



Homeland
Security

April 18, 2024

MEMORANDUM FOR:

Admiral Linda Fagan
Commandant
United States Coast Guard

Rear Admiral Richard E. Batson
Judge Advocate General and Chief Counsel
United States Coast Guard

FROM:

Shoba Sivaprasad Wadhia (b) (6)
Officer
Office for Civil Rights and Civil Liberties

SUBJECT:

Recommendation Memorandum:
USCG Maritime Interdictions Related to Operation
Vigilant Sentry
Complaint No. 005118-23-DHS

I. Purpose

Pursuant to 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, the Office for Civil Rights and Civil Liberties (CRCL) opened a complaint investigation into United States Department of Homeland Security's (DHS) operations involving the interdiction, protection screening, and care and custody of migrants seeking protection at sea. While this investigation spans multiple DHS components, this memorandum provides recommendations to the United States Coast Guard (USCG) to address concerns regarding the component's maritime interdiction policies and processes under Operation Vigilant Sentry (OVS).¹

II. Background

On January 10, 2023, CRCL issued a Retention Memorandum to USCG, United States Citizenship and Immigration Services (USCIS), United States Immigration and Customs Enforcement (ICE), and United States Customs and Border Protection (CBP) initiating an investigation focused on the following:

¹ DHS's operations to interdict, screen, and provide care and custody for migrants seeking protection at sea is one aspect of Operation Vigilant Sentry (OVS)—a DHS Operations Plan—that was established in 2004 to prevent, deter, prepare for, respond to, and recover from an actual or potential maritime mass migration in the Caribbean region. See Homeland Security Task Force Southeast, OVS Base Plan (June 7, 2019) (OVS Base Plan).

- USCG’s policies and practices for interdicting migrant vessels in the Caribbean, identifying and referring possible fear claims and trafficking concerns to USCIS for protection screening, and repatriating migrants who do not meet the protection standard;
- USCIS’s policies and practices for conducting protection screenings for fear of persecution and torture, both on board the USCG cutters and at the Migrant Operations Center, U.S. Naval Base, Guantanamo, Cuba (MOC);
- CBP’s policies and practices in providing air transportation for interdicted unaccompanied children who meet the screening standard on board the cutters and for migrants who require emergent medical attention;² and
- ICE’s care and custody of migrants at the MOC.

The United States government’s authority and operations involving the interdiction, protection screening, and care and custody of migrants seeking protection at sea derive from decades old presidential executive orders establishing executive branch authority to interdict vessels at sea in order to either repatriate migrants to their country of origin or transit, or, to screen maritime migrants to determine whether they are persons in need of protection.³

Notably, Executive Order (EO) 12807 (1992) declared that international legal obligations under the United Nations Convention Relating to the Status of Refugees do not apply beyond the territorial sea of the United States.⁴ EO 13276 (2002) and EO 13286 (2003) then clarified roles for responding to migration in the Caribbean region, delegating the responsibilities to multiple Federal agencies: DHS, the Department of State (DOS), and the Department of Defense (DOD). In 2003, DHS established the Homeland Security Task Force-Southeast (HSTF-SE), an interagency task force that combined assets and resources from DHS, USCG, DOS, DOD, Health and Human Services (HHS), and state and local agencies, to monitor and respond to maritime mass migrations. In 2004, HSTF-SE approved OVS to specifically address illegal

² CRCL closed its investigation into CBP’s involvement in OVS (CRCL Compl. No. 006875-23-CBP) without recommendations.

³ Executive Order (EO) 13276, Delegation of Responsibilities Concerning Undocumented Aliens Interdicted or Intercepted in the Caribbean Region (Nov. 15, 2002), amended by EO 13286, Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security (Feb. 28, 2003). *See also* EO 12807, Interdiction of Illegal Aliens (May 24, 1992).

