ACLU San Diego and Imperial Counties FOUNDATION

ACLU BORDER RIGHTS

PHR Physicians for Human Rights

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VIA ELECTRONIC MAIL

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RE: U.S. Customs & Border Protection's Routine Failure to Provide Necessary Medical Care and Treatment to Individuals in Substance Withdrawal at Ports of Entry

I. Introduction

Over the past few months, multiple reported instances indicate that U.S. Customs and Border Protection ("CBP") is knowingly denying access to medical care to persons in CBP custody at the San Ysidro port of entry while these individuals detoxify from a variety of controlled substances, including prescribed medications. CBP's failure to provide detained individuals with medical supervision during this process puts these individuals at risk of serious injury or death. This letter calls upon CBP to:

1) Adhere, at a minimum, to its own National Standards on Transport, Escort, Detention and Search ("TEDS standards") and ensure timely and appropriate medical care is provided to people detained at POEs; and
2) Update the TEDS standards to confirm and clarify CBP's understanding of its legal and humanitarian obligations to those in its custody, and to ensure detained individuals are protected.[1]

The undersigned organizations engage in advocacy related to civil rights and public health concerns along the U.S.-Mexico border. Through this work, we have identified CBP practices that restrict or impede emergency medical treatment at San Ysidro and other ports of entry ("POEs"), endangering the lives of many people who pass through the border.[2]

Although affected communities and advocates have documented inadequate medical care for people in CBP custody for years, the agency has failed to meaningfully respond.[3] While the cases highlighted below focus on detoxification and withdrawal related complications, the reforms proposed herein will also benefit individuals with chronic medical conditions, like diabetes, hypertension, and asthma, who likewise are endangered by CBP's current practices. Throughout the United States, law enforcement organizations acknowledge detainees' specific and pressing health needs and are banding together to address this issue.[4] CBP must follow suit.

II. At-Risk Detainees in CBP Custody

There have been several reported instances of individuals undergoing forced detoxification in CBP custody at the San Ysidro POE without any medical supervision or treatment. In all cases, these individuals were rejected for transfer to the Metropolitan Correctional Facility ("MCC") in San Diego for being medically unfit for confinement. Following that determination, CBP continued to detain them at the POE without treatment.

[1] For more detailed recommendations, see p. 8–11, *infra*.

[2] The ACLU and other organizations have written separately to address similar problems in other CBP facilities, primarily those operated by CBP's subcomponent agency, the U.S. Border Patrol. This letter, by contrast, focuses on CBP's Office of Field Operations ("OFO"), the subcomponent agency responsible for detention facilities at ports of entry. *See, e.g.*, Shaw Drake & Bernardo Rafael Cruz, *Abusive Conditions in Makeshift Border Patrol Holding Facilities at Paso del Norte Port of Entry in El Paso, Texas*, ACLU BORDER RIGHTS CTR (Mar. 30, 2019), https://bit.ly/2FIehMC; Kathryn Hampton, MSt, *Zero Protection: How U.S. Border Enforcement Harms Migrant Safety and Health*, Physicians for Human Rights (Jan. 10, 2019), https://bit.ly/2RB23ep; Letter from Academic Pediatric Ass'n, et al., to Kirstjen M. Nielsen, U.S. Secretary of Homeland Sec. & Kevin K. McAleenan, Commissioner of U.S. Customs and Border Protection (Dec. 18, 2018), https://bit.ly/2IQz8jH; Press Release, ACLU Border Rights Center, Statement on Child's Death in Border Patrol Custody (Dec. 13, 2018), https://bit.ly/2KBHHAU.

[3] *See, e.g.*, Sheri Fink & Caitlin Dickerson, *Border Patrol Facilities Put Detainees with Medical Conditions at Risk*, N.Y. TIMES (Mar. 5, 2019), https://nyti.ms/2UhjNMs; Suzanne Gamboa & Daniella Silva, *From Accountability to Medical Care, Critics Cry for Serious Reform of Border Agency*, NBC NEWS (Dec. 23, 2018, 12:52 AM PST), https://nbcnews.to/2X5gecy.

[4] *See, e.g.*, NAT'L SHERIFFS' ASS'N & NAT'L COMM. ON CORRECTIONAL HEALTH CARE, JAIL-BASED MEDICATION-ASSISTED TREATMENT: PROMISING PRACTICES, GUIDELINES, AND RESOURCES FOR THE FIELD (Oct. 2018), https://bit.ly/2IQcoAj.

U.S. citizen and Gulf War combat veteran Marc-Oliver Lewis was detained for four days in February 2019.[5] Mr. Lewis repeatedly informed CBP officers that he had previously been using high doses of alcohol and heroin and he began experiencing severe withdrawal symptoms shortly after he was taken into custody. CBP, however, never provided Mr. Lewis with any medical care. While in CBP custody, Mr. Lewis experienced headaches, dizziness, difficulty breathing, chest tightness, racing heart, palpitations, nausea, vomiting, diarrhea, stomach aches, muscle pain, joint and bone pain, anxiety, restlessness, fatigue, insomnia, and depression. He was in so much pain that he was unable to get off the ground to drink water, which exacerbated his symptoms. Mr. Lewis's documents reveal that he had more than 24 hours of tachycardia (fast heart rate), which is often among the initial vital signs associated with dehydration and acute withdrawal. He endured this suffering for three days without access to any doctor, nurse, or other medical provider, and consequently to medications that could mitigate the complications of acute withdrawal and prevent potential severe or permanent injuries that can result from alcohol and opiate withdrawal.

Amanda Grae Sams, also a U.S. citizen, had a similar experience during her five-day detention at the San Ysidro POE in January 2019.[6] Upon her arrest, Ms. Sams informed CBP officers that she had been addicted to alcohol and methamphetamine. Soon thereafter, she began experiencing dramatic symptoms of withdrawal from these substances, including: severe headaches, dizziness, difficulty breathing, chest tightness, racing heart, palpitations, nausea, stomach aches, muscle pain, joint and bone pain, anxiety, restlessness, fatigue, insomnia, and depression. CBP officers did not take Ms. Sams to a hospital or provide her with any medical care for over four days. Instead, CBP closed Ms. Sams' cell window to silence her continued pleas for medical attention.

A third case is Antonio Perez Tejeda's, a Tijuana resident who arrived at San Ysidro under the influence of alcohol and methamphetamine in November 2018 and was subsequently detained at the POE for five days.[7] During this period, he experienced a grueling headache, violent shakes, and recurrent vomiting and diarrhea. During this time, CBP officers did not allow him to change his clothing nor did they provide him soap or the opportunity to bathe. He begged for pain medication and for more food every chance he could, multiple times per day. Every 24 hours he spent in CBP custody, Mr. Perez Tejeda was given only a small burrito, juice, and cookies. Mr. Perez Tejeda did not see a medical provider until his fifth day in CBP custody, at which point he was already post-withdrawal (according to medical expert review of his records).

As disturbing as each of these instances is in isolation, San Diego legal service providers indicate that these stories in fact exemplify a CBP pattern of neglecting detainees' serious medical needs.

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[5] *See United States v. Lewis*, No. 3:19-CR-797-MSB (S.D. Cal. Mar. 7, 2019). Mr. Lewis' case is also the subject of a publicly filed damages lawsuit: *Lewis v. Unknown Agents of the U.S. Dep't of Homeland Sec.*, No. 3:19-cv-00600-CAB-NLS (S.D. Cal. Apr. 1, 2019); Adam Racusin, *Claim: Government is Not Providing Adequate Medical Care to People in Its Custody*, ABC 10 NEWS: SAN DIEGO (updated May 30, 2019, 5:25 PM PST), https://bit.ly/2REfB8N.

[6] *See United States v. Sams*, No. 3:19-CR-422-AJB (S.D. Cal. Feb. 6, 2019). Ms. Sams' case is also the subject of a publicly filed damages lawsuit: *Sams v. Unknown Agents of the U.S. Dep't of Homeland Sec.*, No. 3:19-cv-00612-BAS-BGS (S.D. Cal. Apr. 2, 2019).

[7] *See United States v. Perez-Tejeda*, No. 3:18-CR-5229-CAB (S.D. Cal. Dec. 18, 2018).

