

Congress of the United States

Washington, DC 20515

May 5, 2023

Chief Raul L. Ortiz

Chief of the U.S. Border Patrol

U.S. Customs and Border Protection

1300 Pennsylvania Avenue N.W., MS:1345

Washington, DC 20229

Dear Chief Ortiz,

We write with grave concern about an April 13, 2023, San Diego Union-Tribune report that described a nearly week-long incident in which asylum seekers were trapped between the layers of the border wall near the San Ysidro port of entry.¹ According to the report, migrants believed themselves to be in the custody of law enforcement. Reports indicated that DHS personnel were aware of the presence of human beings trapped between the layers of the border wall but took no action, subjecting people for four to seven days without any food or blankets. We have received further reports that migrants have reported physical symptoms of hunger, and that migrants are frequently stranded between border walls for extended periods. Mexican media, including El Imparcial, reported that “Open Air Detentions” had become commonplace by October 2022.²

As U.S. Members of Congress, we are appalled by the mistreatment of any individuals seeking asylum. No one can be subjected to ill-treatment and held in life-threatening conditions.

The U.S. Customs and Border Protection (CBP) guidelines establish that migrants should not be held in holding facilities for longer than 72 hours. Moreover, this guidance requires that detainees, whether in holding rooms or not, are to be provided with meals at regularly scheduled times, have restroom accommodations available, and detainees must be provided with essential personal hygiene items. All efforts must be made to ensure care for migrants, to protect human life, and to uphold the right to seek asylum.

We, therefore, ask that you provide us with answers to the following questions by June 7, 2023.

- When migrants are between border walls and not taken into direct custody for processing at CBP facilities, are they considered to be in CBP custody? We note that CBP has provided quantities of water to migrant groups, which appears to acknowledge at least partial responsibility for the wellbeing of migrants.
- Does CBP monitor the length of time which migrants may spend in the open before they may be removed to CBP facilities for processing?
- Does CBP maintain guidance or protocols for addressing instances when migrants are located between border walls?

¹ *Migrants Say Border Patrol is Keeping Them Between the Border Walls for Days Without Food or Shelter*, San Diego Union Tribune (Apr. 13, 2023) (online at [Migrants say Border Patrol is keeping them between the border walls for days without food or shelter - The San Diego Union-Tribune \(sandiegouniontribune.com\)](https://www.sandiegouniontribune.com/story/news/immigration/2023/04/13/migrants-say-border-patrol-is-keeping-them-between-the-border-walls-for-days-without-food-or-shelter/700000001270001)).

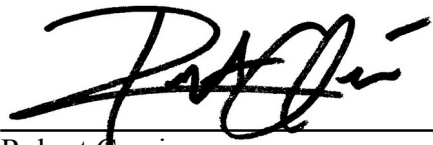
² *Cumplen Migrantes Tres Días Detenidos en el Muro de Estados Unidos*, El Imparcial (Oct. 22, 2023) (online at [Cumplen migrantes tres días detenidos en el muro de Estados Unidos](https://www.elimparcial.com/mexico/cumplen-migrantes-tres-dias-detenidos-en-el-muro-de-estados-unidos/)).

- Does CBP have plans to improve the fast and humane processing of migrants who face outdoor formal or informal detention?

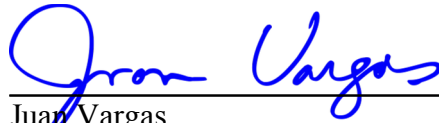
We strongly urge CBP to ensure that migrants are treated respectfully, humanely and follow all applicable laws. Furthermore, we encourage you to make it a priority to ensure that the human rights of migrants are protected and that their asylum claims are respected and evaluated promptly.

We thank you for your attention to this matter and look forward to hearing about the next steps you have taken to address these issues.

Sincerely,



Robert Garcia
Member of Congress



Juan Vargas
Member of Congress



Delia C. Ramirez
Member of Congress