

United States Senate

January 4, 2019

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue N.W.
Washington, D.C 20528

Mr. Kevin K. McAleenan
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue N.W.
Washington, D.C. 20229

Dear Secretary Nielsen and Commissioner McAleenan:

I write to express my extreme concern regarding the recent deaths of two children in U.S. Customs and Border Protection's (CBP) custody. On December 24th, 8-year-old Felipe Alonzo-Gomez died while suffering flu-like symptoms in CBP custody. Just days before on December 8th, 7-year-old Jakelin Caal Maquin died after 36 hours in Border Patrol detention. While the circumstances surrounding these deaths are pending investigation, what we currently know about their deaths while in CBP custody is truly concerning. For these reasons, I call on CBP to work with Congress and the appropriate medical professionals to make immediate and permanent changes to the way it processes, detains, and examines the wellbeing of children in its custody. Children and families in the government's custody, no matter their immigration status, must be treated with dignity and receive the utmost care.

The timeline CBP has provided regarding Felipe's custody is deeply concerning. Felipe was detained for almost a week, beyond the legal 72-hour limit, and shuffled from facility to facility before falling ill. CBP's detention standards state that any detention should be "temporary" and that "detainees should generally not be held for longer than 72 hours in CBP hold rooms or holding facilities."¹ Moreover, the *Flores Settlement Agreement* mandates that juveniles be released from custody without "unnecessary delay," while offering some flexibility during times of influx and emergency with a five-day limit.² According to CBP's timeline, on December 18th, Felipe and his father were apprehended near Paso Del Norte Port of Entry in El Paso, Texas and were transferred to the Paso Del Norte processing center. After being detained for nearly two days in CBP custody, they were transferred again to the El Paso Border Patrol Station. Another two and a half days passed before they were transferred yet again to the Alamogordo Border Patrol Station. Not until December 24th, nearly a week after apprehension,

¹ CBP National Standards on Transport, Escort, Detention, and Search, October 29, 2015, *available at*: <https://www.cbp.gov/document/directives/cbp-national-standards-transport-escort-detention-and-search>.

² *The Flores Settlement Agreement*, Case No. CV 85-4544-RJK(Px), *available at*: <https://www.aila.org/File/Related/14111359b.pdf>.

did CBP request for Felipe and his father to be transferred to Immigration and Customs Enforcement (ICE) custody. Moreover, the timeline of Felipe's medical care in your custody is concerning given he was released from the hospital back to CBP custody on December 24th with a 103-degree fever and it appears no medical staff was on duty to help him when he became ill again. Felipe was transported back to the hospital that night where he was pronounced dead hours later.

Most disturbing, Felipe's tragic death is not the only one. On December 8th, 7-year-old Jakelin Caal Maquin died after 36 hours in Border Patrol custody. After being apprehended, Jakelin and her father were held at Camp Bounds base along the New Mexico border for seven hours before boarding a bus shortly after 5 a.m. to Lordsburg. Before boarding the bus, Jakelin's father told agents that she was sick and had thrown up but agents decided to keep her on the bus. By the time the 90-minute trip was over, Jakelin had stopped breathing and was revived by an BMT. An hour after arriving in Lordsburg, a helicopter arrived to take Jakelin to the hospital in El Paso where she died shortly after midnight on December 8th.

I understand Secretary Nielsen has announced a series of changes, including secondary medical checks for all children in CBP custody and a "more thorough hands on assessment at the earliest possible time post apprehension—whether or not the accompanying adult has asked for one."³ While this is a positive first step, I urge DHS and CBP to perform a full evaluation of its standards, protocols, and child welfare resources and work with Congress to make the necessary reforms to ensure this never happens again.

In order to get a better understanding of CBP's protocols for guaranteeing the safety of children in your custody, please respond to the following questions by January 25, 2018.

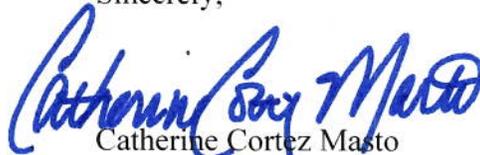
1. Describe in detail the circumstances and timeline surrounding the death of Jakelin Caal Maquin.
2. Describe in detail the circumstances and timeline surrounding the death of Felipe Alonzo-Gomez.
3. Confirm whether the DHS Inspector General has opened an investigation into Jakelin's and Felipe's deaths. If so, please keep my office informed on the scope and progress of this investigation.
4. Describe in detail the CBP policies and procedures prior to December 26th, 2018 relating to the in-processing, medical evaluation, and medical treatment of children and adults.
5. How many trained medical personnel does CBP have at ports of entry, processing centers, and other border facilities? Please provide the following:
 - a) A list of the number of trained medical personnel at each port of entry, processing center, and other border facility and a description of their training and medical credentials.

³ "Secretary Kirstjen M. Nielsen Statement on Passing of Eight Year Old Guatemalan Child," Department of Homeland Security, December 26, 2018, available at: <https://www.dhs.gov/news/2018/12/26/secretary-kirstjen-in-nielsen-statement-passing-eight-year-old-guatemalan-child>.

- b) A detailed description of any medical training CBP or other entity provides its officers, including a copy of those training materials and policies.
 - c) Describe the medical training and any other child welfare training received by CBP staff interacting with children.
6. Describe the CBP policies and procedures regarding language access for detainees, with particular emphasis on language access for children in need of medical care.
7. Provide a detailed description of the Department of Homeland Security's new secondary medical screening procedures as of and following December 26th, 2018. Please provide the following:
 - a) A description of other government agencies you are requesting assistance from and a description of the assistance received.
 - b) All documents issued to personnel serving along the southern border related to new guidance on children and their medical care in CBP custody.
 - c) A complete report on all options CBP is considering regarding the welfare of children in its custody.
8. Provide a list of any outside organizations you are working with in order to address and improve the medical procedures and care for children in CBP custody.
9. Provide a detailed accounting of all children held in CBP custody longer than 72 hours for the past six months.

Thank you for your prompt attention to this matter. I await your timely response and notification that an investigation has been opened.

Sincerely,



Catherine Cortez Masto
United States Senator