

**CBP Border Patrol Stations
and Ports of Entry in
Southern California
Generally Met TEDS
Standards**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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February 7, 2022

MEMORANDUM FOR: The Honorable Chris Magnus
Commissioner
U.S. Customs and Border Protection

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

SUBJECT: *CBP Border Patrol Stations and Ports of Entry in
Southern California Generally Met TEDS Standards*

JOSEPH V
CUFFARI

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Attached for your information is our final report, *CBP Border Patrol Stations and Ports of Entry in Southern California Generally Met TEDS Standards*. We received technical comments from U.S. Customs and Border Protection (CBP) and incorporated them in the report where appropriate. CBP management 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 Thomas Kait, Deputy Inspector General for Inspections and Evaluations, at 202-981-6000.

Attachment



DHS OIG HIGHLIGHTS

CBP Border Patrol Stations and Ports of Entry in Southern California Generally Met TEDS Standards

February 7, 2022

Why We Did This Inspection

As part of OIG's annual, congressionally mandated oversight of CBP holding facilities, we conducted unannounced inspections of six locations in the San Diego area of California to evaluate CBP's compliance with applicable detention standards.

What We Recommend

We did not make recommendations for these inspections because there are relevant outstanding recommendations from a prior review.

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 in August 2021 of four U.S. Border Patrol facilities in the San Diego sector, and two Office of Field Operations (OFO) ports of entry, we observed that U.S. Customs and Border Protection (CBP) generally operated in compliance with *National Standards on Transport, Escort, Detention, and Search* (TEDS). There were instances of prolonged detention among single adults, but conditions were not overcrowded; detainees had room to sit or lie down. We verified accessibility to water, food, toilets, sinks, basic hygiene supplies, and bedding. Both Border Patrol and OFO generally met TEDS standards for medical care. With one exception, we observed clean facilities. We verified that temperatures and ventilation in the holding rooms were appropriate. All standards for noncitizen unaccompanied children were met at the time of our observation.

Two local factors contributed to CBP compliance with TEDS standards: encounter numbers; and initiatives to centralize processing.

Despite efforts to streamline immigration processes, CBP faces challenges over which it has limited control. For example, providing interpreters for a diverse population throughout the detention process is difficult. In addition, CBP is dependent on other DHS components and Federal agencies to limit the duration of detention.

CBP Response

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



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Abbreviations

CBP	U.S. Customs and Border Protection
CDC	Centers for Disease Control and Prevention
COVID-19	coronavirus disease 2019
CPC	Centralized Processing Center
HHS	U.S. Department of Health and Human Services
ICE	U.S. Immigration and Customs Enforcement
NUC	noncitizen unaccompanied children
OFO	Office of Field Operations
TEDS	National Standards on Transport, Escort, Detention, and Search
U.S.C.	United States Code
USCIS	United States Citizenship and Immigration Services



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Introduction

With holding facilities in many of the 328 ports of entry and 135 U.S. 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. Facility conditions can vary between those operated by CBP's Border Patrol (sectors and stations) and those operated by Office of Field Operations (OFO) (field offices and ports of entry) because of differences in mission, policies, and procedures. Facility conditions can also fluctuate considerably across Border Patrol sectors because of geography, infrastructure, and a variety of other factors.

In 2019, through our unannounced inspections of CBP holding facilities we identified significant issues, such as dangerous overcrowding and prolonged detention, at several locations along the Southwest border.² We conducted a review of the causes of overcrowding and prolonged detention³ and concluded that, if the Department did not develop a DHS-wide framework for migration surges, CBP would continue to face these challenges. We made six recommendations in the report, all with which the Department concurred and are currently resolved and open. For example, CBP agreed with a recommendation to inventory the infrastructure enhancements used in 2019 and incorporate these into its response for future migrant surges. DHS also agreed with a recommendation to develop thresholds at which a whole-of-government approach is needed to address migrant surges. According to the Department, three of the six recommendations we made have been fully implemented. We are in the process of evaluating the Department's requests to close these recommendations.

