



July 14, 2020

VIA EMAIL & ONLINE PORTAL

The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, DC 20528-0655
foia@hq.dhs.gov

FOIA Officer
U.S. Customs and Border Protection
90 K Street NW, 9th Floor
FOIA Division
Washington, DC 20229-1181
Via FOIAOnline

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of the Department of Homeland Security (DHS), 6 C.F.R. Part 5, American Oversight makes the following request for records.

The continued deaths of people held in the custody of DHS components remain an issue of significant public concern. The ongoing public health crisis caused by the coronavirus exacerbates existing concerns about the treatment of detainees and the conditions within DHS facilities, given the limited access to healthcare, lack of essential supplies, and close confinement.¹ Furthermore, as fuller accounts of past deaths in custody come to light, new information has repeatedly revealed

¹ Abigail Hauslohner, et al., *Coronavirus Could Pose Serious Concern in ICE Jails, Immigration Courts*, Wash. Post (Mar. 12, 2020, 6:38 PM), https://www.washingtonpost.com/immigration/coronavirus-immigration-jails/2020/03/12/44b5e56a-646a-11ea-845d-e35b0234b136_story.html.



discrepancies between statements made to the public and internal documentation.²

To the extent that the public has been informed of the context for deaths in DHS custody, there are few available internal reviews detailing whether responsible agency officials adhered to prescribed procedures in the events leading to each detainee's death. It is in the public interest, however, to understand how DHS has investigated deaths occurring in its custody.

American Oversight seeks records with the potential to shed light on the treatment of vulnerable detainees and whether or to what extent DHS officials are upholding the standards of care prescribed by federal law and agency guidance.

Requested Records

American Oversight requests that your agency produce the following within twenty business days:

Any Daily Reports created by CBP's Office of Professional Responsibility's Investigative Operations Division (IOD) pertaining to the deaths of the following individuals who died in CBP custody:

- a. The unnamed Mexican national who was apprehended on February 2, 2019 and died on February 3, 2019.³
- b. The unnamed Mexican national who was apprehended on March 17, 2019 and died on March 18, 2019.⁴
- c. Carlos Gregorio Hernandez Vasquez
- d. The unnamed Salvadoran national who was apprehended on June 2, 2019 and died the same day.⁵
- e. The unnamed Honduran national who was apprehended on June 3, 2019 and died the same day.⁶

² Ltr. from Rep. Bennie Thompson, Chair Comm. on Homeland Sec'y, to Joseph V. Cuffari, Inspector General, DHS, Mar. 26, 2020, <https://homeland.house.gov/imo/media/doc/2020-03-26%20DHS%20OIG.pdf>; Robert Moore et al., *Inside the Cell Where a Sick 16-Year-Old Boy Died in Border Patrol Care*, ProPublica (Dec. 5, 2019, 1:30 PM), <https://www.propublica.org/article/inside-the-cell-where-a-sick-16-year-old-boy-died-in-border-patrol-care>.

³ See, "CBP Statement on Death in Custody: 45-year-old Mexican Man Passes Away in McAllen, Texas," Feb. 18, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-45-year-old-mexican-man-passes-away>.

⁴ See, "CBP Statement on Death in Custody: 44-year-old Mexican Man Passes Away in El Paso, Texas," Mar. 19, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-44-year-old-mexican-man-passes-away-el>.

⁵ See, "CBP Statement on Death in Custody: 33-year-old Salvadoran Man Passes Away in RGV," June 2, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-33-year-old-salvadoran-man-passes-away>.

⁶ See, "CBP Statement on Death in Custody: 40-year-old Honduran Woman Passes Away in Eagle Pass, TX," June 3, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-40-year-old-honduran-woman-passes-away>.

- f. The unnamed Nicaraguan national who was apprehended on July 5, 2019 and died the same day.⁷
- g. The unnamed Salvadoran national who was apprehended on July 31, 2019 and died on August 1, 2019.⁸
- h. The unnamed Mexican national who was apprehended on October 20, 2019 and died on October 21, 2019.⁹
- i. The unnamed Mexican national who was apprehended on December 20, 2019 and died on December 21, 2019.¹⁰
- j. The unnamed Congolese national who died during processing on December 25, 2019.¹¹
- k. The unnamed pregnant Guatemalan national who was apprehended on March 7, 2020 and died on March 10, 2020.¹²

Please provide all responsive records from February 2, 2019, through the date of the search.

