

**CBP Facilities in Vermont
and New York Generally
Met TEDS Standards, but
Details to the Southwest
Border Affected Morale,
Recruitment, and
Operations**





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

May 23, 2023

MEMORANDUM FOR: Troy A. Miller
Acting Commissioner
U.S. Customs and Border Protection (CBP)

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

SUBJECT: *CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations*

JOSEPH V CUFFARI
Digitally signed by
JOSEPH V CUFFARI
Date: 2023.05.23
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For your action is our final report, *CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations*. We incorporated the formal comments provided by your office.

The report contains no recommendations. 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.

If you have any questions, please call me at (202) 981-6000, or your staff may call Thomas Kait, Deputy Inspector General for Inspections and Evaluations at the same number.

Attachment



DHS OIG HIGHLIGHTS

CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations

May 23, 2023

Why We Did This Inspection

As part of the Office of Inspector General's annual, congressionally mandated oversight of CBP holding facilities, we conducted unannounced inspections at three Border Patrol facilities and four OFO ports of entry in the areas between Swanton, Vermont, and Syracuse, New York, to evaluate CBP's compliance with applicable detention standards.

What We Recommend

We did not make recommendations for 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

In May 2022, we conducted unannounced inspections of seven U.S. Customs and Border Protection (CBP) facilities along the United States–Canada (northern) border, specifically three Border Patrol stations in the Swanton sector, one port of entry in the Office of Field Operations (OFO) Boston Field Office area of responsibility, and three ports of entry in the OFO Buffalo Field Office area of responsibility. At the time of our inspection, the CBP facilities we inspected did not have migrants in custody. From what we could observe, the facilities generally met the requirements of the *National Standards on Transport, Escort, Detention, and Search* (TEDS). We also concluded that CBP's contingency plans to obtain supplies, food, and medical care in the local community were sufficient for meeting TEDS standards when the facilities might have migrants in custody.

Although the facilities we inspected generally met TEDS standards, Border Patrol's reliance on detailing agents from northern border sectors to the Southwest border has affected enforcement operations in the areas we visited. The Swanton sector has frequently assigned Border Patrol agents to temporary details to the Southwest border to assist with migrant processing. These details were mandatory and may become more frequent if Southwest border encounters continue to increase. Although OFO also provided officers to Southwest border ports of entry, such details were voluntary and did not hinder northern border operations at the time of our inspections. However, if at some point officers do not volunteer, OFO leadership will be required to make the details mandatory.

CBP Response

CBP provided a management response to our draft report, as well as technical comments, which we incorporated as appropriate.



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Background

U.S. Customs and Border Protection's (CBP) Office of Field Operations (OFO) manages U.S. ports of entry, where officers perform immigration and customs functions, and inspect and admit people who present 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 people and goods suspected of entering the United States without inspection. OFO and Border Patrol are generally responsible for short-term detention of people who are inadmissible to or deportable from the United States or subject to criminal prosecution. The 2015 *National Standards on Transport, Escort, Detention, and Search* (TEDS)¹ guide how CBP should manage the short-term detention. Because CBP facilities are only equipped for short-term detention, CBP may repatriate, release, or transfer detainees to other agencies, as appropriate. CBP coordinates with U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) to relocate migrants to long-term detention facilities or with the U.S. Department of Health and Human Services' Office of Refugee Resettlement, the agency responsible for the placement of unaccompanied children.

With holding facilities in many of the 328 ports of entry and 135 Border Patrol stations, CBP's ability to meet TEDS and provide reasonable care for detainees in its short-term holding facilities can vary greatly. Conditions can differ between facilities operated by Border Patrol versus OFO because of variances in mission, policies, and procedures of these two CBP sub-components. Facility conditions can also fluctuate considerably across Border Patrol sectors because of geography, infrastructure, and a variety of other factors.

