

United States Senate
WASHINGTON, DC 20510

July 25, 2019

The Honorable Kevin K. McAleenan
Acting Secretary of Homeland Security
U.S. Department of Homeland Security
245 Murray Lane, S.W.
Washington, DC 20528

Mark Morgan
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, N.W.
Washington, DC 20229

Dear Acting Secretary McAleenan and Acting Commissioner Morgan:

We write to express our serious concerns regarding the humanitarian crisis at the southern border that this Administration's policies have exacerbated, to call your attention to several issues that we observed on our recent visit to the Rio Grande Valley, and to confirm that you will address and remedy these issues promptly.

On July 19, 2019, we traveled to the southern border to observe for ourselves the conditions detained migrants are experiencing at the Donna Holding Facility, McAllen Border Patrol Station, and Ursula Centralized Processing Center. We appreciate that you joined us on this trip and afforded us broad access at the facilities we visited, and we appreciate the CBP personnel who facilitated our visit and understand the current situation on the border is challenging. Our visit followed the July 2, 2019 Department of Homeland Security (DHS) Office of Inspector General's report, which called on DHS "to take immediate steps to alleviate dangerous overcrowding and prolonged detention of children and adults in the Rio Grande Valley."¹ The Office of Inspector General found that the detention conditions in Customs and Border Protection (CBP) facilities are not in compliance with the Flores agreement or TEDS standards, and "represent an immediate risk to the health and safety of DHS agents and officers, and to those detained."² In fact, the Office of Inspector General noted that a senior manager at one of the facilities called the situation "a ticking time bomb."³

¹ Department of Homeland Security Office of Inspector General, *Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley* (OIG-19-51) (July 2, 2019) at 1.

² *Id.* at 7; *see id.* at 2-3, 5, 8, 9.

³ *Id.* at 8.

We have a responsibility to ensure that all women, men, and children in the custody of the United States government are treated humanely. They should not be characterized as criminals when, as you recognized, only a small percentage of individuals in detention have any documented criminal background. Our nation can and must do better.

Specifically, we request that you address and remedy the following issues as soon as possible:

1. The quality of the water at the McAllen Border Patrol Station is poor and was described as excessively chlorinated by detained migrants. Bottled water was not available to detained migrants. Please indicate how you will improve the quality of the water that is currently available.
2. Migrants informed us that they were not given access to telephones to make any calls. Many single adult women had been detained for over a month and wanted to call family to inform them of their wellbeing. You specifically committed to remedy this issue. Please describe what access to phone calls migrants will have going forward. Will migrants be given a schedule indicating when they will have an opportunity to place phone calls?
3. Migrants repeatedly expressed to us that they were unable to communicate with family members while in custody. One woman told us that a relative had been taken for medical care and had not returned, and she did not know her whereabouts. Another woman's husband was detained in the same facility, and she said she had not been provided any communication with him. Please describe what communication between family members at the same detention facility is facilitated by CBP. What communication between family members at different detention centers is facilitated by CBP? What type of update is provided to detainees whose family members have been transported for medical care?
4. Migrant children continue to report not getting enough food to eat or receiving food late at night. Please confirm that migrant children are receiving meals that comply with child nutrition guidelines and provide the meal schedule and plan for CBP detention facilities. Please include if the meals are hot and if children have regular access to snacks, milk, and juice.
5. We saw and heard that the lights are on in CBP detention facilities 24-hours a day, including in rooms where migrants sleep. Would you be willing to darken rooms in CBP detention facilities that house children so that migrant children are able to sleep?
6. Some migrants, including migrant children, indicated that they were not able to engage in basic hygiene while in CBP custody. Please explain whether migrants in detention are provided a schedule indicating when they will have opportunities to shower and brush their teeth.
7. We are especially concerned about female migrants' detention conditions. Single women detainees indicated that they were not provided undergarments and regular access to feminine hygiene items. Please indicate what undergarments and hygiene products adult women in detention are provided while detained. Please also indicate if female detainees have access to a private place to change clothes and go to the bathroom.

8. According to news reports, a disturbing number of migrants have asserted that they experienced harassment, sexual abuse, or mistreatment while in CBP custody. Is there a safe, confidential way for migrants to report harassment, sexual abuse, or mistreatment by CBP personnel or other migrants? Please include information regarding the process to report such claims.
9. Given that serious detention conditions issues came to light as a result of reports by the Office of Inspector General and Flores monitors, we believe that more frequent independent monitoring of CBP facilities is required to rebuild confidence that migrants in the care of the government will be treated humanely. Will you support more frequent independent monitoring of CBP facilities? If not, please state the reasons for denying access.
10. There were no child care or child welfare professionals at the detention facilities we visited, even though Donna Holding Facility and Ursula Centralized Processing Center house migrant children (including infants and toddlers) for days or weeks at a time. Research cited by the American Academy of Pediatrics shows that migrant children in these facilities may be at increased risk of post-traumatic stress disorder (PTSD), anxiety, depression, suicidal ideation, and other behavioral problems, as well as long term psychological trauma as a result of this detention. CBP officers are currently tasked with responsibilities that they are not best trained or equipped to handle, and we share the goal of returning officers to their original mission of securing the border. You indicated that you would like to contract with child care and child welfare professionals. How will you make pediatric and adolescent mental and behavioral health professionals, including bilingual professionals, available to migrant children in order to mitigate these risks? In addition, are migrant children with existing mental or behavioral health conditions being treated by health care professionals, including for trauma experienced prior to their arrival at a detention facility? Please outline what steps are being taken to prevent migrant children from developing the psychological conditions listed above by the American Academy of Pediatrics.
11. We appreciate that CBP has increased the number of medical professionals working in detention facilities, and we understand that all migrants are afforded a medical screening as part of the CBP intake process. Please describe in detail what is encompassed in this medical screening, who conducts the screening, how many individuals conduct the screening, and how medical records are preserved.
12. Given the preventable illnesses that have spread among children in detention facilities, we are particularly concerned about the medical screening of detained children. When a child is given a medical screening, does the person performing the screening speak with both the child and the child's accompanying family member? Are border patrol agents or other staff trained to look for signs of medical distress in children? Are pediatric medical professionals on site at all facilities holding children for any length of time? If so, what is the ratio of pediatric medical professionals to migrant children at CBP facilities?
13. We are concerned about the prolonged detention of migrants and the inability of CBP to tell us how many children have been in custody longer than 72 hours. Please describe how CBP maintains this data, tell us how long the migrants currently in custody have been in detention,

