



December 20, 2023

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To Whom It May Concern,

The New Mexico Immigrant Law Center (NMILC) submits the instant complaint which documents egregious and flagrant abuses against recently arrived asylum seekers in Customs and Border Protection (CBP) custody in the El Paso sector.

Dozens of case examples illustrate a devastating pattern, making it clear that CBP is failing to meet even basic standards of decency in processing recently arrived asylum seekers. NMILC has collected stories of needless family separations, lack of access to minimally necessary hygiene products, and plainly inadequate food. The myriad violations against human rights are profound and must be rectified. Detailed below are personal accounts from asylum seekers who have disclosed abuse in CBP custody to NMILC staff.

Human Rights Abuses in CBP Custody

Prolonged Detention in CBP Custody

Despite clear guidance limiting the duration of an individual's stay in CBP custody, NMILC has spoken with dozens of asylum seekers who spent seven to twenty days in CBP tents and holding rooms. These facilities are neither designed nor equipped to house people for long periods, they are intended for brief initial processing only.¹ Still, out of a cohort of 102 detained asylum seekers, with whom NMILC staff have spoken, 73 individuals spent more than 72 hours in CBP custody. Out of those 73 people, 30 people spent more than ten days in either CBP tents or holding rooms. Even more alarming, five people spent over twenty days in CBP custody.

Considering the intolerable conditions described in detail below, prolonged detention in CBP custody simply amounts to a flagrant violation of human rights but also of the stated policies of CBP itself. *Id.*

¹ National Standards on Transport, Escort, Detention, and Search, U.S. Customs and Border Protection (Oct. 2015), at 14, <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf> (explaining that detainees should not be held in CBP hold rooms or holding facilities for more than 72 hours and that every effort should be made to hold detainees for the least amount of time necessary to their processing.)

Inadequate Access to Showers and Hygiene Products

When CBP opened new temporary processing centers in January 2023, it did so with assurances that the new soft-sided facilities would be equipped with “ample areas for eating, sleeping, and personal hygiene.”² This is far from the reality. Of particular concern are reports from detained asylum seekers that they were only allowed to brush their teeth or shower—if ever—very infrequently.

The first report that NMILC received regarding wildly inadequate access to personal hygiene products was from a young Ecuadorian man, ██████████ S█████████ (A#██████████). In August 2023, NMILC met Mr. S█████████ at Cibola County Correctional Center where he was experiencing symptoms of an acute infection in his gums which Mr. S█████████ stated had begun while he was held in CBP custody. Mr. S█████████ was held in these temporary facilities for 11 days but was not allowed to brush his teeth for the duration of his time there. In an effort to maintain a semblance of personal hygiene, Mr. S█████████ used a surgical mask and soap to brush his teeth but, because he was not provided with proper hygiene products, he cut his gums and contracted an infection. As a result of the infection (which was left unattended while in ICE custody), Mr. S█████████ suffered from severe headaches, was unable to eat, and became increasingly anxious. Mr. S█████████’s story is just one example of the long-term consequences of grossly mismanaged CBP processing procedures.

After speaking with Mr. S█████████, NMILC began tracking similar instances and developed a set of data which suggests that not only is Mr. S█████████ not alone in the lack of proper care which he received, but nearly everyone who passes through CBP custody is denied access to even basic hygiene products.

Although the American Dental Association recommends that everyone brush their teeth twice per day for two minutes at a time,³ asylum seekers who have been detained by CBP report that they were only able to brush their teeth when allowed to shower; however, showers are infrequent in CBP custody. One individual was held for 30 days in CBP custody and only allowed a single shower and to brush his teeth once. This is a severe case but not uncommon; another individual was in CBP custody for 28 days and able to shower and brush his teeth just two times. In 15 days in CBP custody, a young man was never able to shower and only allowed to brush his teeth once. Out of 12 men held in CBP custody for more than five days, only one person received more than two showers. Likewise, just one out of those 12 individuals were able to brush their teeth more than twice.

When allowed to shower, detained asylum seekers reported only having five minutes to both wash their bodies and teeth—a wholly inadequate amount of time.

² Press Release, U.S. Customs and Border Protection, CBP Announces Opening of New Temporary Processing Facility in El Paso, Texas (Jan. 11, 2023) available at <https://www.cbp.gov/newsroom/local-media-release/cbp-announces-opening-new-temporary-processing-facility-el-paso-texas>.

³ Department of Scientific Information, Evidence Synthesis & Translation Research, ADA Science & Research Institute, LLC., Toothbrushes (Oct. 7, 2022) <https://www.ada.org/en/resources/research/science-and-research-institute/oral-health-topics/toothbrushes>.

Subhuman Treatment and the Deprivation of Food and Water.

The egregious treatment of asylum seekers detained by CBP does not end with the basics of personal care. Asylum seekers reported being humiliated, touched and fondled beyond the normal scope of a physical search, receiving comments with explicit and pejorative language, and agents asserting unchecked authority.

NMILC spoke with a group of seven asylum seekers detained at CCCC who described the process of being apprehended by CBP.⁴ In a signed declaration, these individuals described being beaten by CBP agents, including with batons; they watched male agents search and touch women inappropriately; and were denied any water for five hours while awaiting transport from the point of apprehension to arriving at CBP processing facilities.⁵ These accounts are corroborated by others who described similar encounters.

One individual, ██████████ B██████, reported medical neglect and unprofessional behavior by government officials. After asking for medical treatment for his feet which had become infected, one CBP officer responded that “this is why they were deporting us, because we were coming asking for benefits, bringing sickness.”⁶ In his sworn statement, Mr. B██████ also described being forgotten in a prolonged isolation when officials thought he had scabies. In fact, he had been sleeping in a park in Mexico before being apprehended and was covered in ant bites, but CBP officers took all of his clothes and refused to let him bathe but covered his body in a cream and told him to wait in isolation for eight hours.⁷ Mr. B██████ was left in isolation for two days without being monitored; when an officer finally noticed he was still in the isolation room, he asked Mr. B██████ how long he had been there and expressed surprise when Mr. B██████ informed him that he had been there for so much longer than prescribed.⁸

Still other asylum seekers who have described their experiences in CBP custody have documented incidents of crude and inhumane treatment. ██████████ M██████ recounts being denied access to a phone call; when officials allowed individuals to make calls to their families, Mr. M██████ was asleep and missed the opportunity. When another asylum seeker nearby woke him up to let him know he could make a call, he asked an officer who responded, ‘you fucker, you think I have all the time in the world to help you?’⁹ When Mr. M██████ apologized and explained the situation, the officer repeated the gross phrase.¹⁰

The food provided to asylum seekers in CBP custody is also inadequate, inedible, and insufficient. Mr. M██████ reported receiving frozen sandwiches that could not be eaten until they thawed. Still other asylum seekers who spoke to NMILC described sitting in CBP holding facilities and officers entering and throwing food into the room so that people had to lunge to get any, rather than distributing food to ensure that everyone was able to get a serving.¹¹ This dehumanizing, demeaning treatment is far below the standards expected of public officials charged with the care

⁴ Exh. A, ¶ 1.

⁵ *Id.*

⁶ Exh. B, ¶ 10.

⁷ *Id.*

⁸ *Id.*

⁹ Exh. C, ¶ 11.

¹⁰ *Id.*

¹¹ Exh. D, ¶ 6.

of asylum seekers: In its own “Standards of Conduct,” CBP states that all employees “must maintain high standards of honesty, integrity, impartiality, character, and professionalism.”¹²

These individual accounts of mistreatment are confirmed by dozens of similar accounts disclosed to NMILC staff. Asylum seekers report being spoken to disrespectfully, with explicit and discriminatory language. Food and water, when provided, is grossly inadequate; NMILC staff heard accounts of asylum seekers being denied water, instead receiving just one bottle of water a day and being fed frozen, inedible, and insufficient meals. Asylum seekers are packed into overcrowded rooms with utterly deficient restroom facilities and not given the opportunity to call family or legal representatives. It is of note that children were also subjected to these conditions.

Conclusion

The conditions described above are extreme and ongoing. CBP is responsible for maintaining a safe and clean environment for asylum seekers for the duration of their time in CBP custody and is consistently failing to do so. Improving these conditions is crucial to ensuring due process to asylum seekers in the United States. Accordingly, it is respectfully requested that an investigation be launched at the CBP holding facilities in the El Paso sector.

Respectfully Submitted,



O. Bella Bjornstad

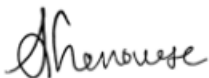
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¹² Department of Homeland Security, U.S. Customs and Border Protection Standards of Conduct, Mar. 13, 2012 available at <https://www.cbp.gov/sites/default/files/assets/documents/2018-Nov/cbp-standards-conduct-2012.pdf>.

Exhibit A

September 8, 2023, at Cibola County Correctional Center in Milan, New Mexico

Queremos revelar los abusos de la patrulla fronteriza. Aquí hay partes de nuestras historias que demuestran la injusticia, el racismo, y el mal tratamiento que hemos sufrido en los manos de ellos.

1. Hemos presenciado la patrulla fronteriza nos requisaron y fuimos golpeados por parte de los agentes. Ellos abusaron de las mujeres, tactaron partes de sus cuerpos, agentes masculinos a mujeres.
2. Algunos de los agentes en vez de ayudarnos nos golpearon con bastones de hierro en las manos. Aparte de eso fuimos tratados muy mal tanto física y mentalmente.
3. No recibimos ni siquiera agua desde el momento que nos entregamos hasta llegar a las carpas, pasaron 5 horas hasta poder beber y comer algo.
4. Las pertenencias fueron botadas sin razón, incluso ropa y artículos de valor y dinero que no era americano, también algunos documentos personales tales como las licencias de conducción y militar.
5. En los casos de algunos, sus celulares fueron tirado al piso y a casusa de esto esta roto.
6. Las mujeres fueron regristradas, fueron requisadas por parte de hombres cuando no dieron consentimiento.
7. La mayoría de oficiales de migración mexicanos eran los que mas mal trato nos dieron.
8. Realmente recibimos racismo por nuestro país natal, diciendo que no estábamos en nuestra casa, estábamos en la de ellos y por ende teníamos que aceptar su trato y sus "reglas."
9. Algunos de nosotros fueron perseguidos por las motos de la patrulla fronteriza, por miedo corrimos y trataron de arroyarnos y llevaban sus pistolas electricas para asi intimidarnos.
10. Uno de nosotros fue golpeado e intimidado por parte de la patrulla, hicieron desvestirme y me dijeron palabras tales como "hijo de puta," y "indio."
11. Fuimos traslado de El Paso a las carpas esposado como delincuentes.
12. Nos mintieron en todo momento para asimismo ser deportados mas rápido cosa que parece gustarles a ellos.
13. Mujeres embarazadas tratadas de igual manera, cuando debería haber un mejor trato por su condición.
14. Personas que podían entender perfectamente nuestro idioma, fingían no hacerlo para no darnos ninguna razón o justificación.
15. Cuando nos entregamos, los oficiales de migración nos decían que no nos iban a dejar entrar y del lado de Mexico nos estaban esperando los carteles para secuestrarnos, no sabíamos que hacer.
16. Hay fotos y videos de amenazas de parte de los agentes de migración si llegamos a cruzar, intimidándonos con sus rifles, apuntando y cargando las mismas haciendo sonidos.

17. No dieron opción de mostrar credenciales sobre mis vacunas de covid-19, por lo tanto muchos fueron vacunados mas de lo necesario, esto hizo generar dificultades de salud.

18. COMO ESTOS, HAY MUCHOS MAS CASOS Y SEGURAMENTE ONOS MAS GRAVES QUE OTROS.

Firmado,

Julio Barazarte Arias

Michael Montoya Perez

Jose Gonzalez Gomez

John Ortega Romero

Brandon Cervantes Quinones

Ariel Ortiz Reyes

Julio Moran Ibarra

September 8, 2023 at Cibola County Correctional Center in Milan, New Mexico

We want to reveal the abuses of the Border Patrol. Here are parts of our stories that demonstrate the injustice, the racism, and the mistreatment that we have suffered at their hands.