In fiscal year 2020, Congress mandated that we continue our unannounced inspections of CBP holding facilities. In our February 2020 inspections of the Laredo and San Antonio areas we determined that CBP facilities appeared to be operating in compliance with TEDS standards.⁴ In our July 2021 inspections of CBP facilities in the Rio Grande Valley area, we determined that Border Patrol struggled with high volumes of detainees and cases of prolonged

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.

² *Capping Report: CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge*, OIG-20-38, June 2020, p. 8.

³ *DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*, OIG-21-29, March 2021, pp. 11-12.

⁴ *Five Laredo and San Antonio Area CBP Facilities Generally Complied with the National Standards on Transport, Escort, Detention, and Search*, OIG-20-67, September 2020, p. 3.

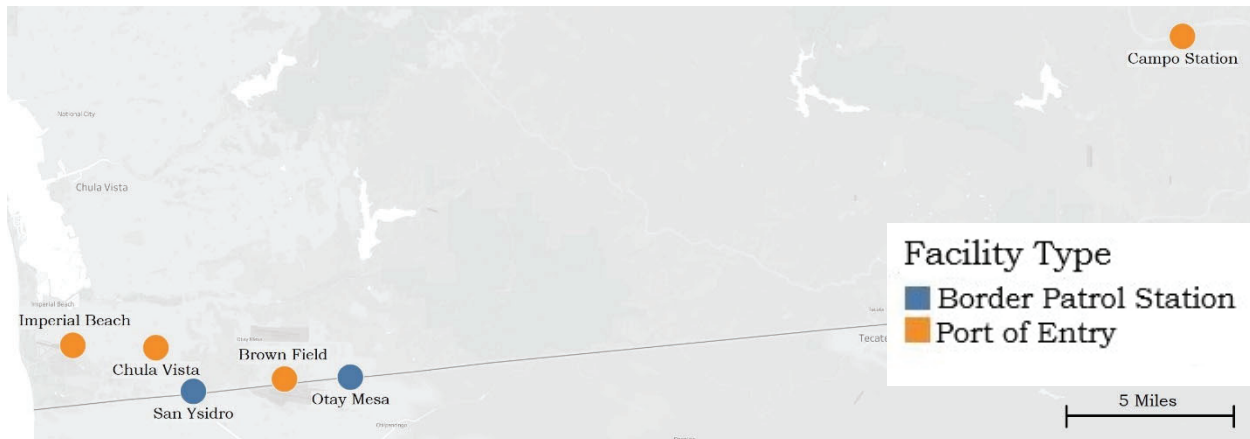


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detention but had taken measures to manage facility conditions. This report describes the results of our inspections of four short-term Border Patrol facilities and two ports of entry in the San Diego area of California which we visited in August 2021, as shown in Figure 1.

Figure 1. Locations of CBP Facilities Visited in August 2021



Source: DHS OIG

Background

CBP's 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 U.S. passports, 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 and goods suspected of entering the United States without inspection. OFO and Border Patrol are responsible for short-term detention, generally of persons who are inadmissible or deportable from the United States or subject to criminal prosecution.

CBP's holding facilities are required to comply with TEDS standards, 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.⁵ 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

⁵ TEDS standards generally limit detention in CBP facilities to 72 hours, with the expectation that CBP will transfer noncitizen unaccompanied children (NUC) to the U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement, and families and single adults to U.S. Immigration and Customs Enforcement long-term detention facilities.



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circumstances, showers.⁶ CBP must also ensure that holding facilities are kept clean, temperature-controlled, and adequately ventilated.⁷

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 2210-004,⁸ 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.” To implement this directive, CBP introduced an Initial Health Interview Questionnaire (CBP Form 2500)⁹ and a Medical Summary Form (CBP Form 2501) to document health conditions, referrals, and prescribed medications. CBP also expanded its use of on-site medical contract staff to provide basic medical care to detainees. The same contractor provided medical staff at each Border Patrol facility we visited, and generally ensured medical contract staff worked from the same electronic medical record.

As shown in Table 1, migrant apprehensions on the Southwest border can vary widely by year.

