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Recommendations for CBP Standards When Detaining Children

CBP Facilities Need State-Licensed Child Welfare Professionals

State-licensed professionals specially trained in the screening and care of children—not CBP agents—should evaluate children’s needs and conduct all screenings that occur before a child is released or sent to ORR. These child welfare professionals should also coordinate with state authorities if there are ever allegations of abuse or mistreatment by accompanying family members or by immigration authorities. Screenings should occur as soon as practicable, but no later than 12 hours after a child’s arrival in CBP custody. Facilities without child-trained professionals on site should at least have on-call professionals available. (Note: This can be done through creating new CBP positions or contracting.)

These professionals could conduct screenings for trafficking, fear of return, and ability to make an independent decision to return, as well as flag or screen for any issues of safety or parentage—including determining whether a suspicion of non-parentage requires follow-up or additional investigations. While all children in CBP custody should receive prompt medical screenings by qualified medical professionals who have expertise and experience working with children, the child welfare professionals will interact with children, identify potential medical needs requiring additional follow-up or care, and will provide care for children and families. This would include ensuring access to adequate food, hydration, and hygiene, dry clothing, regular showers, and other appropriate care.

The [Child Trafficking Victims Protection and Welfare Act](#) (S.661)—introduced by Representative Roybal-Allard and Senator Hirono —addresses some of these concerns by requiring at least one licensed child welfare professional be available at ports of entry and Border Patrol stations that regularly hold a large number of children. The legislation provides minimum standards of care for children in CBP custody, including access to food and water, and access to pediatric medical care. We encourage CBP to implement the standards set forth in this legislation now before more children are irreparably harmed.

Medical Care

In line with CBP’s January 2019 Interim Enhanced Medical Efforts directive, all children under the age of 18 shall be screened by medical professionals. The directive should be strengthened

to ensure that the medical professionals have experience in treating children and are not burdened by additional enforcement obligations. Further recommendations can be found in the American Academy of Pediatrics Guidance, available [here](#).

Unaccompanied Children Should Never be Subjected to Metering

While all metering is unlawful, unaccompanied children are particularly vulnerable and should never be turned away or expected to wait to access protection at Ports of Entry. Requiring that unaccompanied children be accompanied by an adult or attorney to access a Port of Entry is not acceptable and not required by law. These practices recklessly endanger children, make them vulnerable to exploitation, and empower smugglers and traffickers.

Family Separations

CBP should not separate families unless a child welfare expert has identified a risk of trafficking by the parent or legal guardian, serious and imminent physical harm to the child unrelated to the family's migration journey, or a reasonable basis to believe the accompanying adult is not the parent or legal guardian which requires additional investigation. All staff will receive training on guidance on preventing separations and how to document and notify relevant parties (including parents and children) regarding the reason(s) for separations. Separations will be overseen by child welfare professionals. Systems must be developed to ensure appropriate documentation, tracking, and follow up on separations, including informing separated parents of how to contact their children, rebut the reason(s) for the separation, and how to seek reunification with their children. During any separation, including temporary separations while in CBP custody, the child must be cared for by appropriate child welfare professionals.

CBP's Communications with a Child Must be in that Child's Native Language

To the extent practicable, CBP officials, including child welfare professionals, should communicate with children and their parents in their first language. In cases where there are no officials who can speak that language, CBP should provide a live or telephonic interpreter. CBP should work to build a reliable and regularly available network of indigenous language speakers to provide interpretation and ensure staff understand that indigenous languages are not dialects of Spanish.

CBP Must Document Anytime a Child Claims Relation to Another Migrant

CBP should maintain records reflecting when an adult or child in its custody claims relation to another migrant. This should include any extended family members including siblings, grandparents, and other relations and should be documented in the I-213 for each member of the family. This should also include documentation of US citizen children or family members who are encountered or apprehended at the same time. This helps families remain together,

and if a separation is necessary, such tracking facilitates later reunification and case processing efficiency. This documentation should be included in both the child's and the family member's files and in such a manner that both ORR and ICE receive the information.

CBP's Transport, Escort, Detention, and Search (TEDS) Standards Must be Implemented and Enforced

CBP's [TEDS policy](#) governs the minimum standards of care at its facilities and requires all officers and agents to consider the best interests of children in all decision points. These standards, however, are not being implemented or enforced. (See Flores litigation and the Flores Special Monitor's report.) The TEDS standards should be made enforceable to help ensure that all children are receiving appropriate care in all CBP facilities. CBP should regularly conduct reviews and inspections at all locations to ensure compliance with TEDS. These standards should be regularly reviewed for additional improvements. For example, an easy improvement on detention conditions would be to ensure that children who arrive wet be given dry clothing and blankets to be kept warm.

CBP Must Develop an Access Policy for Independent Oversight

Unlike CBP, Immigration and Customs Enforcement (ICE) is subject to third-party oversight through its [access directive](#). CBP must develop a comparable access directive. Without one, outside groups cannot effectively monitor operations and identify gaps in compliance with the TEDS standards and the other standards which we have recommended.

CBP Must Ensure That Any New Processing Centers Are Child-Friendly and Are Created with Input from Relevant Non-Governmental Experts

These facilities must include space for access to attorneys, have plumbing and electricity, and provide for appropriate care of children and families.

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