⁴ “Territorial sea” is defined under United States federal law, as well as international laws, as the “waters, 12 nautical miles wide, adjacent to the coast of the United States and seaward.” USCG Final Rule, Territorial Seas, Navigable Waters, and Jurisdiction, 68 FR 42595 at § 2.20, <https://www.federalregister.gov/documents/2003/07/18/03-18135/territorial-seas-navigable-waters-and-jurisdiction>. Each coastal state exercises sovereignty over its territorial sea, the airspace above it, and the seabed and subsoil beneath it. *Id.* *See also* United Nations Convention on the Law of the Sea (UNCLOS), 21 I.L.M. 1261, Part II, Territorial Sea and Contiguous Zone, https://www.un.org/depts/los/convention_agreements/texts/unclos/part2.htm.

maritime migration in the Caribbean. The stated objectives of OVS are to protect the safety of life at sea, and to deter and dissuade maritime mass migration.^{5,6}

OVS employs a tiered and integrated approach: DHS interdicts migrants, screens them for protection, and provides for the custody and care of migrants not in need of protection; DOS provides for the custody and care of migrants once deemed in need of protection; and DOD makes a facility at the Guantanamo Bay Naval Base available to “house and provide for the needs of any such” migrants. EO 13286, which amended EO 13276, established how DHS Components roles would interact with USCG interdicting migrants at sea; USCIS conducting protection screening; and ICE providing for the care and custody for migrants deemed not in need of protection.

III. Allegations

On November 4, 2022, CRCL received a letter (“NGO Sign-On Letter”) signed by 289 non-governmental organizations (NGOs), alleging that the United States policy of interdicting asylum seekers in international waters⁷ and repatriating them discriminated against migrants seeking protection in the United States via travel by sea versus migrants who seek asylum at United States land borders.⁸ Specifically, the letter alleged that Haitians were prevented from accessing the United States asylum system.

The letter also alleged that placing interdicted Haitians, including families and children, at offshore detention centers violated international human rights law, undermined DHS’s efforts to end the use of family detention in the United States, and created a dangerous precedent for other

⁵ See OVS Base Plan; N.J. Groll, *Operation Vigilant Sentry: Stopping illegal migration at sea*. United States Coast Guard News, [https://www.news.uscg.mil/\(Jan. 27, 2023\)](https://www.news.uscg.mil/(Jan. 27, 2023)).

⁶ In May 2014, the Secretary of DHS directed the creation of the *U.S. Southern Border and Approaches Campaign Plan* (SBACP). In November 2014, further Secretary guidance directed DHS to develop a pilot program within SBACP to address persistent challenges DHS faces along the Southern Border and maritime approaches. Specifically, it created three Joint Task Forces (JTF) to conduct integrated investigations and operations within joint operating areas. Of these three JTFs, the JTF East (JTF-E), headed by the Coast Guard and based in Roanoke, Virginia, has oversight over all DHS component operations in the Miami sector, including the HSTF-SE. See DHS OIG, *DHS Joint Task Forces*, OIG-17-100 (Aug. 10, 2017).

⁷ “International waters” is defined as waters *more than 24* nautical miles from United States shorelines. The waters *between 12 and 24* nautical miles from United States shorelines—or between the territorial seas and international waters—is referred to as the “contiguous zone.” See USCG Final Rule, FN 4 *supra*. While United States and international laws generally allow for “innocent passage” of foreign vessels in all three zones (territorial, contiguous, and international), Article 33 of UNCLOS states that, within its contiguous zone, a “coastal State may exercise the control necessary to . . . prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea.” Otherwise put, the United States may use its policing powers, including the USCG, to enforce its immigration laws within *both* territorial seas and the contiguous zone, or up to 24 nautical miles from United States shorelines. See USCG Final Rule and UNCLOS. See also Nat’l Oceanic and Atmospheric Admin. (NOAA), *Jurisdiction Over Vessels*, <https://www.noaa.gov/jurisdiction-over-vessels#contiguouszone>.

⁸ The letter is publicly available at <https://www.nilc.org/2022/11/04/haitian-bridge-alliance-national-immigration-law-center-and-288-organizations-call-on-biden-administration-to-reject-plans-to-house-haitian-refugees-in-guantanamo-bay/> (last accessed Apr. 10, 2024).

countries to follow.⁹ Finally, the letter claimed the policy contravenes the United States's commitment to the principle of non-refoulement.

IV. Investigative Process

This recommendation memorandum is focused on CRCL's investigation into USCG policies and practices involving the treatment of migrants interdicted in Caribbean waters. During this investigation, CRCL reviewed federal and international laws, as well as USCG policies, procedures, and training, governing maritime interdictions. CRCL also received multiple briefings from USCG leadership, members of the USCG District 7 (D7) command center in Miami, Florida, DHS's Joint Task Force-Southeast, and the interagency Global Maritime Operational Threat Response Coordination Center.