⁶ 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*

⁷ TEDS 4.7 *Hold Room Standards: Temperature Controls*; and TEDS 5.6 *Detention: Hold Rooms – UAC*.

⁸ CBP Directive No. 2210-004, [Enhanced Medical Support Efforts](#), December 30, 2019.

⁹ There are seven questions on the CBP Form 2500 that, if the detainee has a positive response, would automatically prompt a more thorough medical assessment. These questions are used to determine whether the detainee has an injury, any symptoms of illness, known contagious diseases, or thoughts of harming self or others.



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Table 1. Border Patrol Southwest Border Total Apprehensions by Year, FYs 2014 – 2021 (YTD)

Apprehensions	NUC	Family Units	Adults	Totals
FY 2014	68,541	68,445	342,385	479,371
FY 2015	39,970	39,838	251,525	331,333
FY 2016	59,692	77,674	271,504	408,870
FY 2017	41,435	75,622	186,859	303,916
FY 2018	50,036	107,212	239,331	396,579
FY 2019	76,020	473,682	301,806	851,508
FY 2020	30,557	52,230	317,864	400,651
FY 2021 YTD*	130,710	388,354	953,591	1,472,655

*FY 2021 numbers through August 31, 2021

Source: CBP enforcement statistics

Following a high-volume year of apprehensions in 2019, numbers dropped in the first half of fiscal year 2020, and at the start of the COVID-19 pandemic, initially fell further. To limit the spread of COVID-19, CBP tried to reduce the number of individuals detained in its holding facilities and the number of individuals traveling through ports of entry. According to 42 United States Code (U.S.C.) Section 265 (Title 42), the Surgeon General shall have the power to prohibit the introduction of individuals from foreign countries to avert the danger of the spread of communicable diseases.¹⁰ On March 20, 2020, under that authority and in response to the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) issued an order temporarily prohibiting the introduction of certain persons from foreign countries traveling from Canada or Mexico, regardless of their countries of origin, and who would otherwise be introduced into congregate settings.¹¹ A subsequent CDC order superseded this order on August 2, 2021.¹²

Pursuant to 42 U.S.C. § 265 and § 268 and the CDC Orders, DHS generally expelled thousands of inadmissible noncitizens apprehended at or near the

¹⁰ 42 U.S.C. § 265, [Suspension of Entries and Imports from Designated Places to Prevent Spread of Communicable Diseases](#).

¹¹ U.S. Department of Health and Human Services Centers for Disease Control and Prevention, Order Under § 362 & § 365 of the *Public Health Service Act* (42 U.S.C. § 265, § 268), *Order Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists*. The original Order was extended for 30 days on April 20, 2020, and indefinitely on May 19, 2020. For more information, see [Early Experiences with COVID-19 at CBP Border Patrol Stations and OFO Ports of Entry](#), OIG-20-69, September 2020, pp. 4–5.

¹² U.S. Department of Health and Human Services Centers for Disease Control and Prevention, Order Under Sections 362 and 365 of the *Public Health Service Act* (42 U.S.C. § 265, 268), [Public Health Reassessment and Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists](#) (Aug. 2, 2021).



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southern border back to Mexico or to their country of origin. However, in FY 2021, Border Patrol's apprehensions increased; by July 2021 the number of apprehensions exceeded the volume for FY 2019. Many noncitizens apprehended are not amenable to expulsion under Title 42. For example, NUCs are not subject to expulsion. In addition, Mexico places limitations on nationalities which can be expelled into Mexico but accepts migrants from the Northern Triangle (Guatemala, El Salvador, and Honduras). Mexico also implements limits based on its capacity to house families. As a result, CBP detains for processing NUCs, as well as some adults and families with acute vulnerabilities such as the need for urgent medical care.