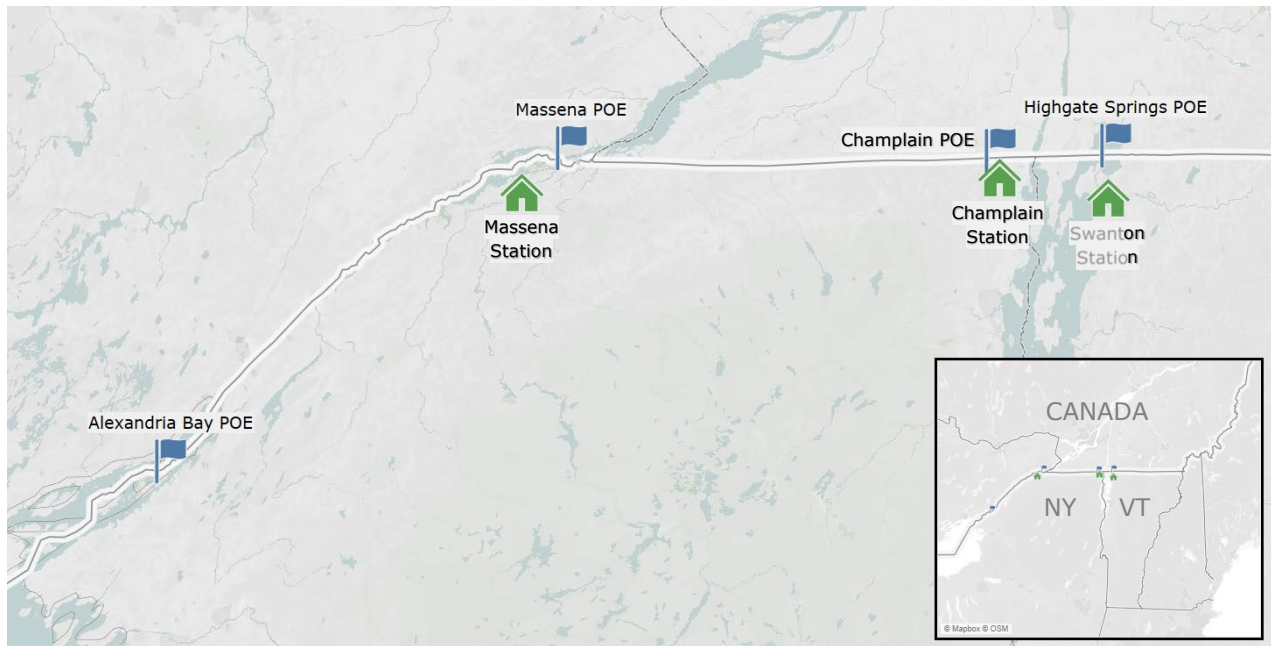
Border Patrol's Swanton sector runs 295 miles along the international border between the northeastern United States and Canada, of which 203 miles are land border and 92 miles are water boundary, primarily the St. Lawrence River. This area encompasses 24,000 square miles and includes the State of Vermont, five counties in New York, and three counties in New Hampshire. We inspected three Border Patrol stations and four OFO ports of entry in this area in May 2022. Figure 1 shows the locations of the facilities we inspected.

¹ TEDS standards govern CBP's interaction with detained individuals. CBP, [National Standards on Transport, Escort, Detention, and Search](#), Oct. 2015.



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Figure 1. Locations of Northern Border CBP Facilities Visited in May 2022



Source: Department of Homeland Security OIG

CBP Standards for Detention at Short-Term Holding Facilities

TEDS standards govern CBP’s interactions with detained individuals and specify how detainees should be treated while in CBP custody. According to TEDS, every effort must be made to promptly transfer, process, release, or repatriate detainees within 72 hours of being taken into custody, as appropriate and operationally feasible.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

² TEDS 4.1, *Duration of Detention*. TEDS states that 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. TEDS standards generally limit detention in CBP facilities to 72 hours, with the expectation that CBP will transfer unaccompanied children to the Office of Refugee Resettlement and repatriate or release families and single adults or transfer them to ICE ERO long-term detention facilities or other partners as appropriate. For DHS authority to detain individuals, see 6 U.S.C. § 211(c)(8)(B) and 6 U.S.C. § 211(m)(3).

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



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clean and are temperature controlled and adequately ventilated.⁴ TEDS standards also outline general requirements for detainee access to medical care. In late December 2019, CBP enhanced these requirements by adopting CBP Directive No. 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.” To implement this directive, CBP introduced an Initial Health Interview Questionnaire (CBP Form 2500)⁶ and a Medical Summary Form (CBP Form 2501) to document detainee health conditions, referrals, and prescribed medications. Although CBP Directive No. 2210-004 is mandatory along the Southwest border, CBP facilities on the northern border do not have the same requirement but can adopt similar processes, such as using CBP Form 2500 for screening detainees.

In fiscal years 2020 through 2022, Congress mandated that the Office of Inspector General conduct unannounced inspections of CBP holding facilities to assess conditions of detention. This report describes the results of unannounced inspections of CBP short-term holding facilities on the northern border, specifically in the areas between Swanton, Vermont, and Syracuse, New York.

CBP Migrant Encounters on the Northern Border

CBP encounters along the northern border, which combine OFO and Border Patrol encounters, fluctuate annually, as shown in Table 1. In March 2020, CBP encounters at the northern border were relatively low because in response to the COVID-19 pandemic, the Centers for Disease Control and Prevention issued a public health emergency order known as Title 42, which prohibited entry into the United States by people from foreign countries traveling from Canada or Mexico, regardless of their countries of origin.⁷ In FY 2022, although the Title 42 order was still in place, the border between the United States and Canada opened up for trade and travel, increasing encounters for OFO and Border Patrol along the northern border. In FY 2022, OFO had 107,297 encounters, a 409 percent increase over its 26,257 encounters in FY 2021, and Border Patrol had 2,238 encounters, a 244 percent increase over its 916 encounters in FY 2021.