III. Proper Standard of Care

People undergoing any kind of substance detoxification need access to specialized care, which is essential to prevent potentially fatal complications. The proper care protocol varies depending on the substance and patient characteristics, but alcohol withdrawal and benzodiazepine withdrawal, in particular, may lead to multiple serious complications including seizures and death if left untreated. Complications of withdrawal from opiates, methamphetamines, and other street drugs can also cause severe disabilities and injuries. Yet death and injuries from substance withdrawal are entirely preventable. For example, dehydration, which can cause significant kidney injury and death, can be treated with oral or intravenous fluids in various types of clinical environments.

The federal government's own publications highlight the necessity of adequate treatment during substance detoxification. The Substance Abuse and Mental Health Services Administration ("SAMHSA"), a branch of the U.S. Department of Health and Human Services ("HHS"), publishes a series of detailed, continually updated protocols and recommendations for treating individuals experiencing different types of substance withdrawal.[8] SAMHSA recommends that "no intoxicated patient should ever be allowed to leave a hospital setting," emphasizing that "inpatient detoxification provides 24-hour supervision, observation, and support for patients who are intoxicated or experiencing withdrawal."[9] SAMHSA contemplates escalating levels of care depending on the severity of detoxification symptoms, but at minimum recommends that there be a physician, nurse, and psychologist or addiction counselor available to the person detoxifying.[10] SAMHSA also flags some common symptoms in detoxification patients that "require immediate medical attention," such as: increasing anxiety and panic, hallucinations, seizures, fevers, increases/decreases in blood pressure and heart rate, insomnia, abdominal pain, gastrointestinal bleeding, changes in responsiveness of pupils, and nervous system agitations.[11] Furthermore, SAMHSA acknowledges that medical experts recommend different treatment plans depending on the substance(s) from which an individual is withdrawing.[12]

The Federal Bureau of Prisons ("BOP") and other federal correctional agencies operating both long- and short-term facilities rely on SAMHSA's recommendations in formulating specialized policies governing detainee detoxification. The BOP classifies certain symptoms and signs commonly associated with detoxification as "requiring immediate medical attention" and develops treatment protocols accordingly for people in BOP custody.[13] BOP acknowledges that when withdrawal symptoms are observed or suspected, "[f]requent clinical assessments, along with indicated treatment adjustments (in both dose and frequency) are imperative," and further that "every effort should be made to ameliorate the inmate's signs and symptoms of alcohol or drug

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[8] *See, e.g.*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, MEDICATIONS FOR OPIOID USE DISORDER (TREATMENT IMPROVEMENT PROTOCOL 63) (2018) [hereinafter SAMHSA TIP 63], https://bit.ly/2LnjrSS.

[9] SAMHSA, DETOXIFICATION AND SUBSTANCE ABUSE TREATMENT (TREATMENT IMPROVEMENT PROTOCOL 45) 16 (rev. 2015), https://bit.ly/2J6C8HD.

[10] *Id.* at 12–20.

[11] *Id.* at 26.

[12] *Id.* at 47–105.

[13] FEDERAL BUREAU OF PRISONS, CLINICAL GUIDANCE: DETOXIFICATION OF CHEMICALLY DEPENDENT INMATES 3 (rev. Jan. 2018), https://bit.ly/2YgYQmz (emphasis in original).

withdrawal."[14] Recent litigation has reaffirmed the BOP's obligation to provide such treatment to detainees with opioid use disorder.[15] CBP should be held to the same standards.

Local and state government agencies likewise emphasize treatment resources and are actively working to reduce detention for people struggling with substance-related medical issues. Past instances of detainee deaths following substance withdrawal in San Diego jails[16] have propelled the County of San Diego to implement better medical procedures, and consider alternatives to detention, to provide better care for individuals struggling with addiction.[17] This pressing public health need in San Diego mirrors the larger national trend of working to combat substance abuse.

Despite these widely acknowledged and available best practices, advocates have documented CBP's repeated failure to provide appropriate medical care to detainees experiencing life-threatening substance withdrawal symptoms at the San Ysidro POE—or to transfer such individuals to medical care facilities. San Ysidro is the busiest land POE in the Western Hemisphere, with approximately 70,000 vehicles and 20,000 pedestrians crossing northbound each day.[18] Given the volume of people crossing through San Ysidro on a daily basis, and the national and regional public health crises of substance abuse and addiction, CBP officers working at the POE must be prepared to provide the necessary medical care to people in their custody.

IV. TEDS Violations

When CBP deprives detainees of emergency and other necessary medical care, the agency transgresses its own policies and violates the United States Constitution.[19] Below, we highlight how CBP's aforementioned practices violate the agency's own policies and provide recommendations for agency reforms.

The controlling policy document, the TEDS standards, governs CBP's interactions with detained individuals.[20] The TEDS standards operate against the backdrop of federal statutes and

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[14] *Id.* at 2.

[15] Settlement Agreement, *DiPierro v. Hurwitz et al.*, No. 1:19-cv-10495-WGY (D. Mass. filed Mar. 15, 2019), https://bit.ly/2YeXhFN.

[16] Kelly Davis, *Addiction Can Be Fatal in San Diego County Jails*, SAN DIEGO CITY BEAT (Apr. 17, 2013), https://bit.ly/2LgctyW.

[17] Kelly Davis, *Outgoing Law Enforcement Watchdog Hopes Group Opens Up About Its Processes,* VOICE OF SAN DIEGO (Sept. 18, 2018), https://bit.ly/2Xwwdot; Gary Warth, *Homeless People with Drug Addiction to be Offered Rehab over Jail in New Program*, SAN DIEGO UNION-TRIBUNE (Dec. 27, 2018), https://bit.ly/2Sr0Sxy; s*ee also* Eric Westervelt, *County Jails Struggle With a New Role As America's Prime Centers for Opioid Detox*, KPBS (Apr. 24, 2019), https://bit.ly/2FASC9R.

[18] GEN. SERVS. ASS'N, SAN YSIDRO LAND PORT OF ENTRY, https://bit.ly/2VOEaFi (last visited August 30, 2019).

[19] *Gordon v. Cty. of Orange*, 888 F.3d 1118, 1124 (9th Cir. 2018), *cert. denied sub nom. Cty. of Orange, Cal. v. Gordon*, 139 S. Ct. 794 (2019) (due process right to challenge inadequate medical care for pretrial detainees).

[20] U.S. CUSTOMS AND BORDER PROTECTION, NAT'L STANDARDS ON TRANSPORT, ESCORT, DETENTION, AND SEARCH (Oct. 2015), https://bit.ly/2CyHJnu.

regulations that bind CBP to certain standards of care.[21] They are short and general statements; as such, the TEDS standards establish a bare ***minimum*** for agency conduct.[22]

Despite the minimal protections set out in the TEDS standards, CBP violated the following provisions of these standards while detaining Mr. Lewis, Ms. Sams, and Mr. Perez Tejeda. The relevant TEDS standards are listed on the left:

1.0, *General Standards*	
1.7, *Reasonable Accommodations and Language Access*: "Reasonable accommodations must be made for a detainee's known or reported mental, physical and/or other special needs consistent with safety, and security requirements."	CBP failed to provide Mr. Lewis, Ms. Sams, and Mr. Perez Tejeda any "reasonable accommodations" for each individual's known substance withdrawal during prolonged detention at the San Ysidro POE.
4.0, *Secure Detention Standards*	
4.1, *Duration of Detention*: "Detainees should generally not be held for longer than 72 hours in CBP hold rooms or holding facilities. Every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible."	CBP held Mr. Lewis, Ms. Sams, and Mr. Perez Tejeda for longer than 72 hours at the San Ysidro POE. About a day into each individual's confinement, CBP attempted to transfer them to MCC. MCC, however, rejected each patient, finding them medically unfit for continued confinement due to their serious medical conditions. Rather than releasing the individuals to a hospital or other qualified medical facility, however, CBP then returned each individual to the POE for further detention.
4.2, *At-Risk Detainee Determination Process*: "Before placing any detainees together in a hold room or holding facility, officers[] shall assess the information before them to determine if the detainee may be considered an at-risk detainee. .	CBP officers were on notice that Mr. Lewis, Ms. Sams, and Mr. Perez Tejada suffered from Substance Use Disorder and were at risk of acute withdrawal. Each individual explicitly told multiple CBP officers, on multiple occasions

[21] Per the TEDS document itself, the additional relevant authorities are: 19 U.S.C. §§ 482, 1461, 1581, 1582, 1589a; 8 C.F.R. §§ 232, 235, 236, & 287; 6 C.F.R. § 115; 79 F.R. 13100 (Standards To Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities); Immigration and Nationality Act (INA); Personal Search Handbook, CIS HB 3300-04B revised July 2004; Use of Force Policy, Guidelines and Procedures Handbook, HB 4500-01C, revised May 2014; Motor Vehicle Management Handbook, HB 5200-14B, revised June 2014; Occupational Safety and Health Handbook, HB 5200-08B, revised September 2012; Secure Detention, Transport and Escort Procedures at Ports of Entry, 3340-030B, August 8, 2008; The Law of Arrest, Search, and Seizure Manual, M-69; Enforcement Standards – Body Searches, May 28, 1997; Hold Rooms and Short Term Custody, OBP 50/10.2-P; CBP Policy on Nondiscrimination in Law Enforcement Activities and all other Administered Programs, February 6, 2014; CBP Zero-Tolerance Policy, March 11, 2015.

[22] According to a 2016 Government Accountability Office report, "[t]he TEDS policy is intended as a foundational document" to be supplemented with more detailed policies developed by CBP subcomponents. CBP has not, however, made these more detailed policies available to the public. *See* U.S. GOV'T ACCOUNTABILITY OFF., GAO-16-514, IMMIGRATION DETENTION: ADDITIONAL ACTIONS NEEDED TO STRENGTHEN DHS MANAGEMENT OF SHORT-TERM HOLDING FACILITIES 9 n.14 (MAY 2016), https://bit.ly/2xhYBMc.

. . This assessment will include: Whether the detainee has or demonstrates a mental, physical, or developmental disability [and] [w]hether the detainee has an observed or reported serious physical/mental injury or illness. . . ."[23]	throughout their detention, that they had a history of dependence on substances and would need medical help to address acute withdrawal symptoms. Yet CBP did not assess any of these individuals to be "at risk," and the agency did not provide any type of medical screening or "fit for confinement exam" for these individuals.
4.3, *General Detention Procedures*: "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."	CBP failed to assess or evaluate Mr. Lewis, Ms. Sams, or Mr. Perez Tejeda regarding any necessary medications. And, as noted in § 4.2 above, although each individual informed multiple CBP officers on multiple occasions of their substance dependence, officers took no action to protect them.
4.10, *Medical*: "Emergency medical services will be called immediately in the event of a medical emergency (e.g., heart attack, difficulty breathing) and the call will be documented in the appropriate electronic system(s) of record. Officers/Agents must notify the shift supervisor of all medical emergencies as soon as possible after contacting emergency services. . . Except for assistance with lifesaving emergency medical care which they feel comfortable rendering and are trained to render, officers/agents will not administer medical techniques, medications, or preparations unless they are qualified emergency medical technicians or paramedics rendering care."	CBP did not call emergency medical services or any other type of medical service provider for Mr. Lewis, Ms. Sams, or Mr. Perez Tejeda after they each presented with severe symptoms of substance withdrawal. Despite experiencing agonizing and severe withdrawal symptoms, none of these detainees received any medications or medical care until several days had passed in CBP custody.
5.0, *At-Risk Populations*	
5.1, *General*: "Individuals in the custody of CBP who may require additional care or oversight, who may include: . . . [T]hose who have identified mental, physical or developmental disabilities. . . . CBP staff will treat all at-risk populations with dignity, respect and special concern for their particular vulnerability. . . . [A]ccommodations must be made for at-risk detainees with known or reported mental and/or	CBP appears to have not designated Mr. Lewis, Ms. Sams, or Mr. Perez Tejeda as "at-risk" detainees, despite the fact that these individuals self-reported their medical conditions and exhibited serious physical symptoms of substance withdrawal. All three detainees were ignored, and sometimes even belittled, rather than being treated with "dignity," "respect," or "special concern." No accommodations were

[23] The TEDS do not provide a specific definition of "at-risk detainee," but § 5.1 provides examples of at-risk populations: "juveniles; UAC; pregnant individuals; those known to be on life-sustaining or life-saving medical treatment; those at higher risk of sexual abuse (including but not limited to gender nonconforming, intersex, and transgender); reported victims of sexual abuse; those who have identified mental, physical or developmental disabilities; those of advanced age; or family units)." Section 4.1 provides an additional list of factors that CBP officers are to use to evaluate if someone fits into the category of "at-risk detainee."

physical disabilities, in accordance with security and safety needs and all applicable laws and regulations. . . . Officers/Agents will physically check hold rooms on a regular and frequent manner, according to each operational office's policies and procedures."	made for them and each of them was left alone for long periods of time, without meaningful checks.
5.6, *Access to Medical Care*: "Any physical or mental injury or illness observed by or reported to an officer/agent should be reported to a supervisor and appropriate medical care should be provided or sought. Emergency services will be called immediately in the event of a medical emergency."	CBP failed to obtain necessary medical care for Mr. Lewis, Ms. Sams, and Mr. Perez Tejeda, even as each individual demonstrated easily-recognizable, acute withdrawal symptoms and reported their distress to multiple CBP officers. After MCC rejected each detainee, CBP should have transferred them to a hospital or qualified medical facility, rather than returning them to detention at the POE.

V. Recommendations

CBP's failure to care for Mr. Lewis, Ms. Sams, and Mr. Perez Tejeda put their lives in imminent danger. These individuals' experiences are not outliers, but part of a long list of recent cases that show that many similarly situated individuals detained at the San Ysidro POE face similar risks. The ACLU and undersigned organizations urge CBP to reform their deficient practices and adopt the following improved policies to safeguard detainees. It is essential for the public health of our community to ensure that CBP employees with control over vulnerable individuals in their custody have sufficient instruction, training, and resources to be able to prevent the serious complications that accompany substance withdrawal and other chronic conditions. Based on recent public references to an agency-wide protocol on medical treatment currently in development,[24] we implore CBP to revise and strengthen *at least* the following provisions of the TEDS as it devises its new policies.

Recommendation #1: Reasonable Accommodations

Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), and various federal regulations prohibit CBP from discriminating against people with disabilities.[25] Substance Use Disorder (SUD) is a disability under the Rehabilitation Act when the condition "substantially limits a major life activity" such as seeing, hearing, eating, sleeping, concentrating, communicating, and other basic bodily functions.[26] CBP's failure to provide such accommodations to people undergoing detox at the POE may, therefore, constitute a violation of federal law.

[24] U.S. Customs and Border Protection, CBP Directive No. 2210-003 (Jan. 28, 2019), https://bit.ly/2ZK75YK.

[25] 29 U.S.C. § 794; 6 C.F.R. § 15.1 *et seq*.; DHS Directive No. 65-01 (Sept. 25, 2013), https://bit.ly/2NeLjLq; DHS Instruction No. 65-01-001 (Mar. 13, 2015), https://bit.ly/2Nql3h0.

[26] *See* DHS OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES, GUIDE 065-01-001-01: COMPONENT SELF-EVALUATION AND PLANNING REFERENCE GUIDE (June 16, 2016), https://bit.ly/2XBmcq0; U.S. DEP'T OF HEALTH AND HUMAN SERV'S, OFF. FOR CIVIL RIGHTS, FACT SHEET; DRUG ADDICTION AND FEDERAL DISABILITY RIGHTS LAWS (Oct. 25, 2018), https://bit.ly/2GF1P4e.

- CBP should revise its definition of "at-risk detainee" to expressly include people facing addiction and/or substance withdrawal and other serious medical needs. CBP must commit to complying with TEDS § 1.7 to provide reasonable accommodations to such at-risk detainees.
- CBP must devise policies with more specific criteria for an individual evaluation and assessment of the reasonable accommodations necessary for people at risk for or experiencing acute withdrawal in CBP custody. At a minimum, these accommodations must guarantee detainees have adequate food, fluids, pain medication and access to a trained medical professional while in custody.

Recommendation #2: Medical Staff & Facilities at the POE

San Ysidro POE has been under construction for more than a decade. As the port has changed, however, CBP has disclosed little information about its facilities. The public does not know, for example, answers to such questions as: how many beds there are for those detained in the port; what type of sleeping arrangements are typical for port holding cells; what level of access detainees have to bathrooms, showers, and potable drinking water; and what medical facilities or staff exist to accommodate the needs of detainees. CBP must make this information available to the public. In addition:

- CBP must have an onsite medical professional (at least RN-level) available at all times at the San Ysidro POE.
- All CBP staff at the San Ysidro POE should receive training, by independent experts, about substance use disorders so that they are able to identify acute withdrawal symptoms when they occur. CBP staff must also be trained to report such symptoms immediately and ensure immediate assistance from medical professionals, either on-site, via telehealth, or after transfer to a medical facility.
- Any on-site medical facilities at the San Ysidro POE must have sufficient equipment and medications to manage patients in CBP custody who are undergoing acute withdrawal symptoms until transfer to the hospital or other medical facility.