Our previous fieldwork on the Southwest border indicates that the rate of apprehensions affects Border Patrol's ability to meet the TEDS standards on time in custody and overcrowding.¹³ In one of these reviews, we concluded that if the Department did not develop a DHS-wide response framework, CBP would continue to face challenges during migration surges.¹⁴ CBP concurred with a recommendation to inventory the infrastructure enhancements used in 2019 and incorporate these into its response for future migrant surges; this recommendation is still open. DHS concurred with a recommendation to develop thresholds at which a whole-of-government approach is needed to address migrant surges; this recommendation is also still open. In addition, during the FY 2019 surge, CBP described having to divert between 40 and 60 percent of its staff away from the border security mission to provide humanitarian care to families and children, impacting its ability to prevent drugs and criminals from entering the United States, even as Border Patrol worked with local, state, and Federal law enforcement partners to try to address enforcement gaps.¹⁵

Results of Inspection

During our unannounced inspections in August 2021 of four Border Patrol facilities in the San Diego sector and two OFO ports of entry, based on our observations, CBP appeared to operate in general compliance with the TEDS standards at the time of our inspections. There were instances of prolonged detention among single adults, but based on pre-COVID capacity requirements,

¹³ [*Capping Report: CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge*](#), OIG-20-38, June 2020, p. 8.

[*DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*](#), OIG-21-29, March 2021, pp. 11-12.

¹⁴ [*DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*](#), OIG-21-29, March 2021, pp. 11-12.

¹⁵ [*DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*](#), OIG-21-29, March 2021, p. 7.



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conditions were not overcrowded; specifically, detainees had room to sit or lie down. We verified accessibility to water, food, toilets, sinks, basic hygiene supplies, and bedding. Both Border Patrol and OFO generally met TEDS standards for medical care. With one exception, we observed clean facilities. We verified that temperatures and ventilation in the holding rooms were appropriate. All standards for NUCs were met at the time of our observation.

Two local factors contributed to CBP compliance with TEDS standards; encounter numbers and initiatives to centralize processing. Although Border Patrol apprehensions in the southern California area more than doubled from the previous year, Border Patrol and OFO encounters were commensurate with available detention space. Moreover, at the time of our site visit, both Border Patrol and OFO had introduced local initiatives to streamline immigration operations by bringing detained migrants to centralized locations for processing.

Despite efforts to streamline immigration processes, CBP faces challenges over which it has limited control. TEDS standards require that all instructions and relevant information must be communicated to the detainee in a language or manner the detainee can comprehend, but providing interpreters for a diverse population throughout the detention process is difficult. In addition, CBP is dependent on other Federal agencies and DHS components to limit the duration of detention.

CBP Generally Met TEDS Standards, Except for Prolonged Detention

During our unannounced inspections in August 2021 of four Border Patrol facilities in the San Diego sector and two OFO ports of entry, CBP generally operated in compliance with the TEDS standards. There were instances of prolonged detention among single adults and families. Of the 671 detainees held in the CBP facilities we visited, 62 (9 percent) were held longer than 72 hours. Of the family members held longer than 72 hours, all had been held less than 5 days. Some single adults had been in detention for more than a week, including 16 held between 1 and 2 weeks. No NUCs were held longer than 72 hours. CBP relied on U.S. Immigration and Customs Enforcement (ICE) for assistance with transportation and detention space for single adults and some families, but CBP was releasing other families not amenable to expulsion into the community. Table 2 shows the capacity and demographics of the Border Patrol facilities we visited.



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Table 2. Total Detainees Held at CBP Facilities Visited August 2021

Facilities	NUC	Family Units	Single Adults	Grand Total	Holding Capacity¹⁶
Brown Field Station	6	0	100	106	350
Campo Station	0	0	5	5	350
San Ysidro Port of Entry	3	38	53	94	300
Otay Mesa Port of Entry	0	0	0	0	7
Chula Vista Station	0	311	147	458*	357
Imperial Beach Station	4	0	4	8	230
Total	13	349	309	671	

*458 includes approximately 50 family members being processed out of the facility and an additional approximately 50 family members being processed into the facility. These families were not in detention cells.

