who at the time of her apprehension was only 15, states that when she was detained for approximately 12 days, she began experiencing excruciating pain. She spent her time crying and vomiting from the pain in her abdomen. Despite her attempts to seek medical attention, she was dismissed by the officers and told she would be fine. One officer went as far as to accuse her of feigning illness to force them to “waste money” on her and told her she should tell them she feels fine so they would not have to take her to hospital. I.D.G.M. was eventually transported and treated for kidney stones. The treating physician told her that if they had waited any longer, the situation would have been far graver.
- **Verbal and Physical Abuse:** CBP officers may be the first individuals a migrant child encounters upon arriving in the United States. This initial encounter comes after children have made a long, arduous journey, often after fleeing dangerous situations in their home countries. Children come to

⁹ Aguilar, David V. *Hold Rooms and Short Term Custody*. US Customs and Border Protection, US Department of Homeland Security, 2 Jun. 2008, foiarr.cbp.gov/docs/Policies_and_Procedures/2011/200842354_378/1104271006_Hold_Room_Custody_Directive_Reading_Room.pdf.



the United States expecting to be safe. Instead, they face abuse by the first people they encounter. Too often our clients have reported being subject to verbal and physical abuse/excessive force. In 2019, 147 children reported physical abuse and 895 reported verbal abuse. These numbers only account for the brave children and youth who felt comfortable enough to report their experiences. It is our experience that these numbers are likely higher. The example below is unfortunately familiar to us as it echoes what several of our clients reported during our initial interviews:

- E.M.C.S., a young girl who was very ill and had a high fever while in CBP custody, requested medical attention and never received any. While E.M.C.S. slept, an officer called her name, but she was too weak to respond or stand. When the officer approached E.M.C.S. and she still could not get up, the officer kicked E.M.C.S. in the ribs while she was lying on a mattress on the floor.

2021 to Present Day

Looking forward to 2021, violations of the *Flores* settlement agreement and CBP's TEDS appear to continue at the same high rate as years prior. In 2021, 70% of children we interviewed reported conditions and/or abuse while in CBP custody in violation of the *Flores* settlement agreement. From 2019-2020, the percentage of children who reported mistreatment was 85%. This comparison demonstrates little has improved at our border facilities for unaccompanied children. Youth we have screened in the last twelve months continue to report conditions that demonstrate disregard for the standards of care laid out in the *Flores* settlement agreement as well as CBP's own guidelines. Below is a sampling of complaints heard by our office in 2021-2022 of children whose mistreatment has unfortunately become emblematic of the stories we hear from children who have passed through CBP custody:

-50% of children reported cold temperatures where the children describe their lips becoming chapped, bodies trembling, and/or becoming sick with a fever or cold.

- N.T.M., 13, asked to be moved because she was so cold in her cell that her skin went purple, and her lips were so dry they cracked and bled.
- K.P.R., 9, reported feeling so cold his "bones hurt."
- D.C.L., 16, reports being so cold he trembled. He said he did not have a sweater and all they were given were mylar blankets that often broke. When they tried to grab another blanket, the officers would yell at them. He stated he felt desperate to get out of the cold.
- A.B.B., 17, echoed the stories of many when she reported that she was very cold during her time in CBP custody and that the mylar blanket provided was not enough to keep warm.

-32% of children report being detained for longer than 72 hours.

- M.L.G., 13, was held for 19 days. During that time, she reports she was unable to shower,



change or brush her teeth. Simply recounting her days in CBP custody causes M.L.G. to cry.

- C.Y.S.A., 14, was held for five days. When she first arrived, she reports being left outside to wait for CBP to transport her for five hours in the middle of the night with other youth.
- D.C.L., 16, was held for 10 days.
- C.L.R., 16, was held for 7 days.
- N.T.M., 13, reported being held for 9 days.
- K.G.C., 15, states she was held for 10 days.

-13% of children reported lack of food and/or water. Children reported that the food provided was insufficient, malnourishing, and at times, inedible due to it being spoiled or raw.

- K.G.C., 15, reported only receiving bread despite being detained 10 days.
- J.H.M., 9, reported receiving raw ham and burgers containing raw meat.
- J.E.A., 15, reported being thirsty and the only access to water being right a by a bathroom with dirty water so he worried about drinking water from there. He also reported being hungry and having only been fed a sandwich.

-6% reported verbal abuse and/or harassment by adult immigration officials.

- J.E.A., 15, reported one officer swearing at him and using the word “fuck” and having officers laugh but not understanding exactly what was being said to him or about him.
- D.C.L., 16, stated that there were two officers that would yell at the detained children for any perceived misstep and feeling very intimidated. He stated: “It felt so horrible, you were trapped.” He reported feeling that there was a lot of racism and not understanding why he was being treated so poorly when he came to the U.S. seeking safety.
- H.M.C., 15, stated an officer said “shut your fucking mouth” after he attempted to help other migrants understand his order. He also reported several officers would threaten to send youth back to their countries and boasted that they could easily do so.
- C.R.F., 17, stated an officer told him he would be returned to Honduras to frighten him. He cried after that. He remembers officers saying things like “this is not your country, and you are here illegally” to put them down.
- K.X.S., 16, stated that officers harassed her about her age and were making jokes at her expense. She reported that they said she looked older and threatened to send her to jail.
- A.B.B., 17, reported being yelled at for greeting someone she recognized during her registration and accusing her of providing a fake birth certificate.
- K.V.A., 16, witnessed others being verbally berated and kicked awake if they were not responsive.

-5% of children reported being detained with adults.

- J.H.M. stated that he was in the holding cell with four adult men, two of which harassed the 9-year-old telling him that he was his father and another, his uncle because one of them had



impregnated his mom. J.H.M was distraught and tried to tell CBP officers what was happening to him but still he remained in the cell with adults. He reports lying on the floor and crying.

-1% of children reported physical abuse or excessive force.

- One child, D.G.M.H., 15, reported having her foot handcuffed to a chair despite being cooperative and answering CBP officers' questions.
- H.M.C., 15, reported that if their name was called and they did not respond because they were sleeping, officers would kick them awake. He reports that they wear heavy work boots, and this was very painful.
- F.C.R., 15, reported being kicked awake when he was sleeping.

-17% reported other and/or egregious mistreatment.

When we looked more closely at cases of mistreatment classified as "other," we found comparable stories as those described herein. Many children reported the food they were given was undercooked, frozen, tasted rotten, or gave them digestive issues. Many children reported deplorable sleeping conditions where they had to share a mattress with multiple people and sometimes, even had the thin mattress they were given taken away as punishment. Children were often woken up multiple times at night, sometimes violently. Children often shared witnessing the mistreatment of other children, such as seeing other youth being yelled at or harassed. Other common concerns were the lack of access to regular and private showers and not being allowed to change their clothing or brush their teeth regularly:

- K.G.C., 15, reported sleeping on the same mattress with three other girls due to overcrowding. She stated that she ended up getting lice while in custody. She reports that when she was allowed to shower, she was only allowed to change her clothes once and was only able to brush her teeth twice despite being detained for over a week.
- C.C.L., 10, who was held for over five days, reported feeling hungry and not being able to shower regularly during his time in CBP custody. He states that at one point during his time there he had his mattress taken away. He stated that CBP would take their mattress if they felt someone was misbehaving. He also reported that officers sometimes would use vulgar words directed at them.
- C.L.R., 16, was detained seven days. She reports being so cold she never took off her sweater, which she felt grateful for since she saw most people had their sweaters taken away. She reports sleeping four to a mattress on the floor and feeling hungry because there was not enough food provided. She cried recounting her time in CBP custody. She said she felt horrible and isolated because she was not allowed to speak to her family.
- D.G.M.H., 15, reported a lack of privacy and described that the bathrooms have no doors.
- N.A.E., 12, reported that when he presented himself to immigration, he was told he would be reunited with his mother in the United States and would see her soon. CBP held him for four days before moving him to a hotel where he spent another three days before being illegally



returned to Guatemala without his knowledge or consent.