An example of an IOD Daily Report is included as Exhibit A to aid your search.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a) (4) (A) (iii) and your agency’s regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is “in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government.”¹³ This request relates directly to the work of DHS and

⁷ See, “CBP Statement on Death in Custody: 52-year-old Nicaraguan Man Passes Away in Tucson, AZ,” July 5, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-52-year-old-nicaraguan-man-passes-away>.

⁸ See, “CBP Statement on Death in Custody: 32-year-old Salvadoran Man Passes Away in Lordsburg, N.M.,” Aug. 1, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-32-year-old-salvadoran-man-passes-away>.

⁹ See, “CBP Statement on Death in Custody,” Oct. 22, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody>.

¹⁰ See, “CBP Statement on Death in Custody,” Dec. 22, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-death-custody-0>.

¹¹ See, “Statement on Death of Congolese National in Laredo,” Dec. 26, 2019, <https://www.cbp.gov/newsroom/speeches-and-statements/statement-death-congolese-national-laredo>.

¹² See, “CBP Statement Regarding The Death Of A Guatemalan Citizen,” Mar. 11, 2020, <https://www.cbp.gov/newsroom/speeches-and-statements/cbp-statement-regarding-death-guatemalan-citizen>.

¹³ 5 U.S.C. § 552(a) (4) (A) (iii).

its components, including some of the most important responsibilities of the Department—the safety and care of the individuals it has detained. This request seeks records that would shed light on how DHS is treating people it has detained, and how the Department responds when the life and safety of detainees is threatened. These are matters of significant public and congressional concern, and the requested records will provide the public with information necessary to hold DHS accountable for its actions and policies. American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public’s understanding of the government’s activities would be enhanced through American Oversight’s analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes.¹⁴ As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight’s financial interest. American Oversight’s mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.¹⁵

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.¹⁶ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers;¹⁷ posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹⁸ posting records regarding potential self-dealing at the Department of

¹⁴ See 5 U.S.C. § 552(a)(4)(A)(iii).

¹⁵ American Oversight currently has approximately 15,400 page likes on Facebook and 102,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited June 1, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited June 1, 2020).

¹⁶ News, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

¹⁷ DOJ Records Relating to Solicitor General Noel Francisco’s Recusal, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹⁸ See generally *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

Housing & Urban Development and related analysis;¹⁹ posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;²⁰ and posting records and analysis regarding the Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.²¹

Accordingly, American Oversight qualifies for a fee waiver.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.²² It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.²³
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to

¹⁹ *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

²⁰ *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

²¹ *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

²² See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

²³ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

manage agency information electronically,²⁴ and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Hart Wood at foia@americanoversight.org or 202.873.1743. Also, if American Oversight's

²⁴ Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, "Managing Government Records Directive," M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

A handwritten signature in blue ink, reading "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left of the first letter.

Austin R. Evers
Executive Director
American Oversight

EXHIBIT A

DAILY REPORT

OFFICE: IOD

DATE: 01/07/2019

UNITED STATES BORDER PATROL

UDA Male Child (b)(6) & (b)(7)(C) COC/POB: Guatemala; LOC: Alamogordo, NM]
– Death In-Custody (DHS OIG El Paso and CBP OPR El Paso)

UPDATE: *On January 4, 2018, the OPR El Paso provided the following updates:*

The OIG El Paso SAC Pedroza consulted with the USAO and obtained approval for continuing with interviews of USBP personnel. Scheduling of interviews is forthcoming.

Photographs of the HWY 70 CP holding areas were forwarded to the OIG El Paso and uploaded to the IO HQ shared drive.

All data collected to date by the OPR El Paso has been forwarded to the OIG El Paso.

The OIG El Paso submitted an official request to obtain the MEO autopsy report. The OIG El Paso will provide a copy to the OPR El Paso when it becomes available.

BACKGROUND: On December 25, 2018, the Alamogordo Border Patrol Station (BPS) reported the death of a Guatemalan child near Alamogordo, NM.

On December 18, 2018, the Guatemalan father and child made entry into the United States near El Paso, TX, and were subsequently apprehended by the U.S. Border Patrol (USBP). Between December 20-23, 2018, the father and child were transferred to the El Paso BPS, Alamogordo BPS, and the Highway 70 USBP Checkpoint (HWY 70 CP).

On December 24, 2018, while at the HWY 70 CP, the child showed signs of illness and was taken to the hospital, accompanied by his father. The hospital released the child and he was taken back to the HWY 70 CP. Several hours later, the child began to feel ill again and the decision was made to take the child back to the hospital. In route to the hospital, the child's health deteriorated rapidly and he lost consciousness. Upon arrival at the hospital, medical staff were unable to revive the child. At approximately 11:48 p.m., the child was pronounced deceased.