⁴ TEDS 4.7, Hold Room Standards: Temperature Controls; and TEDS 5.6, Detention: Hold Rooms – [Unaccompanied Children].

⁵ CBP Directive No. 2210-004, [Enhanced Medical Support Efforts](#), Dec. 30, 2019.

⁶ The questions on CBP Form 2500 are used to determine whether a detainee has any injury, symptoms of illness, known contagious diseases, or thoughts of harming self or others. For seven of the questions, a positive response would automatically prompt a more thorough medical assessment.

⁷ See Title 42 of the *Public Health Services Act* (42 U.S.C. § 265). Expulsions under Title 42 are a public health measure and not considered immigration enforcement.



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Table 1. Total CBP Encounters on the Northern Border, FYs 2020 to 2022

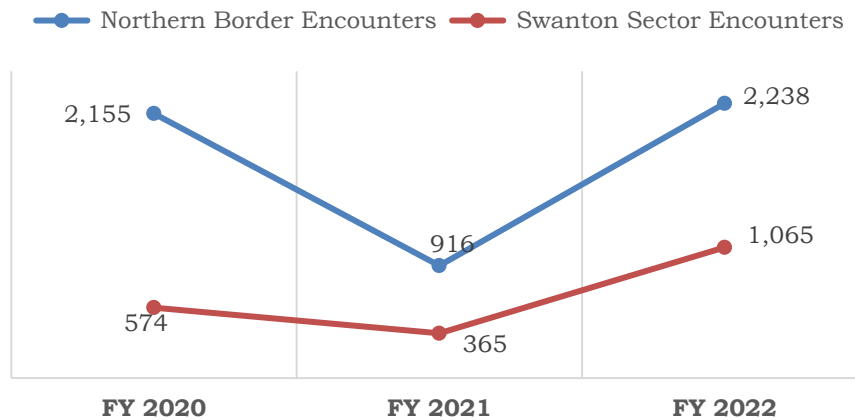
Fiscal Year	OFO Encounters	Border Patrol Encounters
2020*	30,220	2,155
2021	26,257	916
2022	107,297	2,238

Source: CBP enforcement statistics

* Beginning in March 2020, CBP included both Title 42 expulsions and Title 8 apprehensions in its encounter numbers. (Under the U.S. Code, Title 42 is a public health authority and Title 8 is an immigration authority.)

In FY 2022, Border Patrol encounters in the Swanton sector, totaling 1,065, made up 48 percent of the total 2,238 encounters along the northern border. See Figure 2 for a comparison of the total encounters along the northern border and total encounters in the Swanton sector for FY 2020 through FY 2022.

Figure 2. Total Border Patrol Encounters on the Northern Border and in the Swanton Sector, FYs 2020 to 2022



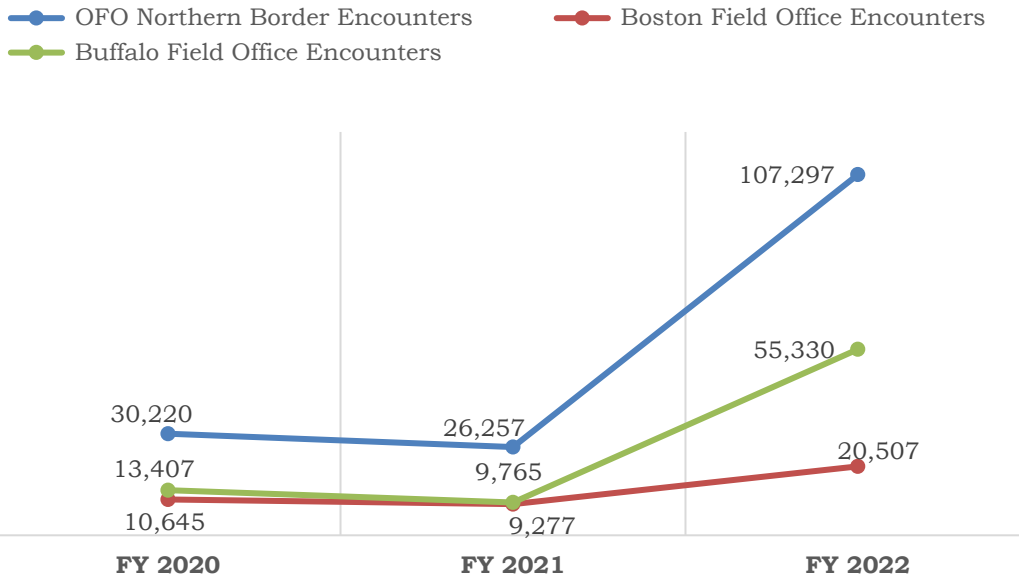
Source: DHS OIG analysis of Border Patrol statistics

Encounters at the OFO’s Boston (20,507) and Buffalo (55,330) Field Office ports of entry made up 71 percent of OFO’s total encounters on the northern border (107,297) for FY 2022. See Figure 3 for OFO total encounters on the northern border compared with Boston and Buffalo ports of entry.



