

Five Laredo and San Antonio Area CBP Facilities Generally Complied with the National Standards on Transport, Escort, Detention, and Search





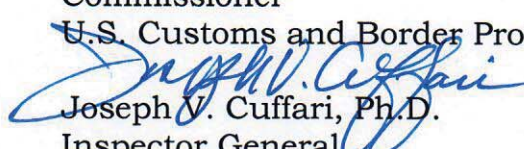
OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 1, 2020

MEMORANDUM FOR: Mark A. Morgan
Senior Official Performing the Duties of the
Commissioner
U.S. Customs and Border Protection

FROM: 
Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *Five Laredo and San Antonio Area CBP Facilities
Generally Complied with the National Standards on
Transport, Escort, Detention, and Search*

For your information is our final report, *Five Laredo and San Antonio Area CBP Facilities Generally Complied with the National Standards on Transport, Escort, Detention, and Search*. We note that CBP elected to forego a formal written response as we made no recommendations in the report.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Jackson Eaton, Deputy Assistant Inspector General for Special Reviews and Evaluations, at (202) 981-6000.



DHS OIG HIGHLIGHTS

Five Laredo and San Antonio Area CBP Facilities Generally Complied with the National Standards on Transport, Escort, Detention, and Search

September 1, 2020

Why We Did This Inspection

As part of OIG's annual, congressionally mandated oversight of CBP holding facilities, we conducted unannounced inspections of five facilities in the Laredo and San Antonio areas of Texas to evaluate CBP's compliance with applicable detention standards.

What We Recommend

We made no recommendations as a result of these inspections.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

During our unannounced inspections of five U.S. Customs and Border Protection (CBP) facilities in the Laredo and San Antonio areas of Texas in February 2020, the three CBP Border Patrol stations and two CBP Office of Field Operations (OFO) ports of entry we visited appeared to be operating in compliance with the *National Standards on Transport, Escort, Detention, and Search* (TEDS) standards. We verified accessibility to water, food, toilets, sinks, basic hygiene supplies, and bedding. We observed clean facilities and verified that temperatures and ventilation in the holding rooms were appropriate. Of the five facilities, only one could provide on-site showers to detainees, but during our visits, no detainees were approaching the detention time threshold when a shower would be required. Because Border Patrol leadership directed all Border Patrol stations to implement Phase 2 of enhanced medical screening ahead of the prescribed schedule outlined in CBP Directive 2210-004, the Border Patrol stations we visited were conducting alien intake health assessments using CBP Form 2500. Ports of entry had implemented Phase 1, but were not yet required to conduct Phase 2 assessments at the time of our inspection.

CBP Response

CBP management elected to forego a formal written response as we made no recommendations in the report.



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Introduction

With holding facilities in many of the 328 ports of entry and 135 Border Patrol stations, U.S. Customs and Border Protection’s (CBP) ability to meet the 2015 *National Standards on Transport, Escort, Detention, and Search* (TEDS)¹ and provide reasonable care for detainees from apprehension to transfer or repatriation can vary greatly. In 2019, our unannounced inspections of CBP holding facilities identified significant issues, such as dangerous overcrowding and prolonged detention, at several locations along the Southwest Border. In fiscal year 2020, Congress mandated that we continue our unannounced inspections of CBP holding facilities, with a particular focus on evaluating CBP’s capacity to identify and adequately address the health needs of detainees. Accordingly, in addition to assessing CBP’s compliance with the detention standards we typically evaluate, such as access to food, drink, personal hygiene supplies, and medical care, our FY 2020 inspections also focus on enhanced medical intake procedures implemented by CBP. This report describes the results of the first of a series of unannounced inspections we will conduct in FY 2020. This first round of inspections covered five Laredo and San Antonio area CBP facilities (see figure 1).