Conclusion

Our client accounts make clear that the mistreatment and poor conditions that our organization has documented for years continue to be commonplace in CBP holding facilities. The conditions and treatment these children endure are, at best, inhumane and unsanitary, and at worst, punitive and cruel. Each of the instances reported on their own are violations of the *Flores* settlement agreement and CBP standards. In aggregate, they are an indictment on the CBP's treatment of vulnerable unaccompanied children in their custody.

The Trafficking Victim Protection Reauthorization Act (TVPRA)¹⁰ and the *Flores* settlement agreement¹¹ unequivocally state that these facilities must not house children for longer than 72 hours and yet, all too often, that is exactly what occurs. Not only have these facilities have proven to be unsafe and unsanitary for children, but they have also become increasingly repressive and punitive. These are meant to be safe and clean spaces where children are housed for brief periods prior to their transfer to the Office of Refugee Resettlement, not correctional facilities.

The abuse and neglect reported by detained children and youth violate CBP's standards of care, the *Flores* settlement agreement and the TVPRA. The *Flores* settlement agreement, which was meant to ensure that children are kept in safe and sanitary conditions, is more than 20 years old and yet conditions in CBP facilities are continually unfit to house children of any age.

Recommendations

The examples included in the concurrently filed complaints demonstrate that CBP's abuse of children is widespread. It is not limited to one child at one instance. It is not limited to the conduct of a "bad apple" employee within the agency. It is not limited to even a rogue remote CBP outpost that lacks training and resources. The abuse of children in CBP custody is common. The sheer number of children who have reported abuse, many of whom told us that they fear retaliation and were afraid to speak up, thus suggesting that these numbers are a fraction of the actual problem, shows that CBP engages in a pattern and practice of treatment that relies on overcrowded facilities, a lack of adequate food, water, medical care, and privacy, and the verbal and physical abuse of the most vulnerable immigrants.

This is unacceptable. Our organizations offer suggestions to improve the treatment of unaccompanied children in the paragraphs below. We believe that these will offer immediate solutions to ameliorate some of the problem.

¹⁰ National Immigration Forum. "Trafficking Victims Protection Reauthorization Act Safeguards Children." p. 1, immigrationforum.org/wp-content/uploads/2018/05/TVPRA-Advocacy-2018-Final-Final.pdf.

¹¹ *Flores v. Reno*, Case No. CV 85-4544-RJK(Px).



While these recommendations will help in the short term, we call on the federal government to reimagine and reinvent the system for caring for unaccompanied immigrant children. CBP is an agency that, through these complaints, has shown itself to be incapable of providing adequate care. Worse still, the agency's treatment of unaccompanied children is marked by horrific conditions, outdated facilities, and abuse. This agency cannot and should not hold children. We demand that the government create a child-friendly, trauma-informed reception system that relies on trained child welfare professionals working in the best interest of the children in their custody.