On December 18, 2018, at approximately 1:00 p.m., Felipe GOMEZ-Alonzo (8 years-old) and his father, (b)(6) & (b)(7)(C) entered the United States illegally with a large group of people (specific size unknown at this time) approximately 3.29 miles west of the Paso Del Norte Port of Entry (PDN) in El Paso by crossing the Rio Grande river. At that time, they were placed under arrest by Border Patrol Agents (BPA) and taken to the USBP Processing Center located at the PDN for intake processing. *(According to a review of service radio*

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traffic, the apprehension time of GOMEZ-Alonzo (b)(6) & (b)(7)(C) took place at 3:12 p.m. Two minutes later, the apprehending BPA provides the same event number that is listed for the father and child in the E-Check system. According to Subject Activity Log, the father and child were booked in the E-Check system at 4:39 p.m.)

On December 20, 2018, at approximately 12:00 p.m., GOMEZ-Alonzo and his father were transferred to the El Paso BPS.

On December 22, 2018, at approximately 11:17 p.m. the decision was made to transfer GOMEZ-Alonzo and his father to the Alamogordo BPS to complete their processing.

On December 23, 2018, at approximately 1:08 a.m., GOMEZ-Alonzo and his father arrived at the Alamogordo BPS.

At approximately 5:57 a.m., GOMEZ-Alonzo and his father completed their processing; a request for placement was generated and sent to the family placement inbox.

At approximately 2:50 p.m., GOMEZ-Alonzo and his father were transferred to the HWY 70 CP to await their appointments with ICE Enforcement and Removal Operations (ERO).

On December 24, 2018, at approximately 9:00 a.m., a BPA noticed GOMEZ-Alonzo coughing, with a fever, and glossy eyes. After being interviewed by the BPA, the father requested medical attention for his son.

At approximately 9:56 a.m., the BPA notified the on-duty supervisor and transported GOMEZ-Alonzo and father, via a USBP vehicle, to the Gerald Champion Regional Medical Center (GCRMC) in Alamogordo.

At the hospital, GOMEZ-Alonzo was tested for strep throat, which returned negative results. Doctors provided GOMEZ-Alonzo a diagnosis of just having the common cold. Prior to being released, medical staff at the GCRMC determined GOMEZ-Alonzo's temperature to be at 103 degrees. Due to his high temperature, the medical staff delayed releasing him and opted to monitor his condition. The GCRMC conducted a flu test, which returned negative results. (During OPR El Paso's subsequent interview of the hospital's Public Information Officer, the officer stated he had in fact tested positive for the Influenza B virus.)

At approximately 2:50 p.m., GOMEZ-Alonzo was cleared for release with a prescription of amoxicillin and ibuprofen. GOMEZ-Alonzo and his father were transported back to the HWY 70 CP.

At approximately 5:00 p.m., GOMEZ-Alonzo was provided the prescribed dosage of his medication. In addition, GOMEZ-Alonzo was provided several welfare checks and meals were given.

At approximately 7:00 p.m., BPAs reported GOMEZ-Alonzo became ill and vomited. A check of GOMEZ-Alonzo showed him feeling well. (Initial USBP reporting indicated the

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father declined a return to the hospital as his son looked to be feeling better; OPR El Paso re-interviews of father revealed different information.)

At approximately 9:45 p.m., GOMEZ-Alonzo began to feel nauseous again.

At approximately 10:30 p.m., GOMEZ-Alonzo's condition had not improved and the decision was made to take him to the hospital again.

When the BPA arrived to provide transportation, a decision was made to transport GOMEZ-Alonzo in a USBP vehicle rather than wait for a medical transport in order to avoid a loss of time. According to USBP records, the BPA began transport of GOMEZ-Alonzo and his father at approximately 10:57 p.m. (*Confirmed via the (b)(7)(e) attach report.*) A few minutes into the transport, the BPA could hear GOMEZ-Alonzo had gone into distress; the BPA accelerated his vehicle while activating his emergency equipment. The BPA called ahead to the Emergency Room (ER) to make them aware of the situation.

According to (b)(6);(b)(7)(C) the PIO for the hospital, GOMEZ-Alonzo arrived at the GCRMC at approximately 11:10 p.m. (*Per hospital video feed, arrival was at 11:08 p.m.*) Upon his arrival, he was unresponsive, had no vital signs, and had vomited a large amount of blood. (*Vetted via p.64 of hospital medical records; blood referenced on p.34.*) At the ER, the GCRMC staff met the BPA and quickly brought GOMEZ-Alonzo in for treatment, but the medical staff was unable to revive GOMEZ-Alonzo.

