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David V. Aguilar
Chief of Border Patrol
Customs and Border Protection
Department of Homeland Security
1300 Pennsylvania Avenue, NW
Washington, DC 20229

RE: Allegations of Mistreatment of Minors by Border Patrol Agents in Texas and Arizona

Dear Chief Aguilar:

I am writing to bring your attention to repeated allegations of mistreatment of minors by Border Patrol agents in Texas and Arizona. You may recall the American Bar Association's April 14, 2005 letter describing an incident involving abuse by Border Patrol officials in Laredo, TX, to which you responded on June 14 (both letters are attached). We commend you for your willingness to address this issue, as you indicated that an investigation was initiated. We remain deeply concerned, however, that mistreatment of minors while in the custody of Border Patrol may be a systemic, ongoing problem as allegations continue to surface in several different sectors. We are hopeful that given your stated commitment to professionalism and proper care of those in your custody, Customs and Border Protection will investigate these additional incidents and take whatever actions are necessary to prevent abuses from occurring in the future.

Attached are examples of affidavits we have received in which detained minors allege that they were:

- made to sleep on the floor, in cold temperatures, with either no blankets or small blankets to share with others;
- denied adequate food and/or water;
- subjected to verbal harassment, threats, intimidation, and humiliation, including derogatory slurs;
- subjected to physical abuse;
- commingled with adults; and
- made to sign papers with no explanation or translation

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The affidavits were written by minors taken into custody at or near Falfurrias, Matamoros, Rio Grande City, Brownsville, Laredo, Eagle Pass, Demen, Cotulla, El Paso, Harlingen, and Rio Bravo. They were assisted by the South Texas Pro Bono Representation Project (ProBAR), a project of the American Bar Association in Harlingen, TX; the Florence Immigrant and Refugee Rights Project (FIRRP) in Florence, AZ; and Las Americas Immigrant Advocacy Center in El Paso, TX. Please let us know if you would like us to provide you with additional affidavits.

While it is difficult to determine what forms the minors may have been given to sign, 8 CFR §236.3(h) requires that upon apprehension, juveniles must be given Form I-770, Notice of Rights and Disposition. If the juvenile is under age fourteen or unable to understand the notice, the notice must be read and explained to him or her in a language he or she understands. In addition, the *Flores Stipulated Settlement Agreement*¹ requires that children in federal custody be treated “with dignity, respect, and special concern for their particular vulnerability as minors.” *Flores* further requires that facilities provide access, among other things, to “drinking water and food as appropriate...and adequate temperature control and ventilation.” Finally, *Flores* requires minors to be separated from unrelated adults, and when this is not immediately possible, “an unaccompanied minor will not be detained with an unrelated adult for more than 24 hours...” (paragraphs 11 and 12A).

As stated above, the ABA remains troubled by these allegations of mistreatment in several different Border Patrol sectors. We therefore urge you to take immediate steps to ensure that Border Patrol and ICE agents treat minors humanely and fairly in the future, and that allegations of mistreatment are investigated and dealt with appropriately.

Enclosed, for your reference, are the ABA’s *Standards for the Custody, Placement, and Care; Legal Representation; And Adjudication of Unaccompanied Alien Children in the United States*. We hope that you find this to be a valuable resource and we greatly appreciate your time and attention to this very important matter. We look forward to your response, and please feel free to contact me with any questions or concerns.

Sincerely,



Robert D. Evans

Cc: Julie L. Myers, Assistant Secretary, U.S. Immigration & Customs Enforcement
Rebekah Tosado, Senior Attorney, Office for Civil Rights and Civil Liberties,
U.S. Department of Homeland Security

Enclosures

¹Paragraph 41 of the *Flores* settlement indicates that it is binding on the parties’ successors, and it should therefore be binding on CBP and ICE because custodial functions were transferred to these agencies from the former Immigration & Naturalization Service.