Additionally, between January 23-26, 2023, CRCL conducted an initial onsite investigation aboard the *USCG Cutter James* where we interviewed crew, observed the areas on the ship used to process and house interdicted migrants, and were walked through a mock version of migrant processing. We were, however, unable to observe a real-time interdiction at that time. On March 14, 2023, CRCL issued an Action Memo to USCG with ten requested actions.¹⁰ On April 13, 2023, CRCL received USCG's initial responses to the Action Memo (USCG Responses). Between May 5-10, 2023, CRCL conducted a second onsite investigation aboard the *USCG Cutter Hamilton*, where we observed two migrant interdictions in the Florida Straits. CRCL conducted interviews with the Hamilton's officers and crew, and with interdicted migrants. Since the May 2023 onsite, CRCL and USCG have engaged in ongoing discussions regarding USCG's real time progress in addressing CRCL's requested actions.¹¹

V. Analysis

Positive Outcomes from CRCL's Investigation

At the outset, CRCL acknowledges and commends the USCG for the many positive steps taken in direct response to, or consistent with, CRCL's Action Memo requested actions. USCG revised

⁹ More than a year after CRCL received the NGO Sign-On Letter, the interdiction of migrant vessels in Caribbean waters is ongoing and remains a prominent issue in the public eye. On December 6, 2023, The New York Times Magazine published an article about the USCG's treatment of unaccompanied Haitian children interdicted at sea. The article was based on a months-long investigation by ProPublica. S.F. Wessler, *The border where different rules apply* (Dec. 6, 2023), N.Y. TIMES, <https://www.nytimes.com/>. CRCL considered these allegations as part of our investigation.

¹⁰ These requested actions included, in summary: (1) recruiting and hiring additional Haitian-Creole interpreters; ensuring the personal privacy of on-board migrants during (2) at-sea protection screenings and (3) the use of outdoor showers and lavatories; (4) increasing the quantity of food provided; (5) providing fresh water showers at least every 2-3 days; improving medical care by (6) deploying additional trained and qualified medical personnel and (7) screening for infectious diseases; (8) improving the process to track migrants; (9) providing clarification to CRCL regarding USCG policies for the identification and protection screening of unaccompanied minors (UM) and (10) allowing CRCL to observe a real-time migrant interdiction and interview USCG personnel regarding interdictions.

¹¹ Additionally, on March 27-31, 2023, CRCL conducted an onsite investigation of ICE's care and custody of migrants at the Migrant Operations Center (MOC) in Guantanamo Bay, Cuba. Concurrent with these recommendations, CRCL will also issue separate recommendations to USCIS and ICE based on these investigations, and each component's involvement in OVS operations.

policy to improve the timing, frequency, and quantity of food provided to migrants;¹² updated a contract to provide up to seven Haitian interpreters in the USCG Sector Miami, District 7 (D7) during migrant surges, with at least one interpreter permanently deployed on USCG cutters in the Windward Pass and Florida Straits;¹³ and installed satellite-based broadband internet on all D7 legend-class or “WMSL”¹⁴ cutters,¹⁵ which will improve real-time telephonic access to additional language interpreters stationed on land, as well as improve migrant tracking data. CRCL is also encouraged by USCG’s many projects in development, including a handheld language translation device to assist in migrant interactions and an automated bracelet system with scannable barcodes to improve migrant tracking and safety.¹⁶

Ongoing Areas of Concern

In sum, CRCL’s investigation found three areas in USCG’s policies and practices that still require additional attention: medical staffing, infectious disease screening, and screening of migrant children.

Medical Staffing

During the investigation, CRCL reviewed the USCG’s guiding documentation related to medical care requirements. According to USCG’s Counter Drug and Alien Migrant Interdictions Operations (CD-AMIO) Manual, “[h]aving sufficient medical personnel available to handle the needs of large migrant groups is essential and can make the difference between life and death for those who are injured or ill. Having these personnel will be invaluable during triage and follow-on care.”¹⁷ Additionally, in USCG’s responses to CRCL’s Request for Information (RFI), USCG stated that “major cutters,”—its legend-class “WMSL” ships with a crew of up to 160—have one dedicated Independent Duty Health Services Technician (IDHS) on staff, while smaller Fast Response Cutters, with a crew of 22, have only one Emergency Medical Technician (EMT) or CPR-trained employee, performing medical services as a collateral duty.¹⁸

¹² See Update to Alien Migrant Interdiction Operations Tactics (AMIO), CGTTP 3-93.81 (Aug. 22, 2023).

