

**Rio Grande Valley Area
Border Patrol Struggles
with High Volumes of
Detainees and Cases of
Prolonged Detention but
Has Taken Consistent
Measures to Improve
Conditions in Facilities**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

January 27, 2022

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

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

SUBJECT: *Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities*

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JOSEPH V CUFFARI
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Attached for your information is our final report, *Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities*. We received technical comments from U.S. Customs and Border Protection (CBP) and incorporated them in the report where appropriate. CBP management elected to forego a formal written response as we made no recommendations in the report.

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

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

Attachment



DHS OIG HIGHLIGHTS

Rio Grande Valley Area Border Patrol Struggles with High Volumes of Detainees and Cases of Prolonged Detention but Has Taken Consistent Measures to Improve Conditions in Facilities

January 27, 2022

Why We Did This Inspection

As part of OIG's annual, congressionally mandated oversight of CBP holding facilities, we conducted unannounced inspections of six locations in the Rio Grande Valley area of Texas to evaluate CBP's compliance with applicable detention standards.

What We Recommend

We did not make recommendations for these inspections because there are relevant outstanding recommendations from a prior review.

For Further Information:

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

What We Found

During our unannounced inspections of six U.S. Customs and Border Protection (CBP) locations in the Rio Grande Valley area of Texas in July 2021, we observed that all four U.S. Border Patrol facilities we inspected struggled with overcrowded holding rooms. However, except for one facility, at the time of our site visit, we did not observe cells so overcrowded that detainees were not able to sit or lie down. Some single adults and some families had been in detention longer than 72 hours. Although noncitizen unaccompanied children (NUC) were held in crowded conditions, CBP met all other *National Standards on Transport, Escort, Detention, and Search* (TEDS) for NUCs at the time of our site visit, at the facility we inspected. CBP also met standards at an Office of Field Operations port of entry we visited.

During our site visits, we observed that Border Patrol had taken measures to address the challenges of prolonged detention, including providing access to showers, changes of clothing, hot meals, and fresh fruit. With a high volume of apprehended single adults and families, Border Patrol set up a temporary outdoor processing site which did not meet some TEDS standards but lessened overcrowding and health risks for detainees.

The Border Patrol has taken measures to improve general health screening and reduce the risk of COVID-19 infection. However, the high volume of apprehensions at the time of our site visit limited the effectiveness of these measures.

CBP Response

CBP management elected to forego a formal written response as we made no recommendations in the report.



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Abbreviations

CBP	U.S. Customs and Border Protection
CDC	Centers for Disease Control and Prevention
COVID-19	coronavirus disease 2019
ICE	U.S. Immigration and Customs Enforcement
NUC	Noncitizen unaccompanied children
OFO	Office of Field Operations
TEDS	National Standards on Transport, Escort, Detention, and Search
TOPS	Temporary Outside Processing Site
U.S.C.	United States Code



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Introduction

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

In 2019, through our unannounced inspections of CBP holding facilities, we identified significant issues, such as dangerous overcrowding and prolonged detention, at several locations along the Southwest border.² We conducted a review of the causes of overcrowding and prolonged detention,³ and concluded that if the Department did not develop a DHS-wide framework for migration surges, CBP would continue to face these challenges. We made six recommendations in the report. CBP concurred with a recommendation to inventory the infrastructure enhancements used in 2019 and incorporate these into its response for future migrant surges; this recommendation is still open. DHS concurred with a recommendation to develop thresholds at which a whole-of-government approach is needed to address migrant surges; this recommendation is also still open. In fiscal year 2020, Congress mandated that we continue our unannounced inspections of CBP holding facilities; in our February 2020 inspections of the Laredo and San Antonio areas we determined that CBP facilities appeared to be operating in compliance with TEDS standards.⁴ This report describes the results of our inspections of the four Rio Grande Valley area short-term Border Patrol facilities, a Border Patrol temporary outdoor processing site (TOPS), and one port of entry in Brownsville, Texas, which we visited in July 2021, as shown in Figure 1.

¹ The TEDS standards govern CBP's interaction with detained individuals. U.S. Customs and Border Protection, *National Standards on Transport, Escort, Detention, and Search*, October 2015.

² *Capping Report: CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge*, OIG-20-38, June 2020, p. 8.