Source: DHS OIG analysis of CBP roll call information

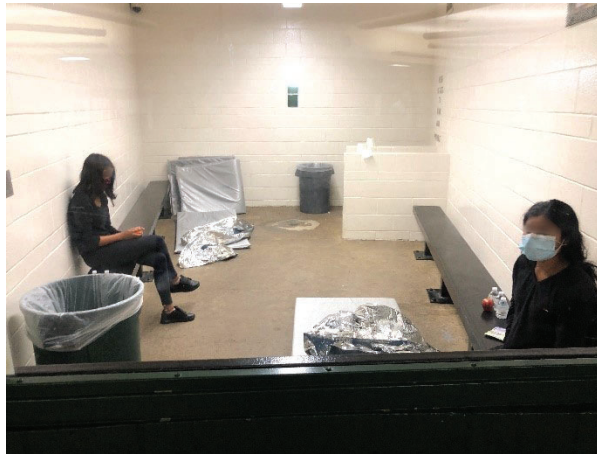
Conditions at the facilities were not overcrowded based on pre-COVID capacity requirements; detainees had room to sit or lie down, as shown in Figures 2 and 3. However, as shown in Figures 4 and 5, facilities operating near capacity could not offer room for social distancing. We verified access to water, food, toilets, sinks, basic hygiene supplies, and bedding. Both Border Patrol and OFO generally met TEDS standards for medical care. With one exception, we observed generally clean facilities.¹⁷ We verified that temperatures and ventilation in the holding rooms were appropriate.

¹⁶ Holding capacities for ports of entry are approximate, as waiting areas can be used for less restrictive detention. Holding capacities for Border Patrol stations reflect pre-COVID 19 capacities. At the onset of COVID-19, Border Patrol established cell capacity limits at about one-third of normal capacity, but with the high volume of apprehensions some cells held near their pre-COVID-19 capacity.

¹⁷ We observed one empty holding room that was unhygienic; there were stacks of used toilet paper and diapers near the toilets. Showers in the hold rooms at one facility functioned and had been cleaned but were aged.



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Figures 2 and 3. Migrants with Sufficient Cell Space, Observed on August 10, 2021
Source: DHS OIG



Figures 4 and 5. Migrants with Insufficient Space for Social Distancing, Observed on August 12, 2021
Source: DHS OIG

All standards for NUCs were met, including access to telephones and orientation videos, as shown in Figures 6 and 7. Among other requirements under TEDS standards, functioning drinking fountains or clean drinking water must always be available to detainees;¹⁸ snacks and meals have to be provided at regularly scheduled intervals;¹⁹ detainees must have access to toilets and

¹⁸ TEDS 4.14 *Secure Detention Standards: Drinking Water.*

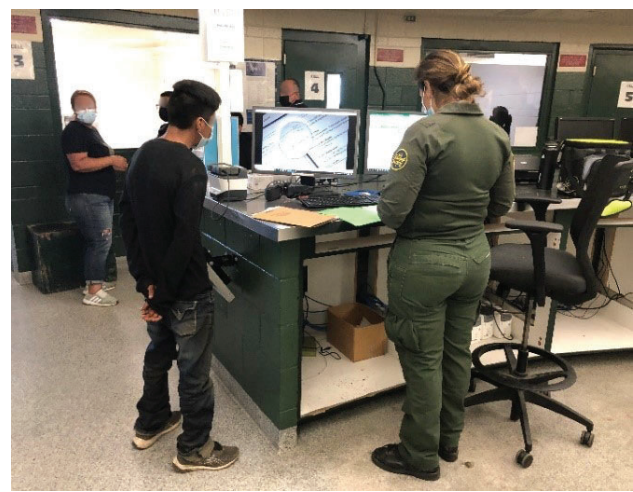
¹⁹ TEDS 4.13 *Secure Detention Standards: Food and Beverage, Meal Timeframe and Snack Timeframe*; TEDS 5.6 *Detention: Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees.*



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sinks, basic hygiene supplies, and bedding.²⁰ CBP met all of these standards for all detainees at the time of our site visits. In addition, for all detainees, CBP facilities had reasonable temperatures and ventilation. All detainees, including NUCs, had access to medical care. Facilities holding children had age-appropriate food, diapers, wipes, and other supplies.²¹