and provide the number of children who have been in CBP custody for longer than 72 hours. Are migrants given periodic updates about their status and timeline for release?

14. We observed that when processed, several migrants were given Notices to Appear that were only in English and did not contain a date, time, or address where the recipient was instructed to appear for judicial proceedings. Please confirm that all Notices to Appear issued at the southern border will include Spanish versions and complete information going forward.

15. When in place before it was terminated in 2017, the Family Case Management Program achieved a compliance rate of 99 percent for ICE check-ins and 100 percent attendance at court hearings, at an estimated cost of approximately \$36 per person per day, versus approximately \$319 for an ICE family detention bed. In the FY19 Omnibus signed into law in February, Congress directed ICE to prioritize the use of Alternatives To Detention (ATD) programs for families. Congress increased funding for ATD and provided \$30.5 million in funding for Family Case Management. How are you using those funds and what is the status of the Family Case Management Program?

16. We visited the Catholic Charities Humanitarian Respite Center, where migrants get clean clothes, a hygiene kit, a hot shower, and a hot meal. Catholic Charities Humanitarian Respite Center often learns that migrants will be released to their facility with little time to prepare for their arrival, and the number of migrants varies significantly from day to day; it can range from a few hundred to over one thousand migrants. Will you work with Catholic Charities and other nonprofits serving this population to provide more notice on the timing of release and coordinate with them to the greatest extent possible? Will you work on improved coordination between Border Patrol and ICE for transportation and/or release of migrants from CBP custody?

17. Do you anticipate that nonprofits like Catholic Charities will be eligible and approved for grants from the \$30 million allocated to FEMA grants in the border supplemental that Congress passed?

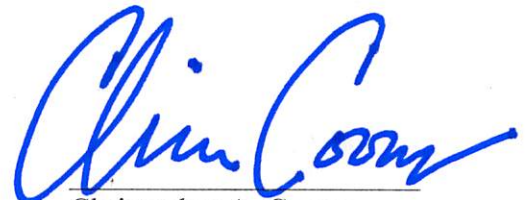
18. Given that major NGOs with experience responding to the needs of children during humanitarian crises stand ready to assist, have they been allowed to provide direct services to children in CBP custody? If not, what is the timeline for allowing such access?

We look forward to your response to these inquiries by August 1, 2019. In addition to responding in writing, we ask that you provide a telephonic briefing for Members no later than August 10, 2019, that outlines the administration's plan for addressing the remaining concerns laid out in this letter.

Sincerely,



Charles E. Schumer
United States Senate



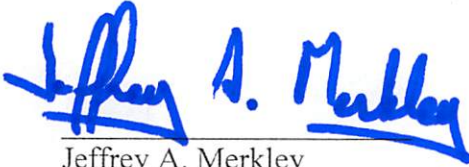
Christopher A. Coons
United States Senate



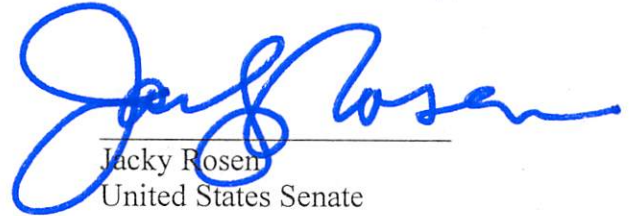
Robert Menendez
United States Senate



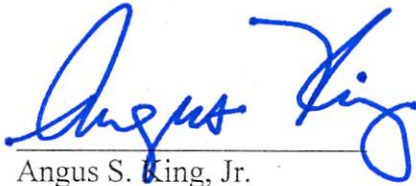
Richard J. Durbin
United States Senate



Jeffrey A. Merkley
United States Senate



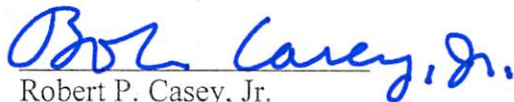
Jacky Rosen
United States Senate



Angus S. King, Jr.
United States Senate



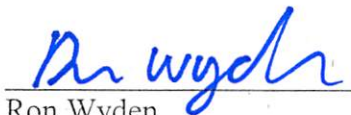
Richard Blumenthal
United States Senate



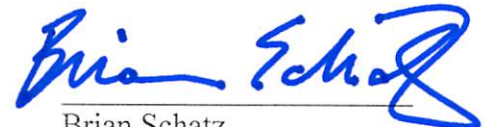
Robert P. Casey, Jr.
United States Senate



Jack Reed
United States Senate



Ron Wyden
United States Senate



Brian Schatz
United States Senate



Benjamin L. Cardin
United States Senate