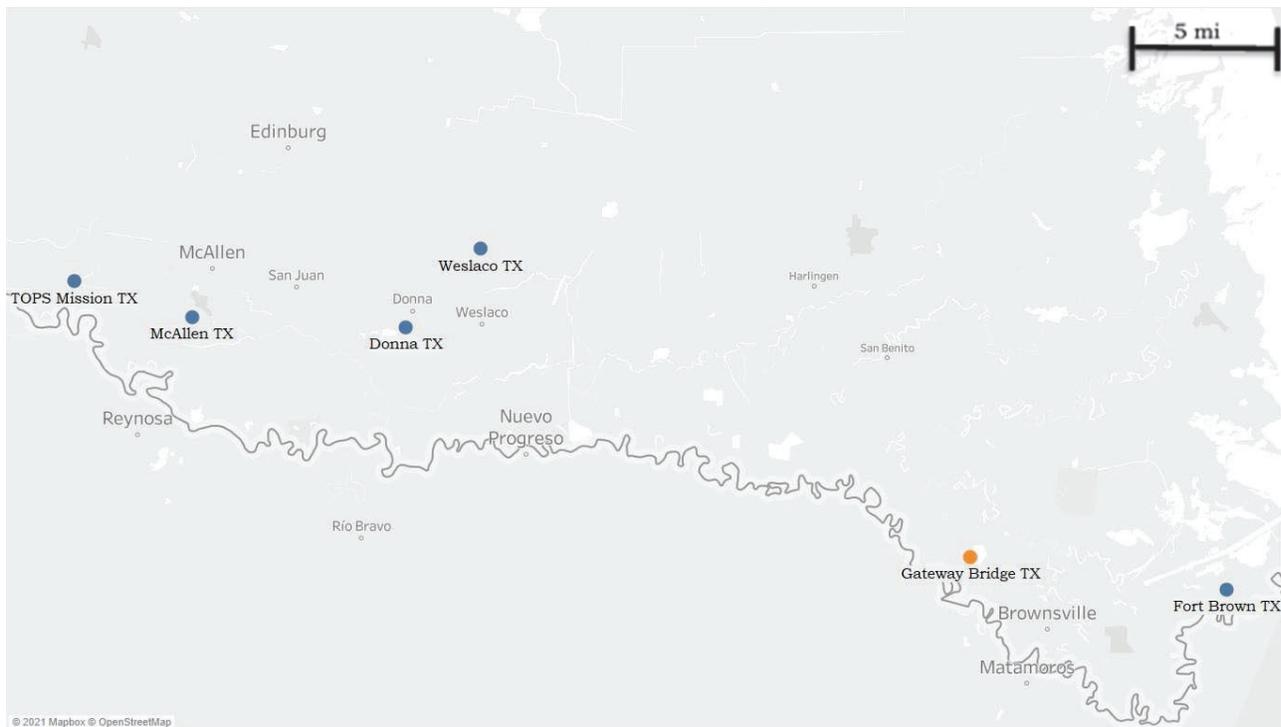
³ *DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*, OIG-21-29, March 2021, pp. 11-12.

⁴ *Five Laredo and San Antonio Area CBP Facilities Generally Complied with the National Standards on Transport, Escort, Detention, and Search*, OIG-20-67, September 2020, p. 3.



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Figure 1. Locations of CBP Facilities Visited in July 2021



Source: DHS Office of Inspector General (OIG)

Background

CBP’s OFO manages U.S. ports of entry where officers perform immigration and customs functions, admitting people who have valid documents for legal entry, such as U.S. passports, visas or legal permanent resident cards, and goods permitted under customs and other laws. Between ports of entry, CBP’s Border Patrol detects and interdicts individuals and goods suspected of entering the United States without inspection. OFO and Border Patrol are responsible for short-term detention, generally of persons who are inadmissible or deportable from the United States or subject to criminal prosecution.

CBP’s holding facilities are required to comply with TEDS standards, which specify how detainees should be treated in CBP custody. According to TEDS, every effort must be made to promptly transfer, transport, process, release, or repatriate detainees as appropriate and as operationally feasible, within 72 hours after being taken into custody.⁵ CBP has an obligation to provide detainees in its custody with drinking water, meals and snacks, access to

⁵ TEDS standards generally limit detention in CBP facilities to 72 hours, with the expectation that CBP will transfer noncitizen unaccompanied children (NUC) to the Department of Health and Human Services, Office of Refugee Resettlement, and families and single adults to U.S. Immigration and Customs Enforcement long-term detention facilities.



