

United States Senate

WASHINGTON, DC 20510

May 22, 2019

John Kelly
Acting Inspector General
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528

Dear Mr. Kelly:

We respectfully request that you immediately investigate Department of Homeland Security (DHS) Customs and Border Protection (CBP) detention facilities at the southwest border, in particular the conditions for minors, family units, and other vulnerable individuals. We are deeply concerned that the overcrowded conditions at CBP facilities are placing detained migrants at risk.

CBP's facilities are inadequate for the current volume of migrants being detained at the border. On May 8, CBP witnesses stated in testimony before the Senate Judiciary Committee:

Our short-term holding facilities were neither designed for the large volume of family units nor for long-term custody. We consider 4,000 detainees to be a high number of migrants in custody, and in the past had considered 6,000 detainees a crisis. In this fiscal year, CBP has already experienced more than 14,000 detainees in custody on a single day.¹

In their testimony, CBP claimed that the agency “complies with the Flores Settlement Agreement [*Flores*] and treats all minors in its custody in accordance with its terms.”² *Flores* requires that DHS “shall hold minors in facilities that are safe and sanitary and that are consistent with the [DHS’s] concern for the particular vulnerability of minors.”³ Additionally, under the Trafficking Victims Protection Reauthorization Act (TVPRA), DHS must transfer unaccompanied children from non-contiguous countries to Department of Health and Human Services custody within 72 hours. We are concerned that the conditions for minors in CBP custody do not meet the safety standard required by *Flores* and that DHS is violating the TVPRA’s expeditious transfer requirement for unaccompanied children.

We are also concerned that CBP is violating the agency’s own National Standards on Transport, Escort, Detention, and Search, including the requirement that detainees should generally not be held for longer than 72 hours in CBP holding facilities and that “[e]very effort must be made to hold

¹ Written testimony of Border Patrol Chief Carla L. Provost, Office of Field Operations Executive Assistant Commissioner Todd C. Owen, and Department of Homeland Security Joint Task Force-West Director Manuel Padilla, Jr., before the Senate Committee on the Judiciary, Subcommittee on Border Security and Immigration, May 8, 2019, available at <https://www.judiciary.senate.gov/imo/media/doc/Owen-Provost-Padilla%20Joint%20Testimony.pdf>.

² *Id.*

³ *Flores* Settlement Agreement, available at https://cliniclegal.org/sites/default/files/attachments/flores_v._reno_settlement_agreement_1.pdf.

detainees for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible.”⁴


CBP has stated that they are “reviewing options to relieve recent overcrowding in Border Patrol stations, including engaging with non-governmental organizations and local partners.”⁵ Congress has appropriated \$414.7 million for CBP’s use in Fiscal Year 2019 for humanitarian purposes at the border. We request that your investigation examine how these funds are being spent by CBP to address humanitarian needs at the border, including overcrowding, and whether these resources are being deployed quickly and effectively.

Thank you for your time and consideration. We look forward to a prompt response.

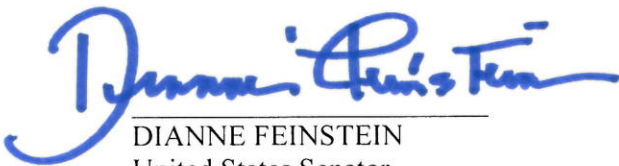
Sincerely,



RICHARD J. DURBIN
United States Senator



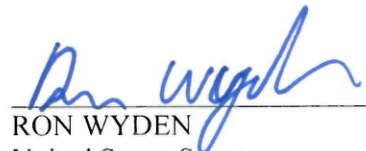
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⁴U.S. Customs and Border Protection, National Standards on Transport, Escort, Detention, and Search, available at <https://www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf>.

⁵ Written testimony of CBP, *supra* note 1.



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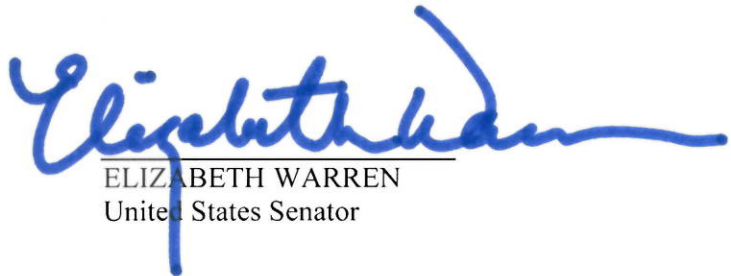
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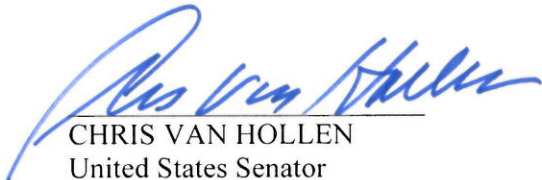
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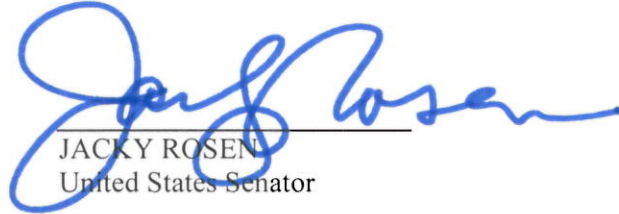
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