1. We have witnessed the Border Patrol search us and we were beaten by the agents. They abused the women, touching parts of their bodies, male agents to women.
2. Some of the agents instead of helping us, beat us with iron batons in their hands. Apart from that we were treated very badly both physically and mentally.
3. We did not receive even any water from the moment that we turned ourselves in until arriving at the tents, 5 hours passed until we were able to drink and eat something.
4. The belongings were thrown without reason, including clothes and valuable articles and money that was not USD, also some personal documents such as drivers and military licenses.
5. In the case of a few, their cell phones were thrown on the floor and because of this are broken.
6. The women were searched, they were searched by men when they didn't give consent.
7. The majority of Mexican immigration officials were the ones who treated us the worst.
8. Truly, we received racism for our native country, saying that we were not in our house, we were in their house and therefore we had to accept their treatment and their "rules."
9. Some of us were persecuted by motorcycles of the border patrol, we ran out of fear and they tried to run us down and they carried their tasers to intimidate us.
10. One of us was beaten and intimidated by the patrol, they made me undress and said words to me such as "son of a bitch," and "Indian."
11. We were transferred from El Paso to the tents handcuffed like criminals.
12. They lied to us at every moment so that we could also be deported faster, which they seem to like.
13. Pregnant women were treated in the same way, when they should receive a better treatment because of their condition.
14. People who could understand our language perfectly, pretended not to in order not to give us an reasoning or justification.
15. When we turned ourselves in, the immigration officials told us that they would not let us enter and on the Mexican side the cartel were waiting for us to kidnap us, and we did not know what to do.
16. There are photos and videos of the threats from the immigration agent if we got across, intimidating us with their rifles, pointing them and loading them, making sounds.
17. They did not give us the option to show our vaccination cards for COVID-19, even though many were vaccinated as much as necessary, this generated health problems.

18. THERE ARE MANY MORE CASES LIKE THIS AND SURELY SOME MORE SERIOUS THAN OTHERS.

Signed,

Julio Parazarte Arias

Michael Montoya Perez

Hose Gonzalez Gomez

John Ortega Romero

Brandon Cervantes Quinones

Ariel Ortiz Reyes

Julio Moran Ibarra

Certification of Translation

I, O. Bella Bjornstad, certify that I am competent to translate the attached document from Spanish to English, and that the above is a correct and true translation to the best of my knowledge and belief. I certify under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. §1746.



December 22, 2023

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Fax: (505) 633-8056

Exhibit B

Sworn Declaration of [REDACTED] B [REDACTED] A# [REDACTED] (09/07/2023)

1. My name is [REDACTED] B [REDACTED] (A# [REDACTED]), I was born [REDACTED] in Venezuela. I am currently detained at Torrance County Detention Facility in Estancia, New Mexico.
2. On July 3, 2023, I sold my motorcycle to someone to pay for a heart operation that my son needed. But the person I sold it to gave my information to Los Colectivos and informed them that I had the money from the sale of the motorcycle. That same day, returning home with my wife, I was stopped by members of Los Colectivos who were dressed as police. They stopped us saying we were selling drugs or other illicit substances, they asked me where I got that money and I told them I sold my motorcycle but they framed me for selling drugs and took me to another place. They kidnapped us and interrogated me and my wife for two days. Finally, I gave up the money and all of my information including all the names and contact information of my parents.
3. When we were released, they told us that if I wanted to stay alive I would have to pay a monthly extortion fee or I would be killed. This was what convinced me to leave the country because my son has a heart condition and we have to pay for his medications and his medical treatments, including operations and special food, so we would not be able to afford the extortion. That same day we were released, I took my family to the house of a friend where they are still hiding and I left the country.

Harm suffered while in CBP Custody

4. I entered the United States August, 8, 2023. I spent 13-14 days in a CBP tent. I was only able to bath twice, the day I arrived and 7 days later.
5. I was only allowed one 2-minute phone call. The connection was bad, so I was only able to talk on the phone for 30 seconds.
6. The officials there, especially the Spanish speakers, mistreated us badly. They would ask us why we were there, they would tell us to leave.
7. I asked for medication for my feet because they were infected from the walk, the guard told me that this is why they were deporting us, because we were coming asking for benefits, bringing sickness.
8. I was isolated for three days because they thought I had scabies but it was just because I was sleeping in a park and working in a restaurant and since I did not have anywhere to bath, I would come back to the park covered in food and liquor and the ants would bite me while I was sleeping. But they thought it was scabies. They took all my clothes and gave me just a t-shirt and flipflops and pants, thinking my clothes were infected. After they took my clothes, they didn't let me bathe but they put a cream all over my body and told me I had to wait in isolation with the cream on for 8 hours. But they left me there for 2 days because there weren't any officials near the room where I was isolated. Eventually someone came by and asked how long I'd been there, when I said two days, he said wow but it was just supposed to be for eight hours. Then I was allowed to wash off the cream and was returned to another cell.
9. I was transferred from there to another place briefly and then to Torrance.