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toilets and sinks, basic hygiene supplies, bedding, and under certain circumstances, showers.⁶ CBP must also ensure that holding facilities are kept clean, temperature-controlled, and adequately ventilated.⁷

TEDS standards also outline general requirements related to detainee access to medical care in emergencies. In late December 2019, CBP enhanced these requirements by adopting CBP Directive 2210-004,⁸ which requires “deployment of enhanced medical support efforts to mitigate risk to, and sustain enhanced medical efforts for, persons in CBP custody along the Southwest Border.” To implement this directive, CBP introduced an Initial Health Interview Questionnaire (CBP Form 2500),⁹ and a Medical Summary Form (CBP Form 2501) to document health conditions, referrals, and prescribed medications. CBP also expanded its use of onsite medical contract staff to provide basic medical care to detainees. The same contractor provided medical staff at each CBP facility we visited, and generally ensured its staff worked from the same electronic medical record.

As shown in Table 1, migrant apprehensions on the Southwest border can vary widely by year. Following a year of a high volume of apprehensions in 2019, numbers dropped in the first half of FY 2020, and at the start of the coronavirus disease 2019 (COVID-19) pandemic, initially fell further. To limit the spread of COVID-19, CBP tried to reduce the number of individuals detained in its holding facilities and the number of individuals traveling through ports of entry. Federal statutory law, 42 United States Code (U.S.C) Section 265 (Title 42) provides that the Surgeon General shall have the power to prohibit the introduction of individuals from foreign countries to avert the danger of the spread of communicable diseases.¹⁰ On March 20, 2020, under that authority and in response to COVID-19, the Centers for Disease Control and Prevention (CDC) issued an order temporarily prohibiting the introduction

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

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

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

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

¹⁰ 42 U.S.C. § 265, [Suspension of Entries and Imports from Designated Places to Prevent Spread of Communicable Diseases](#).



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of certain persons from foreign countries traveling from Canada or Mexico, regardless of their countries of origin, and who would otherwise be introduced into congregate settings.¹¹ A subsequent CDC order superseded this order on August 2, 2021.¹²

Pursuant to 42 U.S.C. § 265 and § 268 and the CDC Order, DHS generally has expelled thousands of inadmissible noncitizens apprehended at or near the southern border back to Mexico, or to their country of origin. However, in FY 2021, Border Patrol's apprehensions increased; by July 2021 the number of apprehensions exceeded the volume for FY 2019. Many noncitizens apprehended are not amenable to expulsion under Title 42. For example, noncitizen unaccompanied children are not subject to expulsion. In addition, Mexico places limitations on nationalities which can be expelled into Mexico, but accepts migrations from the Northern Triangle (Guatemala, El Salvador, and Honduras). Mexico also implements limits based on its capacity to house families. As a result, CBP detains for processing NUCs, and some adults and families with acute vulnerabilities.

Our previous fieldwork on the Southwest border indicates that the rate of apprehensions affects Border Patrol's ability to meet the TEDS standards on time in custody and avoiding overcrowding.¹³ In one of these reviews, we concluded that if the Department did not develop a DHS-wide response framework, CBP would continue to face challenges during migration surges.¹⁴ CBP concurred with a recommendation to inventory the infrastructure enhancements used in 2019 and incorporate these into its response for future migrant surges; this recommendation is still open. DHS concurred with a recommendation to develop thresholds at which a whole-of-government approach is needed to address migrant surges; this recommendation is also still open. In addition, during the FY 2019 surge, CBP described having to divert between 40 and 60 percent of its staff away from the border security

¹¹ U.S. Department of Health and Human Services Centers for Disease Control and Prevention, Order Under § 362 & § 365 of the *Public Health Service Act* (42 U.S.C. § 265, § 268), *Order Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists*. The original Order was extended for 30 days on April 20, 2020, and indefinitely on May 19, 2020. For more information, see [Early Experiences with COVID-19 at CBP Border Patrol Stations and OFO Ports of Entry](#), OIG-20-69, September 2020, pp. 4–5.

¹² U.S. Department of Health and Human Services Centers for Disease Control and Prevention, Order Under § 362 & § 365 of the *Public Health Service Act* (42 U.S.C. § 265, § 268), *Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists*.

¹³ [Capping Report: CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge](#), OIG-20-38, June 2020, p. 8.
[DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge](#), OIG-21-29, March 2021, pp. 11–12.

¹⁴ [DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge](#), OIG-21-29, March 2021, pp. 11–12.