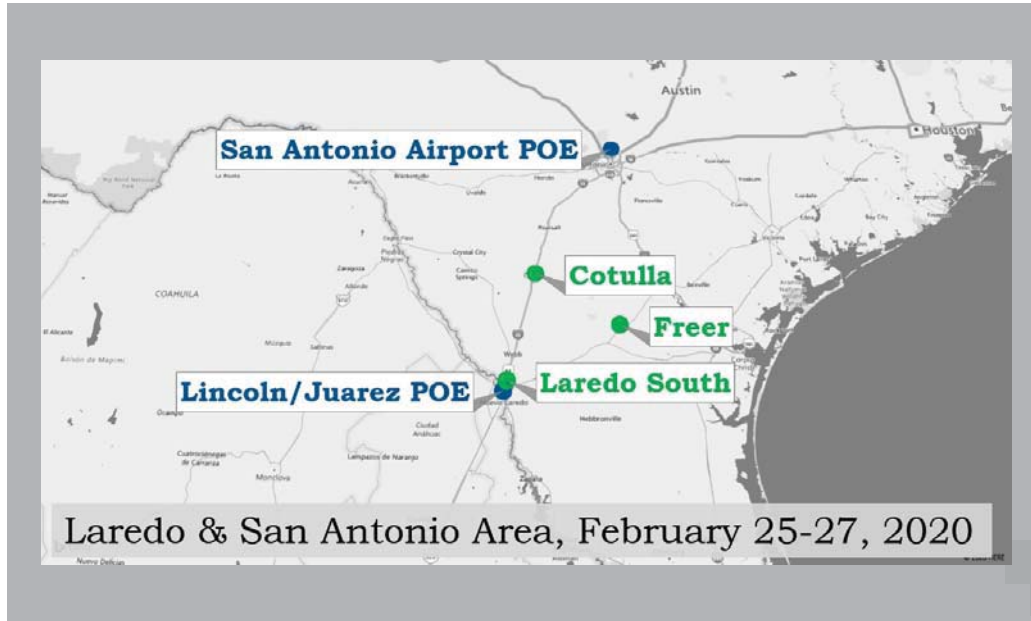


Figure 1: Locations of CBP Facilities Visited in February 2020

Source: Office of Inspector General (OIG)

¹ The TEDS standards govern CBP’s interaction with detained individuals. U.S. Customs and Border Protection, *National Standards on Transport, Escort, Detention, and Search*, October 2015



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Background

CBP's Office of Field Operations (OFO) manages U.S. ports of entry where officers perform immigration and customs functions, admitting people who have valid documents for legal entry, such as visas or legal permanent resident cards, and goods permitted under customs and other laws. Between ports of entry, CBP's Border Patrol detects and interdicts individuals suspected of illegally entering the United States. OFO and Border Patrol are responsible for short-term detention of persons arriving in the United States without valid travel documents or crossing the border illegally.

CBP's holding facilities are required to comply with TEDS, which specify how detainees should be treated in CBP custody. According to TEDS, every effort must be made to promptly transfer, transport, process, release, or repatriate detainees as appropriate and as operationally feasible, within 72 hours after being taken into custody.² CBP has an obligation to provide detainees in its custody with drinking water, meals and snacks, access to toilets and sinks, basic hygiene supplies, bedding, and under certain circumstances, showers.³ CBP must also ensure that holding facilities are kept clean, temperature-controlled, and adequately ventilated.⁴

TEDS standards also outline general requirements related to detainee access to medical care in emergencies. In late December 2019, CBP enhanced these requirements by adopting CBP Directive 2210-004,⁵ which requires "deployment of enhanced medical support efforts to mitigate risk to, and sustain enhanced medical efforts for persons in CBP custody along the Southwest Border." The directive outlines a three-phased approach for enhancing medical screening of persons in CBP custody. In the first phase (Phase 1), CBP personnel are expected to observe all persons in custody upon initial encounter and identify potential medical issues. Persons identified with

² TEDS standards generally limit detention in CBP facilities to 72 hours, with the expectation that CBP will transfer Unaccompanied Alien Children (UAC) to the Department of Health and Human Services, Office of Refugee Resettlement, and families and single adults to U.S. Immigration and Customs Enforcement long-term detention facilities.

