

United States Senate

WASHINGTON, DC 20510

June 12, 2019

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

Dear Acting Secretary McAleenan:

We are deeply disturbed by the findings in a recent Department of Homeland Security (DHS) Office of Inspector General (OIG) report detailing severe and dangerous overcrowding of migrants at El Paso Del Norte Processing Center (PDT) during unannounced inspections conducted on May 8 and 9, 2019. We request that you take immediate action to implement the DHS Inspector General's (IG) recommendations to ensure the health and safety of migrant families and children.

On May 31, 2019, the DHS OIG published a report entitled *Management Alert – DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center*, which detailed findings of overcrowding at PDT so severe that in some cases it created standing-room-only conditions for migrants for weeks. The report concluded that “PDT does not have the capacity to hold the hundreds currently in custody safely, and has held the majority of its detainees longer than the 72 hours generally permitted under the TEDS standards.”¹

According to the report, PDT can hold a maximum of 125 detainees at one time. However, on May 7 and 8, the U.S. Border Patrol's custody logs showed that more than 750 and 900 migrants were detained each day. The U.S. Customs and Border Protection's National Standards on Transport, Escort, Detention, and Search (TEDS) dictate that “under no circumstances should the maximum [cell] occupancy rate, as set by the fire marshal, be exceeded.” Despite being bound by TEDS, Border Patrol held more than 500 migrants longer than 72 hours, and more than 30 migrants for more than two weeks. The IG cited three particularly egregious instances of overcrowding, including: 1) a cell with a maximum capacity of 12 holding 76 migrants; 2) a cell with a maximum capacity of 8 holding 41 migrants; and 3) a cell with a maximum capacity of 35 holding 155 migrants. This is unacceptable and requires immediate action by DHS leadership to ensure that such situations never occur again.

Maintaining hygiene standards in such overcrowding is impossible, and indeed the report shows conditions are deplorable. The OIG reports that migrants lacked clean clothing, were “standing on toilets in the cells to make room and gain breathing space, thus limiting access to the toilets,” and raised medical complaints out of desperation for temporary relief from the cells. Border Patrol discarded the personal belongings of migrants – the only personal items they own – citing them as a “biohazard.” It should come as no surprise that the OIG found the conditions have been “wearing down” migrant women in detention, many if not most of whom are

¹ Management Alert – DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center, Department of Homeland Security Office of Inspector General (May 31, 2019) (online at <https://www.oig.dhs.gov/sites/default/files/assets/2019-05/OIG-19-46-May19.pdf>)

traveling with children. Prolonged detention in overcrowded conditions places these families at increased risk of trauma and illness, which is the reason that TEDS and other detention standards exist in the first place.

DHS suffers already from low morale and limping recruitment. The humanitarian crisis at detention facilities only exacerbates challenging working conditions for CBP agents and officers. The report raised concerns about DHS management at PDT and explained that the conditions “were elevating anxiety and affecting employees’ personal lives.” The report states that in some cases, Border Patrol personnel who are eligible for retirement have opted to retire early while others are considering alternative careers.

To our frustration, the OIG’s findings were only the latest in a seemingly endless stream of public reports of inhumane treatment of migrants in border detention facilities. At least six migrant children have died since last September, four of whom were in DHS custody. Unaccompanied children have slept outside or on concrete benches at Border Patrol facilities.² Last year, lack of coordination between Immigration and Customs Enforcement and the Office of Refugee Resettlement during family reunifications, resulted in 37 migrant children being kept in vans – most for more than 23 hours – before finally being reunited with their parents.³

In our view, the answers you provided to the IG’s recommendations are insufficient. In your response to the IG’s recommendations, you indicate that Customs and Border Protection has constructed a 500-person holding capacity soft-sided structure, will construct an additional tent by July 31, 2019, and a Centralized Processing Center with a completion date of November 30, 2020. However, this does not provide an immediate solution to the dangerous overcrowding at El Paso Del Norte Processing Center. We believe DHS must take immediate action to address this critical health and safety issue and other humanitarian conditions that threaten vulnerable populations, especially children. These are human lives at stake, and you must do more to ensure that personnel are properly trained and DHS operations respect human life and dignity.

Given the severity of the DHS OIG findings, we respectfully request that you provide answers to the following questions within 21 days. Additionally, we request that you provide a briefing to Senators on the conditions of migrant detention and processing centers.

- 1.) Since the Department has communicated to the IG that it is unable to alleviate the overcrowding at El Paso Del Norte Processing Center until November 30, 2020, what will it do about immediate overcrowding in the interim year and a half?