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mission to provide humanitarian care to families and children, impacting its ability to prevent drugs and criminals from entering the United States even though Border Patrol worked with local, state, and Federal law enforcement partners to try to address enforcement gaps.¹⁵

Table 1. Border Patrol Southwest Border Total Apprehensions by Year, FYs 2014 – 2021 (YTD)

Apprehensions	NUC	Family Units	Adults	Totals
FY 2014	68,541	68,445	342,385	479,371
FY 2015	39,970	39,838	251,525	331,333
FY 2016	59,692	77,674	271,504	408,870
FY 2017	41,435	75,622	186,859	303,916
FY 2018	50,036	107,212	239,331	396,579
FY 2019	76,020	473,682	301,806	851,508
FY 2020	30,557	52,230	317,864	400,651
FY 2021 YTD*	112,192	308,040	855,962	1,276,194

*FY 2021 numbers through July 31, 2021

Source: CBP enforcement statistics

Results of Inspection

During our unannounced inspections of six CBP locations in the Rio Grande Valley area of Texas in July 2021, all four Border Patrol facilities we inspected struggled with overcrowded holding rooms. However, except for one facility, at the time of our site visit, we did not observe cells so overcrowded that detainees were not able to sit or lie down. Some single adults and some families had been in detention longer than 72 hours. Although NUCs were held in crowded conditions, CBP met all other TEDS standards for NUCs at the time of our visit, at the facilities we inspected.

With a high volume of apprehended single adults and families, Border Patrol set up temporary processing locations which lessened overcrowding and health risks for detainees. Large white soft-sided facilities at Donna, where NUCs were housed, met all TEDS standards with the exception of some crowding. A TOPS at the underpass of an international highway did not meet some TEDS standards, but detainees had access to portable toilets, washstands, hygiene items, and diaper changing tables. Water, snacks, and food for babies and children were readily available. Although the TOPS was a makeshift arrangement, it lessened crowding in the facilities and reduced transport and processing time.

¹⁵ [DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge](#), OIG-21-29, March 2021, p. 7.



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Border Patrol has taken measures to improve general health screening and reduce the risk of COVID-19 infection. However, the high volume of apprehensions at the time of our site visit limited the effectiveness of these measures. Medical contract staff and Border Patrol officials said medical screening was not consistent. For example, detainees were not consistently screened when transferred between Border Patrol stations or when transferring out of Border Patrol custody. As a result, medical contract staff said some detainees with COVID-19 symptoms were entering facilities, and some detainees who required medications were not receiving them on schedule.

In contrast to Border Patrol, which cannot control the number of undocumented noncitizens apprehended, CBP Office of Field Operations ports of entry limit the number they process. “Queue Management”¹⁶ enables OFO to limit entry of undocumented migrants from Mexico until the port of entry has available holding space and officers to process their cases. We visited one port of entry in the Rio Grande Valley area. At the time of our site visit, there was only one detainee at the facility; the detainee had been on site for less than 72 hours, and the facility met all TEDS standards.

Facing Growing Numbers of Apprehensions in the Rio Grande Valley Area, Border Patrol Stations Were Overcrowded and There Was Prolonged Detention among Single Adults and Some Families

During our unannounced inspections of four Border Patrol facilities in the Rio Grande Valley area in Texas in July 2021, all four facilities struggled with overcrowded holding rooms. At the onset of COVID-19, Border Patrol established cell capacity limits at about one-third of normal capacity. However, with the high volume of apprehensions, Border Patrol had insufficient space for this level of separation; most cells held more than their pre-COVID-19 capacity. One facility held nearly double its designated “normal” capacity, and one was over “normal” capacity. Two facilities were under “normal” capacity for the facility, but for all four facilities the need to separate detainees by gender and to maintain families in gender and age appropriate groups led to overcrowding of individual cells. However, except for one facility, at the time of our site visit,

¹⁶ See April 27, 2018, Memorandum from CBP Executive Associate Commissioner Todd C. Owen, “Metering Guidance,” stating OFO may create separate lines for migrants with appropriate travel documents and those without such documents. When employing “Queue Management,” CBP officers are stationed at the international boundary with Mexico, and they advise undocumented migrants to add their names to a waiting list and stay in Mexico until CBP has space and staffing to process them. This is covered in [CBP Has Taken Steps to Limit Processing of Undocumented Aliens at Ports of Entry](#), OIG-21-02, October 27, 2020.



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we did not observe cells so overcrowded that detainees were not able to sit or lie down. Table 2 shows the capacity and demographics of the Border Patrol facilities we visited.