Figures 6 and 7. NUC Using Blue Wall Telephone and Being Shown Orientation Videos by Border Patrol Personnel, Observed on August 12, 2021

Source: DHS OIG

Encounter Numbers at Border Patrol Stations and Ports of Entry Were Commensurate with Detention Space

At the time of our site visit, encounters in the southern California area were commensurate with available detention space based on normal capacity limits. Border Patrol encounters in the San Diego sector more than doubled between FY 2020 and FY 2021, but as shown in Table 3, the percentage increase in apprehensions (175.3 percent) was still lower than Rio Grande (542.4 percent) and Yuma (1,038.2 percent), the other two sectors we visited in FY 2021.

²⁰ 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*.

²¹ As noted in Appendix A, the *Flores Settlement Agreement* of 1997 and subsequent Federal court decisions include standards of care for all detained children.



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Table 3. YTD Border Patrol Apprehensions by Sector²²

Border Patrol Sector	October 2019 to August 2020	October 2020 to August 2021	Percent Change in Encounters
San Diego	47,119	129,697	175.3%
El Centro	24,433	54,227	121.9%
Yuma	8,069	91,841	1,038.2%
Tucson	57,703	173,476	200.6%
El Paso	46,496	176,102	278.7%
Big Bend	7,224	34,694	380.3%
Del Rio	33,988	214,993	532.6%
Laredo	43,951	103,632	135.8%
Rio Grande Valley	76,897	493,993	542.4%
Grand Total Apprehensions/ Percent Change in Encounters	345,880	1,472,655	325.8%

Source: CBP enforcement statistics

San Ysidro, one of the two ports of entry we inspected, is the busiest U.S. land border crossing,²³ but in contrast to Border Patrol, which cannot control the number of undocumented noncitizens apprehended, OFO has limited the number of undocumented noncitizens processed at ports of entry. With ICE family residential centers taking fewer families than it had in the past, CBP processed most families not amenable to expulsion for release into the community, as shown in Figure 8, generally into the care of local charities. However, there was space at ICE facilities to transfer many single adults who were not amenable to expulsion under Title 42.

²² Statistics accessed from CBP website on September 29, 2021.

<https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component>.

²³ Department of Transportation Border Crossing Entry Data for calendar year 2020.

<https://explore.dot.gov/views/BorderCrossingData/CrossingRank?:isGuestRedirectFromVizportal=y&:embed=y>.



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Figure 8. Migrant Families Awaiting Release Generally to Local Charities, Observed on August 12, 2021
Source: DHS OIG

Both Border Patrol and OFO Had Introduced Local Initiatives to Streamline Immigration Processing

At the time of our site visit, both Border Patrol and OFO had introduced local initiatives to streamline immigration processing by bringing detained migrants to centralized locations. Border Patrol created a Centralized Processing Center (CPC), dedicating a Border Patrol compound (Chula Vista station and Barracks 5) to process family units for release and a Border Patrol station (Imperial Beach) to process NUCs for transfer to HHS. OFO also consolidated local immigration processing and temporary detention at the San Ysidro port of entry. One Border Patrol official said that before they created a CPC, agents processed an average of 30 cases a day. With the CPC, the Border Patrol official said they can process 150 cases a day with the same number of agents. Both Border Patrol and OFO cited community cooperation and responsive local non-governmental organizations for the efficient process for releasing families into the local community.

CBP Faces Language Barriers with Diverse Nationalities

TEDS standards require that all instructions and relevant information be communicated to the detainee in a language or manner the detainee can comprehend.²⁴ As shown in Table 4, in the San Diego area, CBP encountered diverse nationalities among migrants.

²⁴ TEDS 1.7 *Reasonable Accommodations and Language Access*.