² Migrant Children Stuck at Border Stations, Sleeping on Concrete, because of HHS Overcrowding, NBC News (June 4, 2019) (online at <https://www.nbcnews.com/politics/immigration/migrant-children-stuck-border-stations-sleeping-concrete-because-hhs-overcrowding-n10133411>)

³ Botched Family Reunifications Left Migrant Children Waiting in Vans Overnight, NBC News (June 3, 2019) (online at <https://www.nbcnews.com/politics/immigration/botched-family-reunifications-left-migrant-children-waiting-vans-overnight-n1013336>)

The Honorable Kevin K. McAleenan

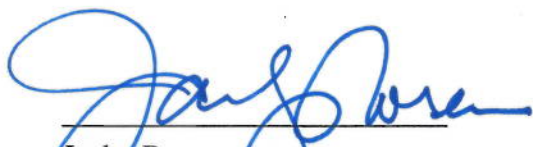
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- 2.) Are the nationwide TEDS standards still the governing policy on CBP's interaction with detained individuals? If so, what is the Department doing to ensure that people are processed within the 72-hour rule, as established by TEDS?
- 3.) What is the Department doing to ensure that health and safety measures are being taken to ensure the wellbeing of migrants being processed?

We appreciate your prompt attention to this matter and look forward to your response.

Sincerely,



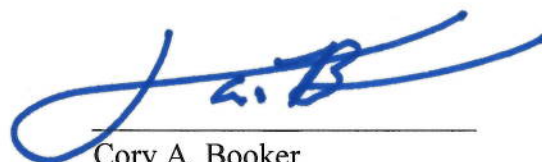
Jacky Rosen
United States Senator



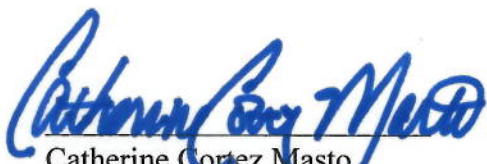
Michael F. Bennet
United States Senator



Richard Blumenthal
United States Senator



Cory A. Booker
United States Senator



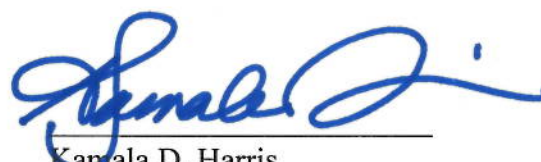
Catherine Cortez Masto
United States Senator



Tammy Duckworth
United States Senator



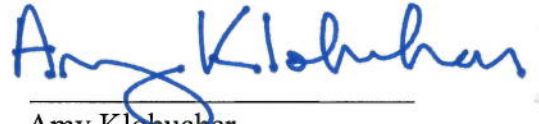
Kirsten Gillibrand
United States Senator



Kamala D. Harris
United States Senator



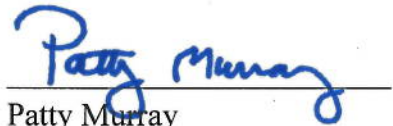
Mazie K. Hirono
United States Senator



Amy Klobuchar
United States Senator



Jeffrey A. Merkley
United States Senator



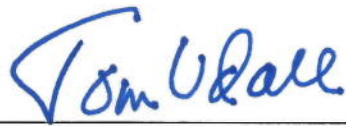
Patty Murray
United States Senator



Bernard Sanders
United States Senator



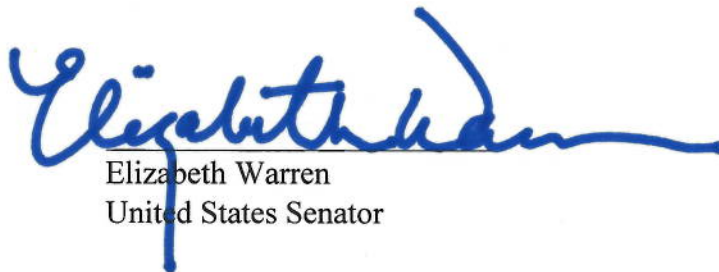
Tina Smith
United States Senator



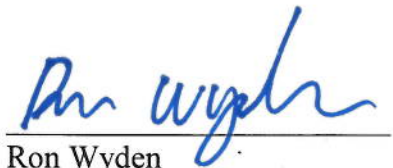
Tom Udall
United States Senator



Chris Van Hollen
United States Senator



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator