



U.S. Customs and Border Protection

Commissioner

May 19, 2023

MEMORANDUM FOR: Raul Ortiz
Chief
U.S. Border Patrol

Pete Flores
Executive Assistant Commissioner
Office Of Field Operations


FROM: Troy A. Miller 
Acting Commissioner

SUBJECT: Custodial Considerations for Medically At-Risk Individuals

The safety of U.S. Customs and Border Protection (CBP) employees, individuals in our custody, and the public is the top priority during all aspects of CBP operations. CBP's National Standards on Transport, Escort, Detention, and Search (TEDS) guidance directs that individuals should generally not be held for longer than 72 hours in CBP holding facilities. Every effort must be made to hold individuals for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible.

At-risk or medically fragile individuals, which includes but is not limited to individuals with a chronic illness; infants or elderly; minors with an acute injury, medical or mental health condition; pregnant women or post-partum mothers with complications; and individuals with a disabling mental disorder, should be expeditiously processed to minimize the length of time in CBP custody. While such individuals are in our custody, it is imperative to ensure timely medical assessments, recurring wellness checks, and follow up assessments by medical providers are conducted pursuant to CBP policies and documented via appropriate systems.

It is appropriate for CBP to take steps to consider the impact of custodial conditions, including the length of time-in-custody, the number of individuals in custody, and medical issues for individuals in its custody. As a result, I direct that all Sectors and Field Offices should immediately:

1. Ensure that at-risk or medically fragile individuals in CBP custody, as determined in consultation with medical providers, are considered for processing or reprocessing 

2. Ensure that individuals in CBP custody for whom extended time-in-custody may have greater adverse impacts, such as family units containing minors under the age of 12, pregnant individuals or the elderly have been considered for processing via a pathway that appropriately limits the amount of time they may spend in custody. Such individuals should not be processed in a pathway where their time in custody may exceed 120 hours. CBP will continue to follow the requirements of the *Flores* Settlement Agreement.

In making these decisions, particular consideration shall be given to whether individuals have been or are likely to be in custody for more than 72 hours or the facility is over capacity. All Unaccompanied Children should continue to expeditiously be transferred to HHS as obligated under the law and CBP policies. Moreover, Sectors and Field Offices are reminded to ensure all current laws and policies are followed, including requirements with respect to family unit separation and family group unity.

Finally, it is critical that all monitoring systems in holding facilities used for at-risk individuals, such as Closed-Circuit Television and Incident Driven Video Recording Systems, are fully functioning and used appropriately to enhance transparency and documentation of events.

CC: Executive Assistant Commissioner, Enterprise Services
Executive Assistant Commissioner, Operations Support
Chief Council
Executive Director, Policy Directorate