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Table 4. Country or Region of Citizenship for Migrants in CBP Facilities Visited August 2021

Citizenship	Number of Detainees
Mexico	110
Northern Triangle (El Salvador, Guatemala, Honduras)	142
Nicaragua	51
South America (excluding Brazil)	77
Brazil only	179
Haiti	25
Former Soviet Union	66
Africa	10
Other	11
Grand Total	671

Source: OIG analysis of CBP roll call information

To assist with interpretation, CBP has telephonic interpreter services. We also observed staff using sign language and cellphone translation applications for basic communication.

However, there are inherent limitations to such methods, and providing interpreters for a linguistically diverse population throughout the detention process is a challenge. Specifically, we were able to use CBP’s telephonic interpreter services to obtain an interpreter for the Russian language quickly but had more difficulty securing interpreters for West African languages. In addition, some of the detainees we spoke to said some of processes were not explained to them. For example, some detainees said searches of their persons or the process for retrieving property were not explained.

Interdependencies between DHS Components and Other Agencies Limit the Border Patrol’s Ability to Address Prolonged Detention Unilaterally

TEDS requires that CBP must make every effort to promptly transfer, transport, process, release, or repatriate detainees as operationally feasible.²⁵ However, as we noted in our analysis of the last migrant surge on the Southwest border in 2019, migrant surges require a whole-of-government approach, and the interdependencies among CBP, ICE, U.S. Citizenship and

²⁵ TEDS 1.8 *Duration of Detention*.



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Immigration Services (USCIS), and other agencies, including the Department of Justice, limit CBP's ability to address prolonged detention unilaterally.²⁶

We observed in the San Diego area CBP's dependency on other DHS components to limit the duration of detention. For example:

- Border Patrol officials told us that some single adults waiting for transfer into ICE custody were held longer than a week. The delays occurred because ICE attempted to limit the spread of COVID-19 in its local facility by accepting a group of detainees from CBP custody every 10 days.
- USCIS assistance can also affect the duration of detention. Specifically, pursuant to 42 U.S.C. § 265 and § 268 and the CDC Orders, CBP has expelled thousands of inadmissible migrants, but according to USCIS there is an exception for individuals who might be subject to torture on their return.²⁷ OFO officers told us a new USCIS screening process for such individuals had lessened time in custody. The process had been available at other ports of entry and had only recently been expanded to San Ysidro.
- Although DHS volunteers are not directly involved in case processing, they provide invaluable support to CBP. For example, Border Patrol officials told us that detailed Coast Guard officers had contributed to the systems put in place to create the CPC, indirectly contributing to faster processing times.

Conclusion

As we noted in our analysis in 2019, migrant surges at the Southwest border require a whole-of-government approach. Interdependencies among CBP, ICE, USCIS, and other agencies, including the Department of Justice, limit the Border Patrol's ability to address overcrowding and prolonged detention unilaterally.²⁸ Within the constraints posed by these interdependencies, CBP

²⁶ [*DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*](#), OIG-21-29, March 2021, p. 44.

²⁷ USCIS informed us that the DHS policy to screen for individuals who might be subject to torture is based on Title 42 of the U.S. Code. Chapter 21D, Section 2000dd(a), for example, provides that "[n]o individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment."

²⁸ [*DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*](#), OIG-21-29, March 2021, p. 44.



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demonstrated initiative to identify solutions for issues within its control.

Recommendations

In our review of the 2019 migration surge, we made six recommendations to DHS to better prepare for future surges,²⁹ of which three have been fully implemented. For example, in response to our recommendation to develop a surge detention capacity contingency plan, ICE has indicated that it had renegotiated the terms of multiple existing contracts to implement surge capacity at vendor facilities. The contract modifications are intended to allow ICE to quickly expand (and contract) utilization of surge beds on short notice. Additionally, CBP Border Patrol indicated that it has developed and continues to disseminate a daily report regarding the Southwest border lines of effort. The daily report provides a regular update to leadership and stakeholders regarding Southwest border activity, resources, and personnel deployments to increase officer safety and safe transportation, detention, and processing of those in CBP custody. There are two additional recommendations which, when implemented, should better prepare DHS to limit overcrowding and prolonged detention during migration surges. CBP agreed with a recommendation to