³ TEDS 4.14 *Secure Detention Standards: Drinking Water*; TEDS 4.13 *Secure Detention Standards: Food and Beverage, Meal Timeframe and Snack Timeframe*; TEDS 5.6 *Detention: Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees*; TEDS 4.15 *Secure Detention Standards: Restroom Facilities*; TEDS 5.6 *Detention: Hold Rooms – UAC*; TEDS 4.11 *Secure Detention Standards: Hygiene*; TEDS 4.12 *Secure Detention Standards: Bedding*. Under TEDS standards, reasonable effort will be made to provide showers to juveniles approaching 48 hours, and adults approaching 72 hours, in CBP custody. TEDS 4.11 *Secure Detention Standards: Hygiene: Basic Hygiene Items*; and 5.6 *Detention: Showers – Juveniles*

⁴ TEDS 4.7 *Hold Room Standards: Temperature Controls*; and TEDS 5.6 *Detention: Hold Rooms – UAC*

⁵ CBP Directive No. 2210-004, *Enhanced Medical Support Efforts*, December 30, 2019
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medical issues of concern will then receive health interviews or medical assessments, or be referred to the local health system for evaluation.

In addition to the initial observation required in the first medical screening phase, the second phase (Phase 2) requires CBP personnel to complete an Alien Initial Health Interview Questionnaire (CBP Form 2500) for any individual in custody under the age of 18. Subject to availability of resources and operational requirements, the third phase (Phase 3) adds the requirement that CBP personnel conduct a medical assessment⁶ of all children ages 12 and under in custody,⁷ any person who has a positive response to a specific set of questions on the CBP Form 2500,⁸ and any other person in custody with a known or reported medical concern. The directive notes that implementation of these phases “is contingent upon available funding and necessary resources for contracted medical support and for dedicated internal CBP medical direction, coordination, and oversight.”⁹

The medical screening directive gave Border Patrol and OFO 90 days to submit plans to the Commissioner detailing how they would implement the new requirements. At the time of our February 2020 inspections, Border Patrol had submitted its plan and had already implemented the Phase 2 requirements ahead of the 90-day deadline. OFO had not yet submitted its plan, but was on track to meet the directive’s deadline for submission.

Results of Inspection

During our unannounced inspections of five CBP facilities in the Laredo and San Antonio areas of Texas in February 2020, the three Border Patrol stations and two OFO ports of entry we visited appeared to be operating in compliance with the TEDS standards. We verified accessibility to water, food, toilets, sinks, basic hygiene supplies, and bedding. We observed clean facilities and verified that temperatures and ventilation in the holding rooms were appropriate. Of the five facilities we visited, only one could provide on-site showers to detainees, but during our visits, no detainees were approaching the detention time threshold where a shower would be required. Because Border

⁶ The directive defines a “medical assessment” as an evaluation of an individual conducted by a health care provider to assess medical status. CBP Directive 2210-004, *Enhanced Medical Support Efforts* (5.4), December 30, 2019

⁷ The directive specifically identifies that only children 12 and under along the Southwest border will receive a medical assessment. There is no such requirement along the Northern border.

⁸ There are seven questions on the CBP Form 2500 that, if the detainee has a positive response, would automatically prompt a medical assessment. These questions are used to determine if the detainee has injury, any symptoms of illness, known contagious diseases, or thoughts of harming self or others.

⁹ CBP Directive 2210-004, *Enhanced Medical Support Efforts* (8.1), December 30, 2019
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Patrol leadership directed all Border Patrol stations to implement Phase 2 of enhanced medical screening ahead of the prescribed schedule outlined in CBP Directive 2210-004, the Border Patrol stations we visited were conducting alien intake health assessments using CBP Form 2500. Ports of entry had implemented Phase 1, but were not yet required to conduct Phase 2 assessments at the time of our inspection.

Facilities Generally Complied with Standards, but Did Not Have Showers Readily Available for Detainees

Among other requirements under TEDS standards, functioning drinking fountains or clean drinking water must always be available to detainees;¹⁰ snacks and meals have to be provided at regularly scheduled intervals;¹¹ detainees must have access to toilets and sinks, basic hygiene supplies, and bedding;¹² and temperatures and ventilation in hold rooms must be reasonable.¹³ During our inspection of Laredo and San Antonio area facilities, we found that all five of the facilities we visited complied with these TEDS standards. In addition, under TEDS standards, reasonable effort will be made to provide showers to detainees after a certain amount of time in CBP custody.¹⁴ At the time of our visit, only one out of five facilities visited had the capability to provide showers on site. However, because none of the facilities at the time were holding detainees long enough to meet the shower-access thresholds, we did not observe noncompliance with these standards.