1. ***Strict Adherence to the TVPRA and the Flores settlement agreement:*** CBP must adhere to the requirements laid out in the *Flores* settlement agreement and the TVPRA. Specifically:
 - Children must not be held in CBP custody for more than 72 hours, as these facilities have never been designed to house children for any extended period of time and their prolonged detention leads to their continued exposure to abhorrent conditions.
 - Children in CBP custody must be provided with an environment that is “safe and sanitary.” This must include adequate access to bathroom facilities, toothbrushes, showers, clean clothes, medical care, as well as adequate and edible food and water. Age-appropriate food must be provided for infants and toddlers. Children must not be made to sleep on concrete floors in frigid rooms, with bright lights on all hours of the day and night. CBP must end the practice of gathering in one room or cell all children who report being ill with no regard or forethought to their health and wellbeing and no access to medical treatment.
2. ***Protect children's right to privacy:*** CBP officials must respect children's right to privacy and implement policies and standards that protect children's right to privacy. Specifically, CBP must ensure that children are afforded individual privacy in shower and bathroom facilities. Also, CBP must immediately remove cameras from sensitive locations, such as bathrooms.
3. ***Adherence to and enforcement of the CBP National Standards on Transport, Escort, Detention and Search (TEDS):*** All CBP officials must consider the best interests of the child in all decisions, as required by 2015 TEDS Standard 1.6. Moreover, CBP must promptly promulgate guidelines, like those proposed in the 2016 *Interagency Framework on Considering the Best Interests of Unaccompanied Children*, to ensure that all CBP officials consider children's best interests in every decision from the first encounter through processing, detention, and release or transfer. CBP must also make the TEDS standards enforceable to help ensure that all children are receiving appropriate care in CBP facilities. CBP must regularly conduct reviews and inspections at all facilities holding children to ensure compliance with the TEDS standards and order corrective action and additional training when violations are found. CBP must also regularly review the TEDS standards for additional improvements to further promote the safety and wellbeing of children in CBP custody.



4. ***Provide the same standards of care centered on the best interests of children as required in ORR facilities:*** CBP's standards of care must be centered on advancing the best interests of children. Accordingly, CBP must meet or exceed standards of care recommended by pediatric health and child wellbeing experts, including access to clean bathroom and shower facilities that allow for individual privacy; clean, age-appropriate clothing; adequate bedding, food, water, and personal hygiene time and products; adequate medical care; telephone access to contact family; and the ability to remain with trusted family caregivers but separated from unknown adults. Facilities must be temperature-controlled, have adequate lighting, and lighting must not be kept on 24 hours a day.
5. ***Mandatory training of CBP officers and staff:*** CBP officers and staff must be trained regularly on topics such as cultural competency, basic human rights, trauma-informed approaches, child development, de-escalation techniques, harm reduction, and the basics of trafficking and asylum.
6. ***Access to a phone with a complaint hotline and telephonic access to legal services providers:*** CBP must provide all minors in its custody with regular access to a confidential telephone that is equipped to make calls and to access a private hotline available for children to report abuse. Any child that asks to make a phone call must be allowed to do so at any time.
7. ***Access to interpreters:*** CBP must ensure access to interpreters for children in CBP custody. This includes hiring bilingual officers, training officers in language assessment and providing full-time access to an interpretation service that includes Indigenous language interpreters.
8. ***Implement proper surveillance practices in line with privacy laws:*** In so far as a CBP facility subjects children in detention to video surveillance, it must develop and make publicly available policies that require reasonable record retention consistent with federal and state privacy protections and allow access to said recordings when requested by CRCL, OIG, CBP, or other investigatory agencies and stakeholders, as part of an investigation into abuse.
9. ***Hire Child Welfare Professionals:*** Consistent with Congress's directive as part of the Consolidated Appropriations Act, 2022, DHS should hire state-licensed child welfare professionals at all southern land border facilities. These professionals should conduct protection screenings of arriving children, ensure appropriate care, and maintain children's family unity. Unlike unlicensed CBP agents, officers, and other personnel, child welfare professionals possess the expertise necessary to ensure the safety and well-being of unaccompanied children in CBP custody. These professionals should also be permitted to facilitate reasonable telephonic contact with confirmed family members.
10. ***Access to Legal Counsel:*** CBP must prioritize access for legal services providers in CBP detention centers. LSPs must have the ability to meet with children in confidential spaces, have



access to rosters of children in CBP custody, and access to areas in the CBP facility where children are held in order to monitor conditions.

Thank you for your attention to this important matter. Do not hesitate to contact us with questions or concerns.

Sincerely,

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2022, I served the foregoing EXHIBIT D on all counsel of record by means of the District Clerk's CM/ECF electronic filing system.

/s/Peter Schey
Counsel for Plaintiffs
CENTER FOR HUMAN RIGHTS &
CONSTITUTIONAL LAW
Peter A. Schey