



Homeland  
Security

May 28, 2019

MEMORANDUM FOR: Carla Provost  
Chief  
U.S. Border Patrol  
U.S. Customs and Border Protection

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SUBJECT: Rio Grande Valley Sector Border Patrol Stations Onsite  
Investigation

Sector Complaints

McAllen Border Patrol Station and RGV Centralized Processing  
Center: 17-01-CBP-0024, 17-05-CBP-0230, 17-08-CBP-0303, 18-  
03-CBP-0087, 18-08-CBP-0281

Falfurrias: 18-02-CBP-0027

Rio Grande City: 16-05-CBP-0176, 17-03-CBP-0085, 18-02-CBP-  
0021

Weslaco: 16-11-CBP-0577

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) conducted an onsite investigation in the Rio Grande Valley Sector (RGV) from July 16-19, 2018. CRCL visited the RGV Central Processing Center (CPC) and four U.S. Border Patrol (USBP) stations (Rio Grande City, McAllen, Harlingen, and Brownsville Stations). This investigation was in part a follow-up to CRCL's onsite investigation in RGV in July 2014 that included inspections at eight USBP stations, one port of entry, and the CPC.<sup>1</sup>

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<sup>1</sup>Soon after the 2014 onsite investigation, CRCL provided U.S. Customs and Border Protection (CBP) with informal preliminary findings and recommendations and, in September of 2017, submitted seven recommendations to CBP in a formal recommendations memorandum. CBP concurred with those recommendations on November 29, 2017.

In October 2015, CBP issued the *National Standards on Transport, Escort, Detention, and Search* (TEDS), which have likely contributed to the reduction in the number of complaint allegations CRCL has received involving USBP at RGV Border Patrol stations.<sup>2</sup> However, despite the issuance of TEDS, CRCL continued to receive complaints raising issues covered in TEDS and prior CRCL recommendations to CBP, as well as allegations raising novel issues. In particular, a significant proportion of our more recent complaints arose from incidents involving unaccompanied alien children (UAC) at the CPC, which was not operating as a facility for UAC during our July 2014 investigation.

Accordingly, during the 2018 investigation, CRCL reviewed USBP's implementation of CRCL's previous recommendations and the sector's adherence to current USBP policies and procedures regarding the care and treatment of UAC. Additionally, CRCL investigated UAC-related complaints that we have opened since the July 2014 onsite, including complaints involving the CPC.

As part of the review, CRCL engaged the assistance of a subject-matter expert in the area of corrections. The expert identified recommendations through staff interviews, direct observation, and a review of documents that included policies, procedures, training materials, and detainee files. On July 19, 2018, as part of the onsite closing discussions, CRCL and the subject-matter expert discussed our findings with several members of the RGV leadership team. We greatly appreciated the cooperation and assistance provided by both Carmen Qualia and Luis Solis before and during our visit.

Enclosed with this memorandum is the report prepared by our subject-matter expert. The expert has divided the findings and recommendations into those involving the CPC and others that are sector-wide. We have included the recommendations in the body of this memorandum and request that CBP formally concur or non-concur with these recommendations within 60 days, providing an implementation plan for all accepted recommendations.

CRCL's expert made the following recommendations related to issues at the CPC:

Conditions of Detention

UAC and family units have limited access to recreation.

1. (b) (5)

2.

USBP does not provide regular access to milk for pregnant and nursing mothers and minors, as required in TEDS §5.6.

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<sup>2</sup> CRCL collaborated with CBP on the TEDS standards as part of the CBP TEDS working group.

3. Provide regular access to milk for pregnant and nursing mothers and juveniles. At a minimum, USBP should provide milk at breakfast, lunch, and dinner.

Safety and Security

(b) (5)

4. (b) (5)

5. Increase CPC floor patrols to improve direct supervision and reduce safety and security risks to detainees to comply with TEDS § 4.6 and § 6.0.

Time in Custody

Some UAC remain detained at the CPC for longer than 72 hours in violation of the TVPRA and TEDS § 4.1.

6. Fully utilize both 72-hour alerts in the e3DM system and 72-hour detention reports to ensure the identification of UAC and families in custody at the CPC who are approaching or beyond the 72-hour mark, and take all necessary measures to move the UAC and families forward.

Staffing and Training

(b) (5)

7. (b) (5)

Based on conversations with BPAs, there is an inconsistent understanding of what mandatory trainings are required. Additionally, based on conversations with CPC staff and documentation provided after the onsite investigation was completed, it appears that there is not an effective training program for contractors.

8. Create a mandatory list of training classes that CBP staff temporarily assigned to the CPC and contract staff must attend.

9. Designate a staff member responsible for ensuring that all mandatory training is completed by USBP and contract staff.
10. Create a mandatory orientation program for new CPC personnel. Provide a written class curriculum that all new staff must attend to increase knowledge of applicable policy and TEDS mandates.

#### Sexual Assault Victimization

When interviewed, BPAs were not able to provide detailed knowledge of what they are required to do when made aware of a possible sexual assault or harassment incident, aside from reporting to supervisor.

11. Provide sexual abuse and assault prevention and intervention training to all USBP, National Guard, and contract staff and document that the training has been completed.
12. Conduct an audit of the CPC and RGV stations to ensure that USBP's PREA accountability program is in full compliance with Subpart B at the CPC.

CRCL's expert made the following recommendations related to issues across the sector.

#### Policy and Procedure Inconsistency

(b) (5)

13. (b) (5)

The subject-matter expert found an inconsistent application of individuals who can keep their glasses following apprehension. Disallowing glasses may lead to safety concerns and potentially a violation of Section 504 of the Rehabilitation Act. Taking away glasses also may create potential risk of litigation, if detainees cannot read a document they may be required to sign.

14. Issue a policy notification and train BPAs that detainees are allowed to retain their glasses while in custody.

#### Privacy

(b) (5)

15. (b) (5)

The areas where medical screening occurs at the CPC and some of the stations visited lack privacy, which may result in individuals failing to disclose medical conditions, needs, or disabilities. The screening area for the CPC is out in the open and individuals are required to lift shirts to their midriff and expose skin in an open area.

16. Inspect medical intake and screening areas at the CPC and stations and improve privacy so confidential conversations with medical screening personnel can occur and detainees can disclose disability or medical conditions/concerns in a private setting.

#### Language Access

BPA's described using the language line for UAC and families from non-Spanish speaking countries, but were unaware of the same need for those UAC and families from Central America that speak an indigenous language. The failure to provide language access to indigenous language speakers can limit their ability to provide accurate information, sign documents, and report legitimate claims of fear or other important issues.

17. Provide USBP and contractor personnel at the CPC and stations with training to identify indigenous language speakers.

18. (b) (5)

(b) (5)

19. (b) (5)

The CPC and four stations visited did not consistently post language access signage. In locations where language access signage was posted, it was worn and torn.

20. Conduct a visual audit of the language access posters and notices at the CPC and stations and replace those that are worn or missing.

### e3DM Limitations

No repository exists that provides BPAs easy access to information needed during processing or when interacting with UAC and families in custody.

21. Create a policy consolidation Section in e3DM where all policies that apply to the CPC, pertaining to UAC and families, are maintained to ensure that Border Patrol Agents are aware of applicable policy requirements and can complete their duties as required.

A software issue within e3DM can require BPAs to delink members of a family unit when a parent leaves the facility (*e.g.* for prosecution), which can result in the children being reclassified as “unaccompanied.” This can lead to inappropriate separation of family members and subsequently cause problems with family reunification efforts.

22. USBP should diagnosis and correct the software issue in the e3DM to ensure family members are not unduly separated or inappropriately remain separated when reunification for removal or release is approved.

### Time in Custody

Some adult detainees remained detained at the CPC or stations for periods of up to ten days in violation of TEDS § 4.1.

23. Fully utilize 72-hour alerts in the e3DM system and other reports to ensure the identification of detainees in custody at the CPC and RGV Sector Stations who are approaching or beyond the 72-hour mark, and take all necessary measures to move the detainees forward.

The complete expert report is enclosed.

It is CRCL’s statutory role to advise department leadership and personnel about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions about implementation of those decisions. We look forward to working with CBP to determine the best way to resolve these concerns. We request that CBP provide a response to CRCL within 60 days whether it concurs or non-concurs with these recommendations. If you concur, please include an action plan. You can send your response by email. If you have any questions, please contact Senior Policy Advisor (b) (6) by telephone at (b) (6) or by (b) (6).

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