Drinking Water, Meals, and Snacks Were Available

In all five facilities we visited, each detainee had access to potable water. The facilities had either jugs filled with water and clean drinking cups, or bottled water, available. At all five facilities, juveniles and adults had access to food, drinks such as juice and milk, and snacks. The facilities also had clean baby bottles and a variety of age appropriate foods such as formula, baby food, and snack items.

¹⁰ TEDS 4.14 *Secure Detention Standards: Drinking Water*

¹¹ TEDS 4.13 *Secure Detention Standards: Food and Beverage, Meal Timeframe and Snack Timeframe*; TEDS 5.6 *Detention: Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees*

¹² TEDS 4.15 *Secure Detention Standards: Restroom Facilities*; TEDS 5.6 *Detention: Hold Rooms – UAC*; TEDS 4.11 *Secure Detention Standards: Hygiene*; TEDS 4.12 *Secure Detention Standards: Bedding*

¹³ TEDS 4.7 *Hold Room Standards: Temperature Controls*; and TEDS 5.6 *Detention: Hold Rooms – UAC*

¹⁴ TEDS 5.6 *Detention: Showers – Juveniles*; and TEDS 4.11 *Secure Detention Standards: Hygiene: Showers*



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Figure 2. Baby food, drinks, and snacks available at CBP facilities, observed February 25–27, 2020

Source: OIG

Detainees Had Access to Toilets, Hygiene Items, and Bedding

All five facilities had working toilets and sinks. Four of the five facilities had mats and Mylar blankets, and personal hygiene items such as toothbrushes, toothpaste, soap, and deodorant. They also had some clothing available. The remaining facility, a port of entry at an airport, did not hold detainees overnight. A CBP official at the airport said if an individual must be detained overnight, the detainee is transferred to an Immigration and Customs Enforcement facility. All facilities had basic hygiene supplies such as toilet paper, diapers, baby wipes, and feminine hygiene products.

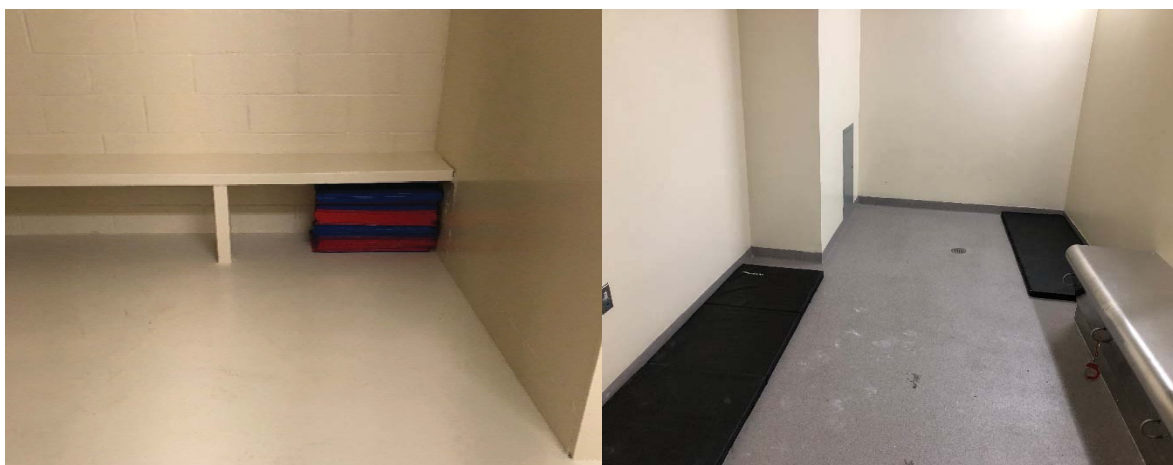


Figure 3. Clean holding cells with child sized mats and adult sleeping mats, observed February 25–27, 2020

Source: OIG



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CBP Facilities Were Well Below Maximum Capacity

We observed that holding facilities were well below capacity during the time of our visit. The total maximum capacity for all five facilities was approximately 400. As noted in table 1, during our visit, only 44 detainees were in custody at the 5 facilities.

Table 1: Total Detainees Held at CBP Facilities Visited February 25–27, 2020

Facilities	UAC	Family	Single Adult	Grand Total	Holding Capacity ¹⁵
Border Patrol Cotulla	2	0	0	2	119
Border Patrol Freer	2	0	3	5	85
Border Patrol Laredo South	5	14	10	29	156
Port of Entry Juarez-Lincoln	0	3	5	8	40
Port of Entry San Antonio Airport	0	0	0	0	4
Grand Total	9	17	18	44	404

Source: OIG analysis of CBP roll call information

Most CBP Facilities Did Not Have Showers on Site

Of the five facilities we visited, only the San Antonio Airport Port of Entry could provide on-site showers to detainees. According to local CBP officials, at least two of the four facilities without showers had requested portable showers from CBP headquarters, but had not received them. In the event of another Southwest border surge, these facilities may face challenges in complying with TEDS standards on access to showers. However, at the time of our February 2020 visits, CBP was not holding detainees long enough to trigger the TEDS provisions regarding access to showers — i.e., 48 hours for juveniles and 72 hours for adults.

Border Patrol and OFO Facilities Were at Various Stages of Implementation of the New CBP Enhanced Medical Support Efforts

At the time of our visit in February 2020, both Border Patrol and OFO had already implemented the Phase 1 procedures outlined in CBP Directive 2210-004, *Enhanced Medical Support Efforts*. Operating ahead of the timeline prescribed in the directive, Border Patrol stations had implemented Phase 2 and were using CBP Form 2500, Alien Initial Health Interview Questionnaire.

¹⁵ Holding capacities for ports of entry are approximate, as waiting areas can be used for less restrictive detention.



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OFO ports of entry had not implemented the Phase 2 procedures, but were still within the 90-day timeframe for developing an implementation plan.

At all five locations we visited, CBP staff met the TEDS standard for identifying medical issues. Specifically, TEDS 4.3 *General Detention Procedures: Medical Issues* states: “Upon a detainee’s entry into any CBP hold room, officers/agents must ask detainees about, and visually inspect for any sign of injury, illness, or physical or mental health concerns and question the detainee about any prescription medications.” At the time of our site visits in February 2020, all three Border Patrol stations met this requirement by implementing the Phase 2 procedures outlined in CBP Directive 2210-004.¹⁶ Specifically, the medical personnel, medical contractors, or Emergency Medical Technician (EMT)-certified Border Patrol agents working at the three stations we visited said they were completing the new CBP Form 2500, Alien Health Interview Questionnaire, to identify potential medical issues for all detainees under the age of 18. Further, at one Border Patrol station we visited, we learned staff had expanded the Phase 2 procedures and were completing CBP Form 2500 on all detainees, regardless of age.¹⁷

In contrast, OFO had not yet implemented the Phase 2 procedures at ports of entry at the time of our visit. The two OFO ports of entry we visited were not using CBP Form 2500 and had not received guidance from OFO headquarters regarding implementation of Phase 2 requirements. However, because OFO was still operating within the 90-day timeframe set in the directive, non-use of the form was acceptable. An OFO official from headquarters said the draft plan to enhance medical support efforts was in the final approval stages and, once it is signed, will be distributed to OFO locations with instructions to use CBP Form 2500. In the meantime, the two OFO facilities we visited met the TEDS requirement for identifying health concerns by engaging in verbal exchange with each detainee. Specifically, at the land port of entry, medical contractors conducted health interviews with detainees;¹⁸ at the airport port of entry, CBP officers elicited medical information from detainees.

¹⁶ On January 14, 2020, approximately 2 weeks after the directive was adopted, the Chief of Border Patrol sent out guidance to all Border Patrol stations stating the CBP Form 2500, Alien Health Interview Questionnaire, must be completed for all individuals under the age of 18.

¹⁷ Although the Phase 2 procedures in CBP Directive 2210-004 call for completion of Form 2500 only on detainees under the age of 18, Laredo Border Patrol officials at one station we visited said they used the CBP Form 2500 for all detainees. Our team corroborated this when it observed medical personnel using the CBP Form 2500 when questioning an adult detainee at one of the stations.

¹⁸ These health interviews involved medical contractors asking detainees 13 questions the contractors had developed, the answers to which were logged in a system for recording health information in the detainee’s file.



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None of the CBP facilities we visited had implemented Phase 3, which is dependent on availability of resources and operational requirements.

Finally, we observed that the facilities we visited had taken precautions to identify and limit the spread of infectious illnesses. For example, those with outdoor areas conducted health interviews before detainees entered the facilities. We observed a detainee who had been given, and was wearing, a mask. Masks, gloves, and hand sanitizers were available to CBP and contract staff. During our inspections, we observed some CBP personnel and contract staff wearing gloves, while some did not. Although the coronavirus was not yet prevalent in the United States at the time of our visit, we observed relevant posters displayed in the facilities, and medical staff asked detainees about travel routes to evaluate potential exposure risk.

Recommendations

We have no recommendations at this time.

Management Comments and OIG Analysis

We received technical comments from CBP and incorporated them in the report where appropriate. CBP management elected to forego a formal written response as no recommendations were made in the report.

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. No. 107-296) by amendment to the *Inspector General Act of 1978*.

Our objective was to determine whether CBP complied with the TEDS standards, and provided reasonable care to detainees from apprehension to holding, including CBP's measures to implement the December 30, 2019 Directive 2210-004, *Enhanced Medical Support Efforts*.

Prior to our inspections, we met with our Office of Investigations and the DHS Office for Civil Rights and Civil Liberties to obtain information on detainee complaints relevant to our site selection. We also reviewed relevant background information, including DHS OIG hotline complaints, and information from congressional requests, non-governmental organizations, and media reports.



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Between February 25 and 27, 2020, we visited three Border Patrol stations (Cotulla, TX; Freer, TX (Freer Station and Freer Checkpoint); Laredo South, TX); and two ports of entry (Lincoln/Juarez International Bridge, Laredo, TX (Bridges 1 and 2); and San Antonio Airport, San Antonio, TX).

Our inspections were unannounced; we did not inform CBP we were in the area before we arrived at the first facility. At each facility, we observed conditions and reviewed electronic records and paper logs as necessary. We also conducted a limited number of interviews of CBP personnel and, when possible, interviewed detainees with language assistance services to provide interpretation. We photographed examples of compliance with TEDS. For example, we took photographs to document the presence of food and supplies, and photographed the conditions of cells.

With the number of detainees arriving and departing each day, conditions at facilities — including crowding and the presence of UACs and families — could vary by day. Our conclusions are therefore limited to what we observed and information obtained from detainees and CBP staff at the time of our site visit.

Within the TEDS standards, we prioritized standards that protect children, derived from the *Flores Agreement*¹⁹ and the *Trafficking Victims Protection Reauthorization Act of 2008*.²⁰ For example, the *Flores Agreement* generally permits detention of minors no longer than 72 hours, with a provision that, in an emergency or influx of minors, placement should be as expeditious as possible. In addition, the *Trafficking Victims Protection Reauthorization Act of 2008* requires DHS to transfer the custody of all unaccompanied alien children to the U.S. Department of Health and Human Services within 72 hours of determining that a child is a UAC, absent “exceptional circumstances.” The *Flores Agreement* and subsequent federal court decisions also require care for detained juveniles, including access to drinking water, meals and snacks, toilets and sinks, basic hygiene supplies and bedding, showers, and adequate temperatures and ventilation.

We also focused on the TEDS standards regarding medical care, for example provisions to:

- Ensure medical records and medications accompany detainees during transfer (TEDS 2.10).
- Ask detainees about, and visually inspect for, any sign of injury, illness, or physical or mental health concerns (TEDS 4.3).
- Take precautions to protect against contagious diseases (TEDS 4.3).

¹⁹ *Flores Settlement Agreement of 1997*

²⁰ Pub. L. No. 110-457, § 235(b)(3), 122 Stat. 5044, 5077 (2008); see also 8 United States Code (U.S.C.) § 1232(b)(3).



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- Identify the need for prescription medicines (TEDS 4.3).
- Have a process for medical emergencies (TEDS 4.10).
- Take precautions for at-risk populations (TEDS 5.0).

This review describes CBP's process for providing access to medical care, but does not evaluate the quality of medical care provided to those in CBP custody.

We conducted this review in February 2020 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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Appendix A
CBP Comments to the Draft Report

CBP management elected to forego a formal written response as no recommendations were made in the report.



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Appendix B
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