At approximately 11:48 p.m., GOMEZ-Alonzo was pronounced deceased. (*Confirmed on p.35 of hospital medical records.*) The attending ER doctor was unable to provide the on-scene Supervisory BPA a cause of death. The local Field Deputy Medical Examiner arrived and conducted a brief investigation. The body of GOMEZ-Alonzo was transported to the Alamogordo Funeral Home to await transfer to the Medical Examiner's Office (MEO) in Albuquerque, where an autopsy will be performed.

The body of GOMEZ-Alonzo was to be transported to the MEO on December 26, 2018. The MEO could not provide a timeline for when the autopsy would take place, nor when the results would be available.

GOMEZ-Alonzo's father consulted with the attending physician and the MEO. The father was then transported to the Alamogordo BPS. USBP officials stated his appointment with ERO was cancelled and he made an appointment to meet with Guatemalan consular officials on December 26, 2018.

On December 25, 2018, at approximately 6:50 a.m., the OPR El Paso notified DHS OIG Special Agent in C (b)(6) & (b)(7)(C) of the situation.

At approximately 1:30 p.m., the OPR El Paso and OIG El Paso interviewed GOM (b)(6) & (b)(7)(C) (b)(7)(E) father stated he and his son traveled through Mexico alone. They traveled via commercial bus for approximately five to eight days (the father was unsure of the exact dates or number of days) and no smugglers were

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involved in his crossing. Upon reaching Ciudad Juarez, Chihuahua, Mexico, the father and son joined a group (unknown number of individuals) as they crossed the Rio Grande into the United States.

(b)(6) & (b)(7)(C) stated his son was not ill at any point since they departed Guatemala, but that his son was a finicky eater who ate a lot of eggs. The only out-of-the-ordinary dinner they had was the night before arriving in Ciudad Juarez (he could not recall the name of the town) where both of them ate chicken tacos on the street. The father added that neither he nor his son became sick as a result of consuming the chicken tacos, and stated they were very good. He added his son did not begin to display any symptoms of being sick until December 24, 2018, at approximately 9:30 a.m.

(b)(6) & (b)(7)(C) stated he and his son were treated very well while in USBP custody. While there, he and his son were separated from families who had sick children. The father was aware the other families were sick because they were taken medication.

(b)(6) & (b)(7)(C) chose El Paso as his crossing point as word on the street was it was very easy to cross into the United States. He added he was told he would be allowed to remain in the United States if he had a child with him.

When the (b)(6) & (b)(7)(C) and his son were transported to the Alamogordo BPS, none of the other UDAs apprehended along with GOMEZ-Alonzo and his father traveled with them. The OPR El Paso is attempting to identify the UDAs in the original group. According to the USBP, the El Paso BPS has over 2200 UDAs detained; they are transporting them out in order to ease the station's workload.

(b)(6) & (b)(7)(C) stated he had already called and notified his wife in Guatemala of the passing of their son. The father signed a medical release form allowing the OPR El Paso to obtain medical records regarding his son.

The OPR El Paso traveled to the HWY 70 CP in order to retrieve any pertinent video and documentation regarding GOMEZ-Alonzo. USBP supervisors stated none of the personnel on duty had access to the vi (b) (7)(E) OPR El Paso initiated a request to obtain the video feeds and will keep pushing the request to ensure the video feeds are obtained as soon as possible. (T (b) (7)(E)

(b) (7)(E)

The OPR El Paso responded to the GCRMC to obtain any additional information available. While there, OPR El Paso agents interviewed Lilli (b)(6) & (b)(7)(C) IO for the hospital. Lewis (b)(6) & (b)(7)(C) stated that when the child returned to the hospital the evening of December 24, he was vomiting, or had vomited in the vehicle, a large amount of blood. She added that GOMEZ (b)(6) & (b)(7)(C) (b)(6) & (b)(7)(C) had tested positive for the Influenza B virus and was uncertain whether he had been given any a (b)(6) & (b)(7)(C) during his initial visit. According to Le (b)(6) & (b)(7)(C) when GOMEZ-Alonzo arrived at the hospital the second time, he was unresponsive and devoid of any vital signs. As such, the hospital staff was unable to resuscitate him.