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Figure 3. Total Encounters at OFO Ports of Entry on the Northern Border and OFO Boston and Buffalo Field Office Ports of Entry, FYs 2020 to 2022



Source: DHS OIG analysis of OFO statistics

Results of Inspection

During our unannounced inspections of CBP facilities in the areas between Swanton, Vermont, and Syracuse, New York, in May 2022, CBP had no migrants in custody. From what we could observe, the facilities we visited generally met TEDS standards. The facilities were mostly clean and displayed required information for migrants on safety and access to interpretation services. We also concluded that CBP’s contingency plans to obtain supplies, food, and medical care in the local community were sufficient for meeting TEDS standards when the facilities might have migrants in custody.

Although the Swanton sector generally met TEDS standards, Border Patrol’s reliance on detailing agents from northern border sectors to the Southwest border has affected northern border enforcement operations. Due to numerous encounters on the Southwest border, Swanton sector agents were frequently assigned for 30-day details to the Southwest border to assist with migrant processing, or for 60 days to conduct remote or virtual immigration processing at their home stations and offices. Southwest border details were mandatory and may become more frequent when Title 42 is repealed, at which time CBP



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anticipates Southwest border encounter numbers will further increase.⁸ Although OFO also provided officers to Southwest border ports of entry, such details were voluntary, generally for 60 days, and generally did not hinder OFO operations at most ports of entry on the northern border at the time of our inspections. However, if at some point officers do not volunteer, OFO leadership will be required to make the details mandatory.

CBP Facilities Had Processes to Meet TEDS Standards

During our unannounced inspections, we found the three Border Patrol stations and four OFO ports of entry complied with TEDS standards. Although no migrants were in custody during our visits, we verified that CBP was able to provide access to water, food, basic hygiene supplies, and bedding, including mats and blankets. CBP officials said they hold few migrants longer than 24 hours and explained the facilities have sufficient capacity to hold migrants without crowding.

All seven facilities we inspected were clean and well stocked with supplies (see Figures 4 and 5 for examples of supplies we observed). Water was available in all facilities. All the holding rooms were equipped with functioning sinks and toilets. Although facilities were generally clean with functioning toilets and sinks, one Border Patrol station and one OFO port of entry had one cell each with calcium, rust, or other deposits on the sink faucet. After pointing that out to CBP staff, the Border Patrol station corrected the deficiency within 24 hours and the OFO port of entry requested repairs through building maintenance.

⁸ This conclusion is based on DHS OIG analysis of the following DHS documents: *DHS Plan for Southwest Border Security and Preparedness*, Apr. 26, 2022, https://www.dhs.gov/sites/default/files/2022-04/22_0426_dhs-plan-southwest-border-security-preparedness.pdf and *Southwest Border Strategic Concept of Operations*, Mar. 28, 2022, <https://int.nyt.com/data/documenttools/sbcc-strategic-concept-of-operations/3cd606f92d600718/full.pdf>.



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Figures 4 and 5. Supplies and Equipment at the Massena Border Patrol Station and Alexandria Bay Port of Entry, Observed May 25 and 26, 2022

Source: DHS OIG photos

The facilities had access to interpretation services. They used local staff, translation applications, or a telephonic interpretation service. The facilities also displayed required safety information for migrants.

Given the limited migrant detention in the facilities we visited, we found that CBP's contingency plans to obtain supplies, food, and medical care in the local community met TEDS standards. Facility practices for stocking perishable and nonperishable supplies varied, but all facilities had a process to purchase items for migrants. Several of the facilities we inspected used gift cards CBP purchased from chain stores or restaurants to obtain supplies and food required by migrants, sufficient to meet TEDS standards, as the facilities rarely detained migrants over 24 hours.

Facility practices for medical screening also varied, but all facilities relied on local emergency medical services and nearby hospitals for migrant medical care. CBP did not have medical contractors at the facilities we visited but had first aid supplies onsite. Although the use of CBP's Initial Health Interview Questionnaire (CBP Form 2500) is a best practice, CBP does not require northern border facilities to use the form. Officials at three OFO facilities said they used the form, which is available electronically in OFO's data system, whereas officials at all other facilities we visited said they checked for medical conditions and emergencies but did not use CBP Form 2500.



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Staff Details to the Southwest Border Affected Border Patrol Operations on the Northern Border

Although stations in the Swanton sector generally met TEDS standards, Border Patrol's reliance on agent details to the Southwest border has negatively affected Border Patrol's ability to schedule staff for enforcement operations and to recruit, retain, and maintain agents' morale on the northern border. OFO details did not affect operations at the ports of entry to the same extent at the time of our inspections, but both Border Patrol and OFO expect that the rescinding of Title 42 may increase reliance on mandatory staff details to the Southwest border.