Table 2. Total Detainees Held at CBP Facilities Visited July 2021

Facilities	NUC	Family Units	Adults/ Other	Grand Total	Holding Capacity¹⁷
Donna Processing Site	520	1,645	15*	2,180	5,000
Border Patrol Fort Brown	0	110	96	206	120
Border Patrol McAllen	0	0	367	367	382
Temporary Outdoor Processing Site (TOPS)	0	524	4	528	N/A
Border Patrol Weslaco	0	104	225	329	285
Office of Field Operations Gateway POE	0	0	1	1	12
Total	520	2,383	708	3,611	

* This number includes five minor United States citizen children held with non-citizen parents.
Source: DHS OIG analysis of CBP roll call information

There were cases of prolonged detention. Of the 3,610 detainees held in the Border Patrol facilities we visited, 270 (7 percent) were held longer than 72 hours. Some single adults and some families had been in detention for more than a week, including 7 family members held longer than a week and 38 single adults held between 2 weeks and a month. CBP relied on U.S. Immigration and Customs Enforcement (ICE) for assistance with transportation and detention space for single adults and some families but was releasing other families into the community. CBP reported that limited ICE detention space was a factor in prolonged detention.

Although NUCs were held in crowded conditions, CBP met all other TEDS standards for NUCs. None of the NUCs had been held longer than 72 hours. As shown in Figures 2 and 3, CBP had constructed booths with telephones and video-teleconferencing equipment to offer NUCs access to telephone calls. Among other requirements under TEDS standards, functioning drinking fountains or clean drinking water must always be available to detainees;¹⁸ snacks and meals have to be provided at regularly scheduled intervals;¹⁹ and

¹⁷ Holding capacities for ports of entry are approximate, as waiting areas can be used for less restrictive detention. Holding capacities for Border Patrol stations reflect pre-COVID 19 capacities. At the onset of COVID-19, Border Patrol established cell capacity limits at about one-third of normal capacity, but with the high volume of apprehensions most cells held more than their pre-COVID-19 capacity.

¹⁸ TEDS 4.14 *Secure Detention Standards: Drinking Water.*

¹⁹ TEDS 4.13 *Secure Detention Standards: Food and Beverage, Meal Timeframe and Snack Timeframe;* TEDS 5.6 *Detention: Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees.*



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detainees must have access to toilets and sinks, basic hygiene supplies, and bedding.²⁰ CBP met all of these standards for all detained children at the time of our site visits. In addition, for all detained children, CBP met standards for reasonable temperatures and ventilation and for access to medical care.²¹ Facilities holding children had age-appropriate food, diapers, wipes, and other supplies.



Figures 2 and 3. CBP Telephone and Video-Teleconferencing Booths for Migrants Observed on July 15, 2021

Source: DHS OIG

Border Patrol Has Taken Measures to Address the Challenges of Prolonged Detention

TEDS standards make some provisions for prolonged detention. For example, under TEDS standards, reasonable effort will be made to provide showers to detainees after a certain amount of time in CBP custody.²² TEDS standards also note that when available, juveniles will be provided clean and dry clothing.²³ At the time of our site visit, we observed that Border Patrol had taken measures to address some challenges of prolonged detention. For example, as shown in Figure 4, stations had installed a shower trailer. Detainees, including single adults, were offered a shower and change of clothing while their own clothing was laundered. We observed supplies of

²⁰ TEDS 4.15 *Secure Detention Standards: Restroom Facilities*; TEDS 5.6 *Detention: Hold Rooms – UAC*; TEDS 4.11 *Secure Detention Standards: Hygiene*; TEDS 4.12 *Secure Detention Standards: Bedding*.

²¹ As noted in Appendix A, the *Flores Settlement Agreement* of 1997 and subsequent Federal court decisions include standards of care for detained children.

²² TEDS 5.6 *Detention: Showers – Juveniles*; and TEDS 4.11 *Secure Detention Standards: Hygiene: Showers*.

²³ TEDS 5.6 *Detention: Hygiene Articles, Bedding and Clean Clothing - Juveniles*.



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deodorant and disposable toothbrushes. Detainees in the facilities had access to mattresses and Mylar blankets. In addition to the bottled water, juice, and snacks available in the facilities, a catering company provided two hot meals, one cold meal, and fresh fruit daily. Despite the high volume of detainees at each facility, the cells were cleaned regularly and supplies for detainees were well stocked. In addition, except for some cells in one facility and in outdoor processing areas, TEDS requirements for reasonable temperatures were met.²⁴



**Figure 4. CBP Shower Trailer for Migrants
Observed on July 13, 2021**
Source: DHS OIG

In addition, Border Patrol had introduced processes and procedures to improve case management. Specifically, Border Patrol had introduced color-coded bracelets to identify detainees as single adults, families, or NUCs. Bar codes on these bracelets enabled Border Patrol to identify each member of a family. The bar codes also enabled Border Patrol to match detainees to their property.²⁵ Detainees with a medical condition or the need for prescriptions were issued a separate red bracelet to identify their medical needs. As shown in Figure 5, posters displayed in English and Spanish explained the purpose of these bracelets.