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The OIG El Paso departed after the interview of the father. The OIG SAC stated they would open a case on the matter as he was sure this incident would be receiving a great deal of attention. The OPR El Paso notified the OIG SAC that they would assist them with any requests they had.

The OPR El Paso generated JIC (b) (7)(E) number 20190 (b) (7)(E) incident.

On December 27, 2018, the OIG El Paso officially accepted the case for investigation and will be working it jointly with the OPR El Paso. The OIG El Paso requested the OPR El Paso not conduct any interviews of CBP employees, including supervisors. The OIG El Paso will be arranging a meeting with the OPR El Paso so as to establish a plan on presenting details/facts to the USAO. Once a declination is obtained from the USAO, the OIG El Paso and the OPR El Paso will proceed with interviews of CBP employees. OPR El Paso is actively identifying personnel to be interviewed.

With concurrence from the OIG El Paso, the OPR El Paso deployed personnel to the Alamogordo BPS to re-interview the father. The father stated that after the child vomited, BPAs checked on them and cleaned up the vomit. The father conversed with the BPAs and commented the child was feeling better after vomiting. The father stated he never refused to have his son transported to the hospital as he was never asked. The father added that after his son vomited, they were moved to another cell where BPAs had a direct line of vision to better monitor them.

(b) (7)(e), (b) (6)

At approximately 10:15 p.m., OPR El Paso personnel returned to the office and commenced uploading video to OPR HQ shared drive. Additional sites include the PDT and the El Paso BPS.

(b) (7)(E) have been ordered, including transcripts of those transmissions. OPR El Paso personnel are in contact with Supervisory LEC (b)(6) & (b)(7)(C) So Sector Communications, who is physically monitoring the downloading of radio transmissions.

At approximately 6:46 p.m., the OPR El Paso was notified the service radio transmissions had been copied and were ready for pickup by OPR.

The OPR El Paso deployed personnel to the hospital to obtain additional medical documentation, but the PIO departed for the day; she is the only individual authorized to speak the OPR El Paso. When contacted via email regarding the medical release form signed by the father, the PIO stated she forwarded the form to their legal counsel. The OPR El Paso will reestablish communication with the PIO first thing in the morning on December 27, 2018.

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The OPR El Paso met with El Paso Sector Assistant Chief Richard (b)(6) & (b)(7)(C) obtained documentation to be utilized in independently establishing timelines. According to the USBP (b)(7)(E), the BPA transporting the child to the hospital reported his departure as 22:57 hours, with a (b)(7)(E). The BPA reported his arrival at the hospital as 23:07 hours, with (b)(7)(E). (b)(7)(E) The mileage reported indicated he only traveled 14 miles. The actual distance between the HWY 70 CP and the hospital is 22 miles. The eight mile difference indicates he probably reported his departure after traveling eight miles into his trip. Additional comparisons are ongoing.

The OPR El Paso contacted the funeral home, who confirmed the child's body had been transported to Albuquerque for an autopsy. The OPR El Paso contacted the MEO in Albuquerque, who stated the autopsy was conducted on December 26, 2018. Initially, the MEO stated the autopsy would occur on December 27, 2018. When OPR El Paso contacted the MEO to request being present for the autopsy, the OPR El Paso was informed the autopsy had already been performed earlier in the day. There was no additional information available regarding when the autopsy report was scheduled for release, or what the cause of death was determined to be.

The OPR El Paso contacted the USBP in order to fully identify the original UDA El Paso group in which the father and son were a part of. According to the USBP, the boy and his father were alone when they were apprehended. As per the event number in E3, they (b)(7)(E) the only two in that event; therefore, no other individuals were identified.

(b) (7) (E)

The OPR El Paso obtained IC (b)(7)(E) patch reports for December 24 through December 25, 2018, from 00:00-23:07. The OPR El Paso was able to verify the time BPA Noel (b)(6) & (b)(7)(C) transported GOMEZ-Alonzo and his father to the hospital the second time. Additional (b)(7)(E) dispatch reports have been requested.

(b) (7) (e)

The OPR El Paso had conducted a second interview of GOM (b)(6) & (b)(7)(C) stated that after his son vomited, they were moved into another cell where BPAs had a direct line of sight to them. (b)(7)(e) move resulted in GOM (b)(6) & (b)(7)(C)

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(b)(7)(e) (b)(6) & (b)(7)(C)

(b)(6) & (b)(7)(C) stated during this second interview that upon release, he just wanted to go back home with his son. (b)(6) & (b)(7)(C) interviews are being translated into English in order to provide a synopsis.

GCRMC PIO (b)(6) & (b)(7)(C) advised she had forwarded the Medical Release form, signed by (b)(6) & (b)(7)(C) to the GCRMC legal department, who approved the request. PIO Lewis (b)(6) & (b)(7)(C) provided the OPR El Paso with medical records and hospital video feeds, which have been uploaded to the OPR HQ server (b)(7)(E)

The OPR El Paso confirmed via server (b)(7)(E) 3 documentation that (b)(6);(b)(7)(C) and GOMEZ-Alonzo were not apprehended with any other individuals. The OPR El Paso confirmed G (b)(6);(b)(7)(C) GOMEZ-Alonzo were apprehended on December 18, 2018, at approximately 3:12 p.m. GO (b)(6);(b)(7)(C) OMEZ-Alonzo were apprehended by BPA G (b)(6) & (b)(7)(C) who was also the BPA that transported them to the PDT.

The OPR El Paso confirmed G (b)(6) & (b)(7)(C) released on his own recognizance on December 27, 2018, at approximately 8:00 a.m. A Guatemalan consular official will be transporting (b)(6) & (b)(7)(C) Albuquerque to await the release of his son's body.

The OPR El Paso is awaiting the release of the autopsy findings from the MEO. The OIG El Paso will be arranging a meeting with the OPR El Paso to establish a plan on presenting details/facts to the USAO. Once a declination is obtained from the USAO, the OIG El Paso and the OPR El Paso will proceed with interviews of CBP employees. The OPR El Paso is actively identifying personnel to be interviewed. To date, the OPR El Paso has identified eight USBP personnel to be interviewed.

On December 28, 2018, the OPR El Paso met with the OIG El Paso to discuss the case and to review all documentation and via (b)(7)(E) the OIG El Paso will make the determination as to when to present the case to the USAO, District of New Mexico. Once concurrence is obtained from the USAO, the OPR El Paso will coordinate interviews of USBP personnel with the OIG El Paso. On January 2, 2018, the OPR El Paso will assist with two interviews being conducted with the OIG El Paso. All collected evidence (USBP video (b)(7)(E) hospital video feed and medical records) were provided to the OIG El Paso.

(b) (7) (E)

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Regarding the interviews of G (b)(6) & (b)(7)(C) inent information was translated to English. The synopsis of these interviews was uploaded to the OPR HQ shared (b)(7)(E)

The OPR El Paso obtained vid (b)(7)(E) medical records from the GCRMC. Video (b)(7)(E) (b)(7)(E) has been uploaded to the OP (b)(7)(e) PR El Paso confirmed (b)(6) & (b)(7)(C) was negative for Influenza-A, but positive for Influenza-B.

On December 29, 2018, the OPR El Paso obtained the Remot (b)(7)(E) (b)(7)(E) from the actual arrest site near the Rio Grande river, as well as additional service radio transmissions from El Paso Sector Communications; both will be will be reviewed for pertinent evidence.

The OPR El Paso attempted to contact the New Mexico Office of the Medical Investigator (NMOMI) regarding media outlet information stating the MEO performed an autopsy on GOMEZ-Alonzo and determined he was positive for influenza B. The National Public Radio website contained an article that quoted the NMOMI as stating the autopsy was ongoing: “While this result indicates that the child had influenza, determining an accurate cause of death requires further evaluation of other laboratory specimens and interpreting the findings in the context of the symptoms and autopsy findings. As always, the office is focused on our mission of properly investigating deaths to serve the living. We appreciate the public’s understanding that this investigation must not be rushed to ensure thorough observations and accurate conclusions about how this child died.”

The OPR El Paso is attempting to confirm exactly what information, if any, had been released, but the OPR El Paso was not successful in establishing contact with anyone in that office. The OPR El Paso will continue their efforts to confirm what information was released.

The OPR El Paso received a short timeline that originated from GCRMC PIO (b)(6) & (b)(7)(C) hich covered actions taken by hospital staff. Of note is the 12:45 entry whereby a RN repeats taking vital signs and determines GOMEZ-Alonzo’s temperature to be at 103.5 degrees; the RN notifies the physician of the results. A subsequent entry states that at approximately 13:58 (just one minute before the GOMEZ-Alonzo departs the hospital), his temperature was determined to be 99.8 degrees; he was drinking water and had no complaints of nausea.

On December 30, 2018, the OPR El Paso reviewed the RVS (b)(7)(E) n confirmed the father and son were in fact alone and not within a group. The RVSS video captures the father and son walking up to a BPA, which results in their apprehension.