The Swanton sector has detailed Border Patrol agents to assist several Southwest border sectors with migrant processing. Border Patrol agents were sent to the Southwest border for in-person 30-day details or were assigned to 60-day rotations to conduct remote or virtual immigration processing from a local northern border station. In-person 30-day details to the Southwest border were mandatory. Detailed agents were typically given 60 days between rotations, but some returned to the Southwest border when agents scheduled for the detail became sick.

Border Patrol officials in the Swanton sector said mandatory details to the Southwest border, which started early in FY 2021, have affected recruitment, retention, and morale. Swanton sector officials said they had difficulty filling positions because agents were aware their duties would include frequent details to the Southwest border. They also reported that some agents working in the sector have retired at the minimum age or left for other work in other agencies because of the details. Officials said the heavy burden on spouses and children when agents are detailed has affected morale among families. DHS OIG recently reported that CBP has not assessed how using details and overtime has affected the workforce and operations, and DHS OIG made recommendations to help CBP better manage resources along the Southwest border.⁹

Swanton sector Border Patrol officials also said the details affected enforcement on the northern border. For example, boat patrols on the St. Lawrence River were curtailed, as was participation in joint law enforcement task forces operating on the northern border. When agents needed to take emergency leave due to illness, some shifts were not staffed or were understaffed. Officials said as a result of the details, the Swanton sector Border Patrol was less effective at disrupting cross-border smuggling and assisting with criminal cases.

⁹ *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale*, OIG-23-24, May 3, 2023.



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OFO also detailed staff to assist at ports of entry along the Southwest border. Unlike the mandatory details for the Border Patrol, OFO details to the Southwest border were voluntary, generally for 60 days. OFO officials generally said such details had limited effect on northern border operations, particularly in the winter months when cross-border tourist traffic drops. For example, OFO was still able to participate in joint law enforcement task forces operating on the northern border. Although OFO officers have volunteered for the details in the past, if at some point officers do not volunteer, leadership told us they will be required to make the details mandatory.

When Title 42 is terminated, both Border Patrol and OFO expect a rise in encounters which will result in more frequent details to the Southwest border. OFO officials said details for OFO officers may also become mandatory. CBP officials do not expect increased encounters on the northern border; they return few migrants to Canada under Title 42 at present. However, CBP staff told us staffing shortages on the northern border resulting from increased use of details could affect custodial operations; CBP could have difficulty meeting TEDS standards for timely transfer from short-term holding facilities.

Management Comments and OIG Analysis

We did not make any recommendations in this report, due to a recently published Office of Audits report, *Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale (Employees' Health and Morale)*, which addressed similar concerns of morale and resource management issues and made relevant recommendations.¹⁰

Appendix A contains CBP's management response to our draft report in its entirety. In the response, CBP thanked OIG for recognizing that the seven facilities we inspected met TEDS standards and raised some concerns about our finding that CBP's use of temporary details negatively affected morale, recruitment, and operations in the Swanton sector. Specifically, CBP raised concerns about our standards and methodology, noting that our methodology described interviews with "a limited number of CBP personnel," that we did not recount reviewing other forms of evidence (such as documents), and that we did not quantify the extent of the effect, noting only that there was an effect.

CBP further raised concerns that our annual notification letter for our unannounced inspections described our objective to be reviewing compliance with TEDS standards, and that our September 2022 Notice of Findings and Recommendations to CBP did not sufficiently explain inclusion of findings related to the effect on staff of temporary details. Finally, CBP questioned our adherence to Council of the Inspectors General on Integrity and Efficiency (CIGIE) standards.

¹⁰ OIG-23-24, May 3, 2023.



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We take these concerns seriously but fully disagree. CBP had multiple opportunities to raise concerns about our standards or methodology during multiple stages of our standard report review process — which included a Notice of Findings and Recommendations preview document, two opportunities to provide technical comments, and two conference calls, one for the Notice of Findings and Recommendations, and one for the exit conference — but did not. We will address CBP’s concerns here.

We do not agree with CBP’s characterization of staffing shortages as being unrelated to CBP’s ability to meet detention standards. As we note in this report, during our inspection, CBP staff at all three Border Patrol stations we visited specifically told us that staffing shortages due to details could result in CBP having difficulty meeting TEDS standards for timely transfer from short-term holding facilities.

It is inaccurate to suggest that we changed our objective during the review. In addition to the October 15, 2021, notification letter, at our entrance conference we provided CBP a 1-page description of our review. We also provided a modified version of the 1-page description to northern border staff at each facility we visited during the week of May 23, 2023. Both documents included the following language:

By congressional mandate, the Office of Inspector General (OIG) conducts inspections of CBP detention facilities to determine adequacy of conditions and to review compliance with CBP’s *National Standards on Transport, Escort, Detention, and Search* (TEDS) and any other relevant policies and procedures.

We consider policies on staffing to fall within this description of our review.

