

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

December 23, 2019

Mr. Chad F. Wolf  
Acting Secretary  
U.S. Department of Homeland Security  
245 Murray Lane, S.W.  
Washington, D.C. 20528

Dear Acting Secretary Wolf:

The Committee is investigating the deaths of children and adults detained by the Department of Homeland Security (DHS). Newly released evidence shows that a 16-year-old boy detained by the Border Patrol died from the flu after he was locked in a cell and left for hours without medical treatment despite obvious and prolonged symptoms of severe distress. The Department's failure to care for this sick child appears to be part of a troubling pattern of abuse and poor treatment of immigrants in the Department's detention centers.

Public reporting described the death of Carlos Gregorio Hernandez Vasquez in a Border Patrol station in Weslaco, Texas, on May 20, 2019.<sup>1</sup> He was held in Customs and Border Protection (CBP) custody for six days, double the 72 hours permitted by federal law.<sup>2</sup> He had been diagnosed with the flu and had a 103-degree fever, but rather than bring him to a hospital, Border Patrol agents reportedly shut him in a cell with another sick child. Carlos exhibited increasingly alarming symptoms, including writhing in distress, collapsing, vomiting blood, and finally lying motionless on the floor for hours. The lack of treatment appears to be a flagrant violation of CBP's own detention standards and raises serious questions about whether DHS is failing to treat children and adults with basic human dignity and compassion.<sup>3</sup>

Five months earlier, the Centers for Disease Control and Prevention recommended that CBP vaccinate detained migrants against the flu. CBP rejected the recommendation, claiming it

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<sup>1</sup> *Inside the Cell Where a Sick 16-Year-Old Boy Died in Border Patrol Care*, ProPublica (Dec. 5, 2019) (online at [www.propublica.org/article/inside-the-cell-where-a-sick-16-year-old-boy-died-in-border-patrol-care](http://www.propublica.org/article/inside-the-cell-where-a-sick-16-year-old-boy-died-in-border-patrol-care)).

<sup>2</sup> 8 U.S.C. § 1232(b)(3).

<sup>3</sup> U.S. Customs and Border Protection, *National Standards on Transport, Escort, Detention, and Search* (Oct. 2015) (online at [www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf](http://www.cbp.gov/sites/default/files/assets/documents/2017-Sep/CBP%20TEDS%20Policy%20Oct2015.pdf)).

was unnecessary and infeasible, even after doctors offered to vaccinate detained children for free.<sup>4</sup>

The newly released evidence also calls into question DHS's records and statements regarding this death. CBP claimed that he "was found un-responsive this morning during a welfare check."<sup>5</sup> However, the public reporting shows that agents checked on him only after his cellmate notified them of his condition. CBP records purport to show that agents conducted several earlier welfare checks, but the new evidence indicates that he was already experiencing a medical emergency during this period and received no medical attention.

This death was not an isolated incident: at least seven children have died in government custody since 2018, after nearly a decade without any such deaths.<sup>6</sup>

The Committee has been investigating the Trump Administration's treatment of migrants in government custody for several months. In July 2019, the Committee held two hearings that highlighted dangerous overcrowding and health and safety violations at DHS immigration facilities.<sup>7</sup> During a hearing on July 18, then-Acting Secretary McAleenan said he would welcome a dialogue about "improving the standards that exist" at these facilities.<sup>8</sup> In August and September 2019, Committee staff inspected multiple DHS detention facilities and witnessed troubling conditions first-hand.<sup>9</sup> The Committee's ongoing investigation into U.S. Customs and Immigration Enforcement's use of for-profit contractors to run prisons for immigrants has also raised serious concerns about poor treatment of migrants.<sup>10</sup>

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<sup>4</sup> *CDC Urged US Customs and Border Protection to Vaccinate Migrants, But They Rejected the Idea*, CNN (Nov. 26, 2019) (online at [www.cnn.com/2019/11/26/health/cdc-vaccinations-migrants-border-patrol/index.html](http://www.cnn.com/2019/11/26/health/cdc-vaccinations-migrants-border-patrol/index.html)); *Doctors Offer to Give Free Flu Shots to Detained Migrants, Warn Trump Admin. of Epidemic*, NBC News (Nov. 19, 2019) (online at [www.nbcnews.com/news/latino/doctors-offer-give-free-flu-shots-detained-migrants-warn-trump-n1085206](http://www.nbcnews.com/news/latino/doctors-offer-give-free-flu-shots-detained-migrants-warn-trump-n1085206)).

<sup>5</sup> U.S. Customs and Border Protection, *Statement on Death in Custody: 16-Year-Old Guatemalan Passes Away in RGV* (May 20, 2019) (online at [www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-16-year-old-guatemalan-passes-away-rgv](http://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-16-year-old-guatemalan-passes-away-rgv)).

<sup>6</sup> *Why Are Migrant Children Dying in U.S. Custody?*, NBC News (May 29, 2019) (online at [www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316](http://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316)).

<sup>7</sup> Committee on Oversight and Reform, *Hearing with Acting Secretary of Homeland Security Kevin K. McAleenan* (July 18, 2019); Committee on Oversight and Reform, *Hearing on The Trump Administration's Child Separation Policy: Substantiated Allegations of Mistreatment* (July 12, 2019).

<sup>8</sup> Committee on Oversight and Reform, *Hearing with Acting Secretary of Homeland Security Kevin K. McAleenan* (July 18, 2019).

<sup>9</sup> See Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Acting Secretary Kevin K. McAleenan, Department of Homeland Security (Aug. 29, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-08-29.EEC%20to%20McAleenan-%20%20DHS%20re%20StaffDels.pdf>).

<sup>10</sup> Committee on Oversight and Reform, *Oversight Committee Investigates For-Profit Immigrant Detention Center Contractors* (July 11, 2019) (online at <https://oversight.house.gov/news/press-releases/oversight-committee-investigates-for-profit-immigrant-detention-center>).

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For all these reasons, the Committee requests that you produce the following documents by January 10, 2020:

1. All documents referring or relating to Carlos Gregorio Hernandez Vasquez and all other detainees who died in CBP custody since January 20, 2017, including any reports, analyses, communications, and records related to these deaths; and
2. All documents and communications referring or relating to CBP's consideration of recommendations from the Centers for Disease Control and Prevention regarding flu prevention in detention facilities and CBP's decision not to provide flu vaccines at these facilities.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



Carolyn B. Maloney  
Chairwoman

cc: The Honorable Jim Jordan, Ranking Member

## Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.