The OPR El Paso obtained additional service radio transmissions from El Paso Sector Communications. The service radio transmission were from the El Paso Ranger 1 repeater for (b)(7)(E)

The OPR El Paso obtained IC (b)(7)(E) patch reports for the El Paso BPS for De (b)(7)(E) (b)(7)(E)

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The OPR El Paso obtained E3 (b)(7)(E) ifests MF (b)(7)(E) (b)(7)(E) (b)(7)(E) and M (b)(7)(E) ich document the transfers of GOM (b)(6) & (b)(7)(C) and father. The E (b)(7)(E) l be compared to the above referenced ICAD I (b)(7)(E)h reports.

On December 31, 2018, the OPR El Paso contacted the OIG El Paso and confirmed the interviews of CBP employees will commence on January 2, 2019, at 9:00 a.m. The OPR El Paso has assigned two agents to assist.

The OPR El Paso and the OIG El Paso continue to attempt to identify additional BPAs who may have had contact with the father and child prior to their arrival at the HWY 70 CP. Once identified, the additional BPAs will be scheduled for an interview.

(b) (7)(E)

The OPR El Paso contacted the MEO in Albuquerque, who provided an update on the autopsy and other results: The official report will take an undermined amount of weeks to be completed; the child was confirmed positive for Influenza B; and a specialist will be utilized to conduct a thorough examination of the child's brain on a yet undetermined date.

On January 2, 2019, the OPR El Paso assisted the OIG El Paso with the interviews of the two BPAs who transported GOMEZ-Alonzo and his father to the hospital.

(Morning Transport) On December 24, 2018, BPA Jo (b)(6) & (b)(7)(C) assigned to the HWY 70 CP. Upon arrival, he heard a hoarse cough coming from a cell. Thinking it was an adult male (b)(6) & (b)(7)(C) PA G (b)(6) & (b)(7)(C) ned the cell door and asked him if it was him coughing. (b)(6) & (b)(7)(C) ated it was his son. BPA (b)(6) & (b)(7)(C) oticed GOMEZ-Alonzo had glossy eyes. BPA G (b)(6) & (b)(7)(C) the child was sick as he was holding his stomach. GOMEZ-Alonzo said his stomach and throat hurt, and that he had fever.

BPA (b)(6) & (b)(7)(C) ansported G (b)(6) & (b)(7)(C) his son the hospital. GOMEZ-Alonzo's vital signs were taken, and his ears and throat were examined. The child was swabbed for strep throat, which later returned with negative results. GOMEZ-Alonzo was prescribed Tylenol for pain; the medical staff stated the child would feel better in a couple of weeks as he was only diagnosed with common cold.

Before departing the hospital, BPA Go (b)(6) & (b)(7)(C) ied nurse Case (b)(6) & (b)(7)(C) e cough the child had was troubling BPA G (b)(6) & (b)(7)(C) urse (b)(6) & (b)(7)(C) ft and returned with a thermometer and took his temperature, which was determined to be 103 degrees. A nurse stated, "Let me give him some Tylenol before he leaves." Later, the nurse stated they would keep GOMEZ-Alonzo back for a while longer to monitor him; GOMEZ-Alonzo was swab for Influenza. When GOMEZ-Alonzo was discharged from the hospital, BPA Gonz (b)(6) & (b)(7)(C) went to pharmacy to pick up the child's medication.

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On the way to the pharmacy, BPA Go (b)(6) & (b)(7)(C) informed by SBPA Travi (b)(6) & (b)(7)(C) hospital had called and indicated they would send a prescription for Amox (b)(6) & (b)(7)(C) with the Tylenol) to pharmacy. The prescriptions were not ready at the pharmacy; SBPA Inman (b)(6) & (b)(7)(C) advised that the next shift would take care of picking up the medication (it was learned SBPA (b)(6) & (b)(7)(C) paid for the medication out of his own pocket).

BPA (b)(6) & (b)(7)(C) turned to station and placed GO (b)(6) & (b)(7)(C)'s son in a separate cell so no one else would get sick.

(Evening Transport) On December 24, 2018, BPA No (b)(6) & (b)(7)(C) shift was 10:00 p.m.-6:00 a.m. During the 10:00 p.m. muster, he was instructed to take a family unit from the HWY 70 CP to the hospital. BPA P (b)(6) & (b)(7)(C) retrieved a USBP unit and fueled it before departing the Alamogordo BPS.