In addition, our congressional mandate requires oversight related to border security policies and activities, including custody operations:

Border Security and Immigration Oversight — The Inspector General is directed to enhance oversight and investigations related to immigration and border security policies and activities, including: safeguards for the due process rights of asylum seekers and other migrants; unannounced inspections of ICE and CBP detention facilities; detention facility contracting; the 287(g) and Secure Communities programs; and enforcement activities at and near sensitive locations. The OIG is directed to provide a briefing to the Committee, not later than 30 days after the date of enactment of this Act, on its budget execution plan for fiscal year 2022. In addition, the OIG shall continue publishing the results of its



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inspections of immigration detention facilities and other reports related to custody operations on its public website.¹¹

CBP questioned our adherence to CIGIE standards. The Office of Inspections and Evaluations, which conducted these inspections, follows the 2020 *Quality Standards for Inspection and Evaluation* (Blue Book). In its preface to the Blue Book, CIGIE notes:

Fulfilling the [Blue Book] standards takes mindful consideration and does not constitute a checklist. Rather, the standards should serve as guideposts to help inspectors make each of the many decisions involved in conducting an inspection or evaluation. The standards are flexible and not overly prescriptive by design. The Blue Book is meant to be interpreted through the professional judgment of inspectors due to the complexity of inspection and evaluation work.¹²

CBP correctly cited the Blue Book as noting that “testimonial evidence obtained from an individual who is not biased or who has complete knowledge about the subject generally is more valid and reliable than testimonial evidence obtained from an individual who is biased or has only partial knowledge about the subject;” and “corroboration of evidence may reduce the risk that evidence is inaccurate and provide for stronger overall evidence.”

We followed this Blue Book guidance; the subject matter experts we spoke with on the northern border included two patrol agents in charge, a deputy patrol agent in charge, two supervisory Border Patrol agents, an area port director, an assistant area port director, a port director, and three assistant port directors. In addition, our objective, scope, and methodology (on the following page) states, “Our conclusions are limited to what we observed and information we obtained from CBP staff at the time of our inspections.”

We also obtained corroborating information to support our finding. As CBP noted, the concurrent Office of Audits report, *Employees’ Health and Morale*, included similar findings.

CBP contributed additional corroborating evidence during our standard review process. In technical comments to our Notice of Findings and Recommendations, CBP provided evidence from several Border Patrol subject matter experts from the Swanton sector and neighboring Houlton sector that supported our finding. Representatives of four northern border sectors — Houlton, Swanton, Buffalo, and Detroit — attended the Notice of Findings and Recommendations conference call. Contrary to CBP management’s assertion,

¹¹ H.R. Rep No. 117-87, at 23 (2021)

¹² CIGIE, *Quality Standards for Inspection and Evaluation*, Dec. 2020.



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OIG and CBP personnel had a productive discussion during that meeting. None of the concerns contained in CBP's management response were brought up during the meeting.

CBP also provided three technical comments to the draft report, two of which were similar in nature. In response to these technical comments, in this final report we incorporated OFO concerns that Southwest border details may become mandatory if there are insufficient numbers of volunteers. None of the concerns contained in CBP's management response were in the technical comments; 19 additional CBP subject matter experts reviewed the draft and did not suggest changes. Officials from ICE, the Office of Civil Rights and Civil Liberties, and the Office of the Immigration and Detention Ombudsman also reviewed the draft and had no technical comments.

CBP noted that it remains committed to ensuring the safety and well-being of its staff and cited several CBP and DHS-wide initiatives to provide support for law enforcement personnel and improve employee morale and engagement. We thank CBP for including this information.

Objective, Scope, and Methodology

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

Our objective for this unannounced inspection was to determine whether CBP complied with TEDS standards and other relevant policies and procedures related to length of detention and conditions of detention at CBP short-term holding facilities on the northern border, specifically in the areas between Swanton, Vermont, and Syracuse, New York.

Prior to our inspection, we reviewed relevant background information from congressional mandates, nongovernmental organizations, and media reports.

Between May 23 and May 26, 2022, we conducted unannounced inspections of three Border Patrol stations in the Swanton sector (Champlain, Massena, and Swanton), one port of entry in the OFO Boston Field Office area of responsibility (Highgate Springs), and three ports of entry in the OFO Buffalo Field Office area of responsibility (Alexandria Bay, Champlain, and Massena).

Our inspections were unannounced. We did not inform CBP we were in the sector or field office area of responsibility 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. We photographed examples of compliance and noncompliance with



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TEDS standards. For example, we took photographs to document the storage of detainee personal property and the conditions of holding rooms.

Our conclusions are limited to what we observed and information we obtained from CBP staff at the time of our inspections.

We generally focused on TEDS standards regarding medical care, including 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);
- provide medical care (TEDS 4.10); and
- 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 May 2022 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by CIGIE.