²⁴ TEDS 4.7 *Hold Room Standards: Temperature Controls*; and TEDS 5.6 *Detention: Hold Rooms – UAC*. One Border Patrol station holding adults had some cells with temperatures between 80 and 84 degrees; staff reported that they had already requested maintenance. Outdoor areas such as sally ports exceeded 80 degrees, but detainees were held in shade, and there were fans to circulate the air.

²⁵ TEDS 7.1 *General: Personal Property* provides that all detainees' personal property discovered during apprehension or processing and not deemed to be contraband will be safeguarded, itemized according to the operational office's policies and procedures, and documented in the appropriate electronic system(s) of record.



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Figure 5. CBP Posters for Migrant Bracelets in English and Spanish Observed on July 14, 2021
Source: DHS OIG

Managing the high volume of detainees in the facilities and ensuring compliance with TEDS standards required extensive external assistance. At the time of our site visit, there were more than 300 detailed Border Patrol agents from the northern border and coastal stations assisting in the Rio Grande Valley area. In addition, there were dozens of DHS volunteers, including detailees from the United States Coast Guard, U.S. Citizenship and Immigration Services, and the Transportation Security Administration, assisting with supplies and detainee care. National Guard soldiers were also on site.

Border Patrol Measures for Families Did Not Consistently Meet TEDS Standards in Some Locations, but Reduced Detention Time and Lessened Health Risks

With a high volume of apprehended single adults and families, Border Patrol set up temporary processing locations which lessened overcrowding and health risks for detainees. Specifically, as shown in Figure 6, Border Patrol contracted for large white soft-sided facilities at the Donna facility to house NUCs and families. These soft-sided facilities offered some separation of groups of detainees with plastic sheeting and external ventilation. At this facility, we observed both Border Patrol and contract medical staff attending to migrant families as shown in Figure 7. With the exception of crowding in a few areas, these facilities met all TEDS standards for conditions of detention. In addition, we observed that Border Patrol used sally ports to screen some detainees before they entered facilities, and as shown in Figure 8, separate detainees with COVID-19 symptoms from other detainees. Sally ports contained portable



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toilets, hand wash stations, bottled water and snacks, and generally met TEDS standards with the exception of temperature, which, despite shade and fans, exceeded 80 degrees.



Figure 6. CBP Temporary Soft-Sided Facilities to House Migrants Observed on July 15, 2021

Source: DHS OIG



Figure 7. Border Patrol and Contract Medical Staff Attending to Migrant Families Observed on July 15, 2021

Source: DHS OIG



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Figure 8. CBP Screening of Migrants in Sally Port Area Observed on July 15, 2021

Source: DHS OIG

Border Patrol also established TOPS at the underpass of an international highway, where agents brought families with small children, encountered after crossing the Rio Grande river, for processing. With limited space in ICE family residential centers, most of these families were processed for release into the community — generally into the care of local charities. As shown in Figure 9, TOPS had military tents dedicated to case processing and medical care. Detainees were moved from one outdoor dedicated area to the next as each stage of processing was completed. As shown in Figures 10 and 11, some areas had benches, and others did not. However, detainees had access to portable toilets, washstands, hygiene items, and diaper changing tables. Water, snacks, formula for babies, and food for adults and children were readily available. TOPS did not meet TEDS standards on temperature; the area exceeded 90 degrees, but the underpass afforded shade and there was a breeze.



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Figure 9. CBP Temporary Use of Military Tents to Process and Medically Assist Migrants Observed on July 13, 2021

Source: DHS OIG



Figures 10 and 11. CBP Temporary Outdoor Holding Areas for Migrants Observed on July 13, 2021

Source: DHS OIG

Although TOPS was a makeshift arrangement, it lessened overcrowding in the facilities and reduced transport and processing time. At the time of our afternoon site visit, the longest detention time at TOPS was 15 hours. After families are processed, Border Patrol officials told us families which cannot be released to the local charities are taken to the Donna facility. The outdoor setting lessened health risks to the families. It also allowed for a less restrictive setting for children.²⁶

²⁶ TEDS 5.6 *Detention: Least Restrictive Setting* provides that officers and agents will place each at-risk detainee in the least restrictive setting appropriate to his/her age and special needs, provided that such setting is consistent with the need to ensure the safety and security of the detainee and that of others.



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Medical Screening at Border Patrol Facilities Has Improved, but Challenges Persist with Crowded Facilities and COVID-19 Risks

The Border Patrol has taken measures to improve general health screening and reduce the risk of COVID-19 infection. Each of the facilities we visited had medical contract staff on site. We observed medical contract staff screening detainees before they entered the station at several facilities we visited. Detainees were screened for illness, lice, scabies, high temperatures, COVID-19 symptoms, and required prescription medications. Detainees identified with COVID-19 symptoms were kept in the sally port for transfer to a hospital or to a Border Patrol station dedicated to holding COVID-19 cases.

However, the high volume of apprehensions at the time of our site visit limited the effectiveness of these measures. Medical contractor staff and Border Patrol officials said medical screening was not consistent. For example, detainees were not consistently screened when transferred between Border Patrol stations or when transferring out of Border Patrol custody. As a result, medical contract staff said some detainees with COVID-19 symptoms were entering facilities, and some detainees who required medications were not receiving them on schedule. In addition, crowded cells increased the risk of COVID-19 transmission as shown in Figures 12 and 13. At the onset of the COVID-19 pandemic, Border Patrol established cell capacity limits at about one-third of normal capacity, but with the high volume of apprehensions most cells held more than their pre-COVID-19 capacity.



Figures 12 and 13. CBP Overcrowded Adult Female and Male Migrant Cells Observed in a Border Patrol facility on July 15, 2021

Source: DHS OIG



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The Port of Entry Met TEDS Standards

In contrast to Border Patrol, which cannot control the number of undocumented migrants apprehended, CBP OFO ports of entry can limit the number they process. As shown in Figure 14, by employing “Queue Management”²⁷ OFO has limited the number of undocumented noncitizens processed at ports of entry until the port of entry has available holding space and officers to process their cases. These mechanisms allowed the port of entry to control the volume of detainees entering the facility, and the port did not accept more detainees than could be transferred to ICE custody.



Figure 14. CBP Managing Pedestrian Entrants at the Gateway International Bridge Port of Entry Observed on July 14, 2021

Source: DHS OIG

We visited one port of entry in the Rio Grande Valley area. At the time of our site visit, there was only one detainee at the facility. The detainee had been on site for less than 72 hours. Medical contract staff were on site to provide medical screening. The medical contract staff said OFO brings detainees apprehended at other ports of entry in the region with non-emergency medical needs to the facility for care. The port of entry met all TEDS standards for access to potable water,²⁸ snacks, and meals,²⁹ and access to toilets and sinks,

²⁷ See footnote 16 for a discussion of “Queue Management.”

²⁸ TEDS 4.14 *Secure Detention Standards: Drinking Water.*

²⁹ TEDS 4.13 *Secure Detention Standards: Food and Beverage, Meal Timeframe and Snack Timeframe;* TEDS 5.6 *Detention: Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees.*



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basic hygiene supplies, and bedding.³⁰ The facility was well stocked with changes of clothing for adults and children, and food and supplies for babies and children. There was no shower on site, but officials told us they could bring detainees to a nearby Border Patrol facility for showers if necessary.

Conclusion

As we noted in our analysis in 2019, migrant surges at the Southwest border require a whole-of-government approach. Interdependencies among CBP, ICE, U.S. Citizenship and Immigration Services, and other agencies, including the Department of Justice, limit the Border Patrol's ability to unilaterally address overcrowding and prolonged detention.³¹ Within these constraints posed by the interdependencies, the Border Patrol's adoption of measures to reduce detention time and mitigate health risks among families, and to address some of the challenges related to prolonged detention for families and single adults, demonstrate Border Patrol's initiative to identify solutions for challenges within its control.

Recommendations

In our review of the 2019 migration surge, we made six recommendations to DHS to better prepare for future surges.³² All six recommendations are

³⁰ TEDS 4.15 *Secure Detention Standards: Restroom Facilities*; TEDS 5.6 *Detention: Hold Rooms – UAC*; TEDS 4.11 *Secure Detention Standards: Hygiene*; TEDS 4.12 *Secure Detention Standards: Bedding*.

³¹ [*DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*](#), OIG-21-29, March 2021, p. 44.

³² We recommend the Director, Immigration and Customs Enforcement:

Recommendation 1: Create a comprehensive surge detention capacity contingency plan that considers Customs and Border Protection apprehension levels, and ensure a process exists for its implementation during future surges.