Recommendation #3: Intake and medical screening procedures

Medical experts agree that appropriate medical intake screening is necessary to ensure that an individual receives medication for a chronic condition or appropriate medical treatment for withdrawal and detoxification.

- CBP must have qualified medical staff perform initial intake assessments and "fit for confinement" exams on individuals within six hours of their arrival at the San Ysidro port holding facilities and respond according to widely-accepted standards of care if any individuals are deemed not fit for confinement.
- CBP must record detainee self-reported medical conditions, including substance use disorder, during intake.

- CBP should transfer detainees in need of medical treatment to a hospital or qualified medical facility immediately, rather than detaining such individuals at the port. There are multiple facilities in San Diego that have capacity to treat people undergoing withdrawal and detoxification and CBP must ensure it can find a place for any individual in its custody requiring such help, even if there is a shortage of space at one facility.

Recommendation #4: Length of Detention

- CBP must set an absolute maximum 12-hour limit on detention of people with serious medical conditions, including substance dependence, even those who are not noticeably exhibiting acute symptoms of withdrawal or other conditions.
- When CBP attempts to transfer an individual to MCC or ICE custody and MCC or ICE rejects the individual for being medically unfit for confinement, CBP must immediately transfer that person to a hospital or qualified medical facility. CBP must not return that individual to the port and continue to detain them.
- When CBP is unable to transfer someone to MCC, ICE custody, or a hospital, CBP must parole or otherwise release that individual so they can facilitate their own access to medical care.

Recommendation #5: Written Policies

CBP must improve its written policies to conform to the substantial body of medical literature on caring for vulnerable populations, and specifically people undergoing substance use withdrawal and detoxification. CBP's written policies must be more detailed and specifically address the wide-ranging needs of different individuals and populations, since the course of these symptoms is extremely variable from individual to individual.

For example, age, general health, nutritional factors, and possible co-occurring medical or psychiatric conditions all play a role in the onset and severity of the symptoms of alcohol withdrawal. Different substances require different types of care: for example, alcohol and benzodiazepine withdrawal requires constant supervision and medication to prevent seizures and manage autonomic dysfunction, while opiate withdrawal commonly requires medications to relieve debilitating symptoms and prevent dehydration.

CBP's written policies must reflect its commitment to and preparation for providing proper care for people in its custody who are detoxifying from alcohol, heroin, and all other common substances (such as benzodiazepines, methamphetamines, and cocaine).

- CBP must implement policies requiring that medical screenings and other medical treatment should be documented along with detainee complaints and concerns. These policies will require meaningful, well-documented, and frequent checks of holding cells. Dedicated staff resources should be in place to audit those records and ensure accountability.
- CBP must implement policies describing how and when people in need of medication can get that medication prescribed and administered to them while in CBP custody.

- CBP must implement policies clarifying the level of health provider who will treat different types of conditions. At minimum, there should be an RN available to see all people detained at the port who request medical care or demonstrate signs of medical distress. When a full evaluation is needed, detainees should have prompt access to a licensed and board-certified healthcare provider.
- CBP must implement policies that clearly define the term "emergency" such that there will be clear instruction as to when additional medical services must be called in. CBP must also adopt clear guidelines about when transfer to a hospital is necessary, which should have both subjective and objective referrals criteria.
- CBP must implement policies requiring that CBP facilities have specific, written protocols for (at least) alcohol, opioid, and benzodiazepine detoxification, and for continued treatment for prescribed medications that may cause withdrawal symptoms if stopped abruptly. Substance use disorders must be specifically referenced in its policies regarding at-risk detainees.

We appreciate CBP's attention to the life-and-death matters raised in this letter. Given the urgency of these problems, the undersigned respectfully request that CBP provide a written response on or before October 17, 2019. This response should explain CBP's plans for addressing the pressing public health issues described herein.

Sincerely,

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