¹³ See USCG Contract No. 70FA4022A0000020 with Language Bank, Inc. (Mar. 9, 2023).

¹⁴ W is the first-letter designation for all USCG vessels. MSL denotes “Maritime Ship, Large.” WMSL cutters are the second-longest of all United States Coast Guard cutters at 418 ft. and the largest active patrol cutter class. They can be used for multiple purposes including environmental protection, search and rescue, coastal security, counterterrorism activities, law enforcement, drug interdiction, defense operations, and other military/naval operations. For purposes of OVS, WMSLs carry and launch both the Short Range Prosecutor and the Long Range Interceptor rigid-hulled inflatable boats (RHIBs) used for migrant interdictions. WMSLs also have the largest deck space among the cutters deployed in OVS and are used for processing and holding interdicted migrants. See *The Cutters, Boats and Aircraft of the U.S. Coast Guard* (undated), available at <https://www.uscg.mil> (last accessed Apr. 10, 2024).

¹⁵ In a telephonic briefing of CRCL by the USCG on December 12, 2023, USCG stated that satellite-broadband internet was expected to be installed on all cutters deployed in D7 by the end of March 2024 (Dec. 2023 Briefing).

¹⁵ CD-AMIO, COMDTINST M16247.4B, at B.9, Medical Personnel.

¹⁶ Dec. 2023 Briefing.

¹⁶ CD-AMIO, COMDTINST M16247.4B, at B.9, Medical Personnel.

¹⁷ *Id.*

¹⁸ Dec. 2023 Briefing.

Both IDHS¹⁹ or EMT's generally have the knowledge and skills to provide emergency medical care for the purpose of stabilizing a patient until they can access a higher level of care.²⁰ USCG stated that IDHS technicians are also qualified and authorized to perform certain additional tasks, like administering IV fluids and certain medications, such as over the counter drugs, fast acting inhalers and rescue drugs like epinephrine and opioid antagonists.²¹ IDHS cannot prescribe or administer other medications absent written authorization by a Supervisory Medical Officer (SMO), who may be on another cutter or stationed on land, and may delay treatment by hours.²² According to interdiction data, the USCG interdicted nearly 12,000 migrants in Caribbean waters in 2022, and more than 7,000 additional migrants between October 2022 and February 2023.²³ At times, these interdictions have involved more than 300 migrants aboard a single vessel.²⁴ In each of the last three months of 2022, USCG's D7 cutters interdicted more than 1,500 migrants.²⁵ In January 2023, the last month for which we have data, USCG interdicted 2,248 migrants, with an average time on deck of approximately 5 days and a maximum time of 19 days.²⁶ While USCG tries to divide migrant groups among multiple cutters, that process can take hours or even days. This results in situations where hundreds of migrants are brought aboard a single cutter to be assessed by a single IDHS or EMT, with possible assistance from a handful of crew members with limited medical training.²⁷

The USCG RFI responses note that cutters have access, via radio or satellite phone, to a Flight Duty Surgeon for medical advice or to medivac a patient to land and the HSTF-SE Medical Branch has the ability to augment cutter crews with additional medical staff,²⁸ as capacity allows. However, each of these measures not only requires additional time—hours or days in the case of surging medical providers—but relies on a skilled and expeditious medical assessment and/or timely recognition of emergent medical issues. During CRCL's observations of migrant interdiction and screenings, the medical screening provided was relatively cursory—taking approximately 3-5 minutes for each migrant—and was limited to taking basic vitals and eliciting information regarding current medications, open wounds, and/or pain. Many migrants may have been at sea for several days at the time of interdiction and may be suffering from exhaustion, exposure, hypothermia, malnutrition, and/or severe dehydration. These conditions require continuous monitoring to avoid further negative outcomes like seizures, swelling of the brain, shock or kidney failure.²⁹

¹⁹ In the Dec. 2023 Briefing, USCG described IDHS training as slightly higher than that of an EMT-Basic.