10. I, [REDACTED] B [REDACTED], swear that my statement was read to me in Spanish by O. Bella Bjornstad and is a correct telling of my experience seeking asylum in the United States.

[REDACTED]

Date: 09/07/2023

I, O. Bella Bjornstad, attest to that I read Mr. [REDACTED] B [REDACTED]'s statement to him in Spanish and that I am competent to do so.

Signed,



Date: 09/07/2023

O. Bella Bjornstad

Exhibit C

Sworn Declaration of [REDACTED] M [REDACTED] A# [REDACTED], September 7, 2023

1. My name is [REDACTED] M [REDACTED], A# [REDACTED], I was born [REDACTED] in Ecuador, and I am currently detained at the Torrance County Detention Center in Estancia, New Mexico.

Harm Suffered in CBP Custody

2. After I presented myself to CBP, I was taken to have my fingerprints taken and they made us throw away everything except our cell phones and important documents and they confiscated the belongings we were able to keep.
3. I spent 8 days in CBP tents. While I was in the tents, I was only able to bath twice. Sometimes there were CBP officials who mistreated us, they spoke to us roughly.
4. One day, we were allowed to make one phone call to family or sponsors in the US. I was fast asleep, recovering from the whole journey so I didn't hear it when they called us. But a woman near me woke me up and when I went to ask if I could make a call the guard told me in Spanish, "you fucker, you think I have all the time in the world to help you?" I apologized and explained that I was asleep and didn't hear when the guards called us but this officer just said the same thing.
5. The food while we were there was not very good, we would get frozen sandwiches for breakfast. So you couldn't really eat it then, you had to wait until it thawed a little and eat it in the afternoon.
6. From the tents we were taken for another day to another place, where we spent two days. They told us "Welcome to the United States." We were fed three times a day and an apple for a snack. We thought that there we had finished the process. But it was just a joke. From there we were taken to Torrance.

I, [REDACTED] M [REDACTED], swear that my statement was read to me in Spanish by O. Bella Bjornstad and is a correct telling of my experience seeking asylum in the United States.



Signature

Date: 09/07/2023

I, O. Bella Bjornstad, attest to that I read Mr. [REDACTED] M [REDACTED]'s statement to him in Spanish and that I am competent to do so.



Signature

Date: 09/07/2023

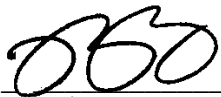
Exhibit D

December 22, 2023 Sworn Declaration of O. Bella Bjornstad

1. My name is O. Bella Bjornstad, I am a third-year law student at the University of New Mexico School of Law and a law clerk at the New Mexico Immigrant Law Center (NMILC) where I work under the supervision of Sophia Genovese.
2. I have worked at NMILC since January 9, 2023, and have delivered legal presentations to detained asylum seekers at the Tarrant County Detention Facility and Cibola County Correctional Center on a weekly or bi-monthly basis since then.
3. During legal presentations, individuals who attend presentations often bring serious complaints and allegations of plain mistreatment they have suffered at the hands of Customs and Border Protection Officials.
4. While delivering a legal presentation at the Cibola County Correctional Center on September 8, 2023, a group of approximately 20 recently arrived asylum seekers from Venezuela, Colombia, and Ecuador, attended our legal presentation.
5. The men who attended our presentation shared with me some specifics of the treatment they experienced while detained in Customs and Border Patrol custody near the El Paso.
6. The men described sitting in a CBP holding cell with many other people while Customs and Border Protection agents threw food into the cell so everyone in the cell had to jump and fight to get the food that was thrown in.

I, O. Bella Bjornstad, swear and affirm that the above statement is true and correct to the best of my knowledge.

Signed,



O. Bella Bjornstad