The Office of Inspections and Evaluations' major contributors to this report are Tatyana Martell, Chief Inspector; Donna Ruth, Lead Inspector; Lorraine Eide, Lead Inspector; Jennifer Kim, Senior Inspector; Ben Diamond, Senior Inspector; Lisa Knight, Communications Analyst; and Renita Caracciolo, Independent Referencer.

During this inspection, CBP provided timely responses to our requests for information and did not deny or delay access to the information we requested.



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Appendix A
CBP Comments to the Draft Report

1300 Pennsylvania Avenue, NW
Washington, DC 20229

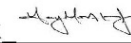


**U.S. Customs and
Border Protection**

February 23, 2023

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Henry A. Moak, Jr.
Senior Component Accountable Official
U.S. Customs and Border Protection

2/23/2023
X 
Signed by: HENRY A. MOAK JR

SUBJECT: Management Response to Draft Report: “CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations” (Project No. 22-006-ISP-CBP(c))

Thank you for the opportunity to comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

CBP is pleased with OIG’s recognition that CBP’s U.S. Border Patrol (USBP) and Office of Field Operations (OFO) generally met the “National Standards on Transport, Escort, Detention, and Search” (TEDS, dated October 2015) requirements during unannounced inspections conducted in May 2022 of seven facilities and stations in Vermont and New York. It is important to note that, although the OIG did not include any recommendations in this report, CBP elected to respond given the many concerns we have with the OIG’s draft report.

The OIG’s draft report may mislead end users of the report, including members of Congress and the public, about CBP’s use of temporary details assigning northern border personnel to support Southwest Border (SWB) activities, especially the assertion that these details negatively affect morale, recruitment, and operations. The draft report raises questions as to whether the OIG’s review fully comports with the Council of the Inspectors General on Integrity and Efficiency (CIGIE):

- 1) “Quality Standards for Inspection and Evaluation,”¹ as the OIG stated in the Objective Scope and Methodology section of its draft report, and
- 2) “Quality Standards for Federal Offices of Inspector General” which outline a framework for managing, operating, and conducting OIG work including

¹ CIGIE, “Quality Standards for Inspection and Evaluation” (hereafter referred to as the “Blue Book”), dated December 2020. <https://ignet.gov/sites/default/files/files/QualityStandardsforInspectionandEvaluation-2020.pdf>



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professional standards for audit, investigation, and inspection and evaluation efforts.²

Blue Book standards require inspectors to: (1) “collect and analyze evidence consistent with inspection objectives and related to the operation, program, policy, or entity being inspected;”³ and (2) “include relevant evidence collected and analysis performed in inspection documentation.”⁴ The Blue Book provides further guidance and best practices to inspectors regarding evidence collection and analysis, including “determining the type and amount of evidence to be gathered;”⁵ “documenting evidence and analysis and any limitations” therein;⁶ and “determining whether evidence is sufficiently relevant, valid, and reliable.”⁷ CIGIE’s Silver Book denotes general standards to which OIG staff shall adhere when conducting their work and requires working with competence and diligence.⁸

Specifically, CBP is concerned that OIG’s findings regarding CBP’s use of temporary details to assign northern border personnel to support SWB activities are not supported by sufficient and appropriate evidence. Consequently, end users of the report should not accept its conclusions regarding workforce morale, recruitment, and operations.⁹ In its report, the OIG appears to rely solely on testimonial evidence from “a limited number of CBP personnel” in the Swanton Sector to broadly conclude that details to the SWB negatively affected CBP’s ability to schedule staff for enforcement operations and to recruit and retain personnel and maintain their morale on the northern border. OIG does not corroborate its limited testimonial evidence with either (1) additional forms, such as documentary or analytical (i.e., quality), of evidence, or (2) a greater quantity of evidence. The draft report simply makes vague statements like “some” agents returned to the SWB early, “some” agents retired or left for work in other agencies due to details, and “some” shifts were not staffed or were understaffed.

CIGIE Blue Book guidance and best practices on appropriate evidence state, among other things, that “testimonial evidence obtained from an individual who is not biased or who has complete knowledge about the subject generally is more valid and reliable than testimonial evidence obtained from an individual who is biased or has only partial

² CIGIE, “Quality Standards for Federal Offices of Inspector General” (hereafter referred to as the “Silver Book”), dated August 2012.

³ CIGIE Blue Book Standard 4.1

⁴ CIGIE Blue Book Standard 4.2

⁵ CIGIE Blue Book Section 4.1b

⁶ CIGIE Blue Book Section 4.2a

⁷ CIGIE Blue Book Section 4.3d

⁸ CIGIE Silver Book Section II.A

⁹ Sufficiency is a measure of the quantity of evidence used to support the findings and conclusions related to the inspection objectives. Appropriateness is the measure of the quality of evidence used to address the inspection objectives and support the findings and conclusions. Appropriate evidence is determined by its relevancy, validity, and reliability. CIGIE, Blue Book, Standard 4.3.