²⁰ See National Registry of Emergency Medical Technicians Website, *Emergency Medical Technicians (EMT)* (undated), <https://www.nremt.org/EMT/Certification>.

²¹ See Standardized Health Services Technician Drug Formulary, COMDTINST 6570.1B. (Feb. 3, 2011).

²² *Id.* Tranche Two Responses to CRCL for DHS Complaint #005118-23-DHS, Encl. 7, Coast Guard Interdiction Data, October 1, 2021-February 1, 2023 (*rec'd* Feb. 7, 2023) (USCG Interdiction Data).

²³ *Id.*

²⁴ *See id.*

²⁵ There were 1,659 interdictions in October, 1,746 in November and 1,566 in December. *See id.*

²⁶ *See id.*

²⁷ *See id.*

²⁸ In the Dec. 12, 2023 Briefing, USCG estimated there were eight or nine surge medical staff in Key West, Florida.

²⁹ *See., e.g.,* Dana Sparks, *Can dehydration lead to serious complications?* Mayo Clinic (Sept. 12, 2016), <https://newsnetwork.mayoclinic.org/discussion/dehydration-can-lead-to-serious-complications/>; Nardone R, Brigo F, Trinka E., *Acute Symptomatic Seizures Caused by Electrolyte Disturbances.* J CLIN NEUROL. 2016 Jan;12(1):21-33, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4712283/>; Rebecca Krantz, *Symptoms of dehydration: What*

(b) (5)

Infectious Disease Screening

The USCG RFI responses state that migrants are screened for infectious diseases. During its investigation, CRCL was able to observe two migrant interdictions, involving approximately 30 migrants, and the subsequent screening and processing of migrants aboard a USCG cutter. The medical screening of interdicted migrants consisted of a crew member taking “vitals:” temperature, pulse oximetry, and blood pressure; and a series of questions including medications and current medical complaints, such as open wounds or pain. There are no specific questions in the medical screenings, or tests performed, aimed at identifying cholera or tuberculosis,³¹ both highly contagious, life-threatening, and prevalent in Haiti, a country many of the migrants were coming from at that time, which precipitated the allegations.³² Both diseases pose a real threat for not only migrants, but USCG members who come in contact with them. USCG members are not required to be vaccinated for either cholera or tuberculosis.³³

To provide context, the World Health Organization (WHO) describes cholera as an acute diarrheal disease that can kill within hours if left untreated that is often mistaken for dehydration.³⁴ In October 2022, after more than three years of no cases, Haitian national authorities reported a cholera outbreak. By November 2022, the Haitian Ministry of Public Health and Population (MSPP) reported over 600 confirmed cases and over 6,500 suspected cases in the greater Port-au-Prince area.³⁵ A November 7, 2023, Situation Report from the MSPP

they are and what to do if you experience them, Harvard Health Pub., Harvard Med. School (Jan. 2, 2024), <https://www.health.harvard.edu/staying-healthy/symptoms-of-dehydration-what-they-are-and-what-to-do-if-you-experience-them>; Mayo Clinic Staff, *Hypothermia* (Mar. 5, 2022), <https://www.mayoclinic.org/diseases-conditions/hypothermia/symptoms-causes/syc-20352682>.

³⁰ The USCG Interdiction Data showed the average time on deck for migrants was between 3.4 and 4.8 days. However, the data note that many migrants were held on deck for extended periods of 10-25 days. CRCL observed the conditions of migrants housed on the *USCG Cutter Hamilton* during its second onsite.

³¹ The United States Coast Guard Maritime Law Enforcement Manual (MLEM) states that crew members should conduct “passive surveillance” for Cholera. MLEM at F.2.a. Communicable Diseases.

³² Haitians represented approximately 34% of all migrants interdicted as part of OVS in Fiscal Year (FY) 2022 and 25% in FY2023, as of January 31, 2023. *See* USCG Interdiction Data.

³³ *See* CD-AMIO at 2-10, Section F: Medical Preparations.

³⁴ World Health Organization (WHO) Website, *Cholera* (Dec. 11, 2023), <https://www.who.int/news-room/fact-sheets/detail/cholera>.

³⁵ *See* Centers for Disease Control (CDC) Website, *Cholera in Haiti* (Jan. 25, 2023), <https://www.cdc.gov/cholera/haiti/>.

estimated the total number of suspected cholera cases in Haiti at nearly 70,000.^{36, 37} (b) (5)

Similarly, the CDC reports that Haiti has the highest incidence of tuberculosis (TB) in the Western Hemisphere,³⁹ and the WHO lists Haiti as one of 12 countries with the highest rates of TB worldwide.⁴⁰ As of 2019, TB is classified as “endemic,” or constantly present, with between 100-299 new and relapse cases per 100,000 population per year.⁴¹ TB is a highly communicable disease caused by bacteria spread from person to person through the air.^{42, 43} While laboratory testing is required to accurately diagnose active TB, a tuberculosis skin test (TST) can quickly and accurately determine whether the patient has been exposed to the bacteria.⁴⁴ Patients can thereby be identified through a combination of reported symptoms and TST testing to prevent a potential outbreak.

(b) (5)

Screening of Minor Children

According to interdiction data provided by USCG⁴⁵ and news reports,⁴⁶ the USCG interdicted a record number of unaccompanied minors (UM)—nearly 500—in Caribbean waters between July 2021 and September 2023. This is a nearly tenfold increase compared to the prior two years.⁴⁷

While there are heightened protections for unaccompanied children seeking asylum at United States land borders, there is no statutory requirement to conduct fear screenings for unaccompanied children interdicted at sea. However, USCG administers a human trafficking questionnaire (HT questionnaire) to all UMs, pursuant to the USCG Business Rules: Migrants

³⁶ See MPHP, *Sitrep cholera* (Nov. 7, 2023), mspp.gouv.ht.

³⁷ Early symptoms of cholera include watery diarrhea, vomiting, thirst, leg cramps, and restlessness or irritability. Health care providers should also look for signs of dehydration, which include rapid heart rate and loss of skin elasticity, See CDC Website, *Diagnosis and Detection, Cholera* (June 6, 2022), <https://www.cdc.gov/cholera/diagnosis.html>

³⁸ See *id.*

³⁹ See CDC Website, *CDC in Haiti* (Nov. 1, 2023), <https://www.cdc.gov/globalhealth/countries/haiti/>.

⁴⁰ See WHO Website, *WHO Global Lists of High Burden Countries for Tuberculosis (TB), TB/HIV and Multidrug/Rifampicin-resistant TB* (undated) available at <https://www.who.int/news/item/17-06-2021-who-releases-new-global-lists-of-high-burden-countries-for-tb-hiv-associated-tb-and-drug-resistant-tb> (last accessed Apr. 10, 2024).

⁴¹ *Id.*

⁴² See CDC Website, *CDC in Haiti*.

⁴³ TB usually affects the lungs, with patients reporting a bad cough that lasts 3 weeks or longer, chest pain and/or coughing up blood or sputum. See CDC Website, *Tuberculosis*, <https://www.cdc.gov/tb/>.

⁴⁴ See *id.*

⁴⁵ USCG Interdiction Data.

⁴⁶ Wessler, *The border. See also Jasmine Aguilera, The U.S. Coast Guard Is Rescuing Haitian Migrants at Sea in Record Numbers*, TIME (Online ed.) (June 23, 2022), <https://time.com/6189923/haitian-migrants-coast-guard-rescue/>; David Goodhue and Jacqueline Charles, *‘This is obscene.’ Haitians angered by babies being sent back after reaching Keys on boat* (Nov. 25, 2022), MIAMI HERALD, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article269227327.html>.

⁴⁷ See *id.*

Interdicted at Sea in the Caribbean (Business Rules).⁴⁸ The HT questionnaire is administered after separating the minor from the group with whom they were traveling and includes questions that seek to identify past and present abuse and/or harm, as well as fear of being returned to their country.⁴⁹ All HT questionnaires administered to UMs are sent to ICE, Homeland Security Investigations (HSI), USCIS, and DOS. If HSI determines human trafficking indicators are present, “whether verbal, non-verbal, physical, or based on his or her UM questionnaire responses” the UM is referred to USCIS for protection screening.⁵⁰

(b) (5) [REDACTED]
[REDACTED] The Business Rules define an unaccompanied minor as “a child who is not yet 18 and who is not “accompanied (i.e., in the presence of) a parent or legal guardian at the time of interdiction,” where a legal guardian refers to a “formal arrangement, through which an appropriate authority has granted custody of a child to an adult.”⁵¹

(b) (5) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In addition, Rule 8 of the Business Rules states, “[d]epartments and agencies will refer to USCIS for protection screening any UM who manifests a fear of return to their country of origin, departure, or last habitual residence, whether verbal, non-verbal, physical, or based on his or her UM questionnaire responses.” (b) (5) [REDACTED]
[REDACTED]

(b) (5) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁴⁸ See Business Rules: Migrants Interdicted at Sea in the Caribbean Business Rules: Migrants Interdicted at Sea in the Caribbean (Dec. 21, 2020) (Business Rules) at Rule 8. *Additional Procedures for Unaccompanied Minors (UM)* “The USCG or interdicting department or agency will interview the UM using, at a minimum, the biographical and human trafficking screening questions listed in Appendix B to these Rules. These questions should be asked (with an interpreter as needed) of the UM after separating the UM from the group of migrants and suspected smugglers/traffickers.”

⁴⁹ See Business Rules at App. B, Standard UM and HT Questions (Oct. 7, 2022).

⁵⁰ See *id.*

⁵¹ *Id.* at 5, FN 7.

⁵² Wessler, *The border.*

VI. Conclusions and Recommendations

Based on its investigation, CRCL makes the following conclusions and recommendations:

1. (b) (5) [REDACTED]

Recommendation 1: (b) (5) [REDACTED]

2. USCG is not sufficiently screening interdicted Haitian migrants for cholera or tuberculosis aboard D7 cutters, posing a risk for both migrants and USCG personnel.

Recommendation 2: USCG should begin training medical personnel to conduct, and begin conducting, medical screenings of interdicted migrants aboard cutters in D7 for cholera and tuberculosis.

Recommendation 3: USCG should examine whether there are other infectious and communicable diseases that should be screened for regularly to ensure safety.

Recommendation 4: Medical screenings for infectious and communicable diseases should include standard interview questions, as well as symptoms to be identified by health care providers (b) (5) [REDACTED].

3. The USCG has no clear policy or standard for identifying whether or not a child is truly unaccompanied, or part of a family unit.

Recommendation 5: USCG should administer the HT questionnaire to all UMs interdicted at sea who are capable of responding (b) (5) [REDACTED]. The UMs should be separated from the group with whom they were traveling, and screenings should be conducted in private to ensure proper protection screening.

Recommendation 6: USCG should ensure that the HT Questionnaire is provided in a private setting and with appropriate language services.

It is CRCL's statutory role to advise DHS leadership and personnel about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions and implementation of those decisions. We look forward to working with USCG to determine the best way to address these recommendations.

We request that USCG provide a response to CRCL within 120 days indicating whether it concurs or does not concur with these recommendations. If you concur, please include an action plan.

Please send your response and any questions to crclrecommendations@hq.dhs.gov. CRCL will share your response with (b) (6), (b) (6), and (b) (6), the Senior Policy Advisors who conducted this investigation.

Copies to:

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(b) (6)

Appendix A - Relevant Policies and Procedures

1. Presidential Executive Order 12807 (May 24, 1992).
2. Presidential Executive Order 13276 (Nov. 15, 2002).
3. Presidential Executive Order 13286 (Feb. 28, 2003).
4. DHS Southern Border and Approaches Maritime Migration Contingency Plan (Aug. 16, 2016).
5. Operation Vigilant Sentry Base Plan (OPLAN) and Annexes A, B C, D, F, H, K, M, O, P, Q and X (Jun. 7, 2019).
6. United States Coast Guard Counter Drug and Alien Migrant Interdictions Operations (CD-AMIO) Manual (Apr. 2, 2020).
7. United States Coast Guard Maritime Law Enforcement Manual (MLEM) (Nov. 20, 2020).
8. Business Rules: Migrants Interdicted at Sea in the Caribbean Region (Business Rules) (Dec. 21, 2020).
9. Alien Migrant Interdiction Operations (AMIO) Tactics, Techniques, and Procedures (TTP) (Jul. 1, 2020).
10. Update to Alien Migrant Interdiction Operations Tactics (AMIO) (Aug. 22, 2023).