Recommendation 2: Standardize documentation required in alien files that Customs and Border Protection needs to include for transfer of aliens from Customs and Border Protection to Immigration and Customs Enforcement, Enforcement and Removal Operations custody that will apply to all field offices.

We recommend the Commissioner, Customs and Border Protection:

Recommendation 3: Identify strategies and solutions Customs and Border Protection's Border Patrol sectors and Office of Field Operations field offices used during the 2019 surge to manage delays in detainee transfers to partner agencies, determine the best practices that can be implemented during future surges, and communicate these best practices across the organization, and ensure a process exists for their implementation during future surges.

Recommendation 4: Conduct an inventory of infrastructure enhancements acquired during the 2019 surge and incorporate these into planning and staging for future migrant surges.

Recommendation 5: Provide guidance to Border Patrol sectors to incorporate Immigration and Customs Enforcement, Enforcement and Removal Operations and Health and Human Services capacity in risk assessments for future migrant surge planning.



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resolved and open, including two recommendations which, when resolved, should better prepare DHS to limit overcrowding and prolonged detention during migration surges. CBP concurred with a recommendation to inventory the infrastructure enhancements used in 2019 and incorporate these into its response for future migrant surges; this recommendation is still open. DHS concurred with a recommendation to develop thresholds at which a whole-of-government approach is needed to address migrant surges; this recommendation is also still open. We did not make duplicative recommendations for this report. DHS is making noticeable progress towards closing some of these recommendations.

Management Comments and OIG Analysis

We received technical comments from CBP and incorporated them in the report where appropriate. CBP management elected to forego a formal written response as we made no recommendations in the report.

We recommend the Secretary, Department of Homeland Security:

Recommendation 6: Ensure Customs and Border Protection and Immigration and Customs Enforcement establish, draft, and coordinate thresholds, in consultation with the DHS Office of Strategy, Policy, and Plans with approval from the Secretary, for when DHS will request a whole-of-government approach to address transportation, case processing, and detention gaps during migrant surges.



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Appendix A

Objective, Scope, and Methodology

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

Our objective was to determine whether CBP complies with the 2015 *National Standards on Transport, Escort, Detention, and Search* related to length of detention, and health and safety issues, for detained migrants.

Prior to our inspections, we reviewed relevant background information, including DHS OIG hotline complaints and information from congressional requests, nongovernmental organizations, and media reports.

Between July 13 and 15, 2021, we visited four Border Patrol facilities (McAllen Station, Fort Brown Station, the white soft-sided facilities at Donna, and Weslaco Station); the Temporary Outdoor Processing Site (TOPS) at the border; and one port of entry (Gateway International Bridge, Brownsville, TX).

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

With the number of detainees arriving and departing each day, conditions at facilities — including crowding and the presence of NUCs and families — could vary by day. Our conclusions are, therefore, limited to what we observed and information obtained from detainees and CBP staff at the time of our site visit.

Within the TEDS standards, we prioritized standards that protect children, derived from the *Flores Agreement*³³ and the *Trafficking Victims Protection Reauthorization Act of 2008*.³⁴ For example, the *Flores Agreement* generally permits detention of minors for no longer than 72 hours, with a provision that, in an emergency or influx of minors, placement should be as expeditious as possible. In addition, the *Trafficking Victims Protection Reauthorization Act of 2008* requires DHS to transfer the custody of all unaccompanied children to

³³ *Flores Settlement Agreement* of 1997.

³⁴ Pub. L. No. 110-457, § 235(b)(3), 122 Stat. 5044, 5077 (2008); see also 8 U.S.C. § 1232(b)(3).



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the U.S. Department of Health and Human Services within 72 hours of determining that a child is an unaccompanied child, absent “exceptional circumstances.”³⁵ The *Flores* Agreement and subsequent Federal court decisions also require care for detained juveniles, including access to drinking water, meals, and snacks, to toilets and sinks, and to basic hygiene supplies and bedding, showers, and adequate temperatures and ventilation.

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

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

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

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

³⁵ 8 U.S.C. § 1232(b)(3).



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Appendix B
CBP Comments to the Draft Report

CBP management elected to forego a formal written response as we made no recommendations in the report.



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Appendix C
Office of Inspections and Evaluations Major Contributors to
This Report

Tatyana Martell, Chief Inspector
Lorraine Eide, Lead Inspector
Paul Lewandowski, Senior Inspector
Ryan Nelson, Senior Inspector
Stephen Farrell, Independent Referencer



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Appendix D
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