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knowledge about the subject;” and “corroboration of evidence may reduce the risk that evidence is inaccurate and provide for stronger overall evidence.”¹⁰ For example:

- 1) the OIG’s reliance on limited testimony without corroboration—as well as a lack of analysis to determine whether the evidence sufficiently and appropriately supports conclusions—creates more questions than answers regarding the objectivity, credibility, and reliability of findings included in the draft report; and
- 2) the OIG may not have applied the requisite level of appropriate evidence, particularly as it relates to selecting, evaluating, and reporting on evidence used in the report, and ensured all of its conclusions adhere to established policies, procedures, and standards.¹¹

Further, CBP would like to point out that the OIG did not disclose in its draft report that—after it completed this inspection—it changed its original objective to include CBP’s use of temporary details assigning northern border agents to support Southwest Border (SWB) activities. Specifically, in its October 15, 2021 notification letter, OIG’s objective was narrowly focused on determining “whether CBP complies with the Standards on Transport, Escort, Detention, and Search Policy at short-term holding facilities.” Subsequently, in its September 13, 2022 Notification of Findings and Recommendations, OIG updated its objective to “determine whether CBP complied with the 2015 National Standards on Transport, Escort, Detention and Search (TEDS) and other relevant policies and procedures.” However, CBP does not believe this language sufficiently disclosed or explained the expanded scope of temporary details that are unrelated to compliance with the TEDS Standards. The Blue Book requires that inspectors “coordinate proposed inspections with appropriate organizations;” “prepare a written inspection plan for each inspection that includes the objective(s), scope and methodology;” and “state the objectives, scope and methodology of the inspection” in its report.¹² CIGIE Blue Book guidance and best practices also state that inspectors should “adjust the plan as appropriate, based on new information and document any significant changes” but also explain that “objectives are what the inspection is intended to accomplish,” and the OIG’s objective is unclear in this instance based on its inclusion of information outside of its stated objective.¹³ In addition, it is important to note CIGIE Silver Book requires the OIG to “keep agency management, program managers, and Congress fully and currently informed of appropriate aspects of OIG operations and findings,”¹⁴ which CBP does not believe was accomplished in this case.

The OIG’s draft report is misleading in that it does not recognize any of the completed, ongoing, and planned initiatives to support personnel on the SWB, northern borders, and

¹⁰ CIGIE Blue Book Section 4.3e

¹¹ CIGIE Silver Book Section V.A addresses standards for OIGs to establish and maintain a quality assurance program.

¹² CIGIE Blue Book Standards 3.2, 3.5, and 5.1

¹³ CIGIE Blue Book Section 3.5g and 3.5a

¹⁴ CIGIE Silver Book Section VII.A



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elsewhere. These initiatives include, for example the Department activating a Volunteer Force beginning in March 2021 to augment staffing along the SWB and provide support for frontline law enforcement personnel. Through the Volunteer Force, employees from across DHS and the interagency community can volunteer to support efforts by performing temporary duty assignments to the SWB, or by working remotely to help CBP perform initial processing of individuals. This added personnel support to CBP allows CBP’s law enforcement personnel at the SWB to continue performing their primary frontline law enforcement duties. Since 2021, the Volunteer Force has facilitated more than 2,500 deployments providing direct support to the SWB.

As another example, DHS also initiated a department-wide effort to improve employee morale and engagement. In late 2021, the Office of the Chief Human Capital Officer began a nationwide series of focus groups with frontline employees and supervisors at CBP, U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration to better understand the employee experience. As a result of these focus groups, DHS instituted a comprehensive employee experience framework and began multiple activities to address employees’ basic needs. These activities have included deploying teams of headquarters mission support personnel to high-need field locations to understand and directly address issues ranging from technology to fleet and facilities. DHS and CBP will continue to build on these efforts to enhance employee morale and engagement.

In addition, CBP finds it interesting that the OIG references another draft report (not yet published final), which, in part, relied on the results of a “workforce challenge survey” to conclude that CBP’s and ICE’s current method of managing staffing is unsustainable and negatively impacting the health and morale of law enforcement personnel.¹⁵ In its formal management response letter, the Department expressed concern about repeated references to the survey results throughout the report, especially given the very low response rate to the survey (approximately 18 percent), and the apparent lack of any steps taken by the OIG to mitigate the potential for nonresponse bias since opinions of those individuals who chose to respond may be different—in meaningful ways—than those who did not respond.

CBP remains committed to ensuring the safety and well-being of its staff, and noncitizens in its custody who should reside in safe, secure, and humane environments and under appropriate conditions of confinement. CBP ensures that the necessary resources are deployed to locations with the highest risk, while balancing vital national security operations, at both the SWB and northern borders, to perform its essential role in securing our Nation’s borders at and between ports of entry.

¹⁵ DHS OIG, “Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees’ Health and Morale” (Project No. 22-011-AUD-CBP, ICE)



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As previously noted, the OIG's draft report did not include any recommendations. CBP previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.



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Appendix B
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