²⁹ We recommend the Director, Immigration and Customs Enforcement:

Recommendation 1: Create a comprehensive surge detention capacity contingency plan that considers Customs and Border Protection apprehension levels, and ensure a process exists for its implementation during future surges. (Resolved and Closed)

Recommendation 2: Standardize documentation required in alien files that Customs and Border Protection needs to include for transfer of aliens from Customs and Border Protection to Immigration and Customs Enforcement, Enforcement and Removal Operations custody that will apply to all field offices. (Resolved and Open)

We recommend the Commissioner, Customs and Border Protection:

Recommendation 3: Identify strategies and solutions Customs and Border Protection's Border Patrol sectors and Office of Field Operations field offices used during the 2019 surge to manage delays in detainee transfers to partner agencies, determine the best practices that can be implemented during future surges, and communicate these best practices across the organization, and ensure a process exists for their implementation during future surges. (Resolved and Closed)

Recommendation 4: Conduct an inventory of infrastructure enhancements acquired during the 2019 surge and incorporate these into planning and staging for future migrant surges. (Resolved and Open)

Recommendation 5: Provide guidance to Border Patrol sectors to incorporate Immigration and Customs Enforcement, Enforcement and Removal Operations and Health and Human Services capacity in risk assessments for future migrant surge planning. (Resolved and Closed)

We recommend the Secretary, Department of Homeland Security:

Recommendation 6: Ensure Customs and Border Protection and Immigration and Customs Enforcement establish, draft, and coordinate thresholds, in consultation with the DHS Office of Strategy, Policy, and Plans with approval from the Secretary, for when DHS will request a whole-of-government approach to address transportation, case processing, and detention gaps during migrant surges. (Resolved and Open)



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inventory the infrastructure enhancements used in 2019 and incorporate these into its response for future migrant surges, with an estimated completion date of March 31, 2022. Finally, DHS agreed with a recommendation to develop thresholds at which a whole-of-government approach is needed to address migrant surges, which is also still open, with an estimated completion date of February 28, 2022. We did not make any new recommendations in this report as they would have duplicated recommendations already made.



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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 we made no recommendations in the report.



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Appendix A

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 for this unannounced inspection was to determine whether CBP complies with the TEDS standards related to length of detention and health and safety issues for detained migrants.

Prior to our inspections, we reviewed relevant background information, including DHS OIG hotline complaints and information from congressional requests, non-governmental organizations, and media reports.

Between August 10 and 12, 2021, we visited four Border Patrol facilities (Brown Field Station, Campo Station, Chula Vista Station, and Imperial Beach Station) and two ports of entry (San Ysidro and Otay Mesa) in southern California.

Our inspections were unannounced; we did not inform CBP we were in the sector or field offices until we arrived at the first facility. At each facility, we observed conditions and reviewed electronic records and paper logs as necessary. We also interviewed a limited number of CBP personnel and, when possible, we 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 NUCs and families — could vary by day. Our conclusions are therefore limited to what we observed and to information obtained from detainees and CBP staff at the time of our site visit.

Within the TEDS standards, we prioritized standards that protect children, which are derived from the *Flores Agreement*³⁰ and the *Trafficking Victims Protection Reauthorization Act of 2008*.³¹ For example, the *Flores Agreement* generally permits detention of minors for 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*

³⁰ *Flores Settlement Agreement* of 1997.

³¹ Pub. L. No. 110-457, § 235(b)(3), 122 Stat. 5044, 5077 (2008); see also 8 U.S.C. § 1232(b)(3).



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Reauthorization Act of 2008 requires DHS to transfer the custody of all unaccompanied children to the HHS within 72 hours of determining that a child is an unaccompanied child, absent “exceptional circumstances.”³² The *Flores* Agreement and subsequent Federal court decisions also require care for detained juveniles, including access to drinking water, meals, and snacks, to toilets and sinks, and to 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).
- 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 August 2021 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.

³² 8 U.S.C. § 1232(b)(3).



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Appendix B
CBP Comments to the Draft Report

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



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Appendix C
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Appendix D
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