While en route, BPA (b)(6) & (b)(7)(C) called to check on his location. Once at HWY 70 CP, BPA (b)(6) & (b)(7)(C) marked by the transport dock to expedite the process, at which time he was briefed by BPA F (b)(6) & (b)(7)(C) GOMEZ-Alonzo's condition. BPA P (b)(6) & (b)(7)(C) was informed the child was taking medication and had been vomiting.

(b)(6); (b)(7)(c) carried his child to USBP unit; BPA Pa (b)(6) & (b)(7)(C) instructed him to place GOMEZ-Alonzo inside the vehicle and to secure him with seat belt. BPA Palac (b)(7)(E) he father for his son's condition, to which he replied that his son was in pain; BPA Palac (b)(6) & (b)(7)(C) observed that the child did appear to be in pain. BPA Palac (b)(6) & (b)(7)(C) noted there was one Certified BPA/EMT on shift that day, but he was not working at the HWY 70 CP. BPA (b)(6) & (b)(7)(C) informed G (b)(6) & (b)(7)(C) they were going to the hospital. BPA Palaci (b)(6) & (b)(7)(C) told that GOMEZ-Alonzo was not responding to his father's voice; the child was unresponsive.

BPA (b)(6) & (b)(7)(C) drove with his units' overhead emergency lights on to hospital, and called the hospital while en route prior to calling out his mileage and time to USBP communications. BPA (b)(6) & (b)(7)(C) felt calling 911 would have delayed urgent care needed for the child, so he decided to transport the father and child himself. BPA Pala (b)(6) & (b)(7)(C) it to hospital in approximately 15 minutes; it takes approximately 20 minutes during normal traffic conditions.

During the drive to hospital, the father began to cry, saying his son had passed. Once at hospital, BPA P (b)(6) & (b)(7)(C) marked in the ER area where ambulances normally park, as previously instructed by the hospital staff. BPA Pal (b)(6) & (b)(7)(C) into the ER to have hospital staff come out; approximately six to eight individuals ran outside to get the child from USBP unit. BPA (b)(6) & (b)(7)(C) and G (b)(6) & (b)(7)(C) placed in the waiting area.

SBPA (b)(6) & (b)(7)(C) arrived approximately 10 minutes later. Hospital staff notified everyone of the child's passing approximately one hour after that. GO (b)(6) & (b)(7)(C) PA (b)(6) & (b)(7)(C) that he wanted to notify his family of his son's passing. BPA P (b)(6) & (b)(7)(C) gave the father his cellular telephone and he called his brother; GOM (b)(6) & (b)(7)(C) in a Guatemalan dialect during call. BPA P (b)(6) & (b)(7)(C) noted the father spoke perfect Spanish during his encounter with him.

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The doctor informed BPA F (b)(6) & (b)(7)(C) and GO (b)(6) & (b)(7)(C) a Medical Examiner from Albuquerque would have to perform an autopsy on the child, and his body would not be released until after the autopsy.

Separate timelines provided by the GCRMC were reviewed and compared by the OPR El Paso with medical records the GCRMC provided. The following are the results of those comparisons:

GCRMC Timeline – At 11:15: Assessment completed by the MD.

- o Medical Records – On p.11, the doctor ((b)(6) & (b)(7)(C) entered his revisions regarding the physical examination at 11:32.

GCRMC Timeline – At 11:45: The Rapid Strep Test completed; returned with negative results.

- o Medical Records – On p.2, the strep sample was collected at 11:28; p.4 documents the collection time as 11:28; p.12 states the results were reviewed at 11:28; p.25 states the Rapid Strep Test Standard was collected at 11:28; p.26 documents the strep swab was conducted at 11:28; and p.28 states the Rapid Strep Test results (negative) were reviewed at 11:28.

GCRMC Timeline – At 12:45: The RN repeats taking vital signs; the child's temperature is documented at 103.5 degrees and the physician is notified.

- o Medical Records – On p.75, the vital signs were taken by RN Cas (b)(6) & (b)(7)(C) at 12:47; the MD was notified.

GCRMC Timeline – At 12:57: The test for Influenza A and B was ordered.

- o Medical Records – On p.25, the Influenza A and B swab was collected at 12:57.

GCRMC Timeline – At 13:08: Tylenol was administered (refer to corrected timeline below).

- o Medical Records – On p.82, Acetaminophen was administered at 13:08.

GCRMC Timeline – At 13:26: The test results were received – Influenza A was negative; Influenza B was positive.

- o Medical Records – On p.2, the Influenza samples were collected at 13:06; no entry was located for when the results were received.

GCRMC Timeline – At 13:58: The child's temperature was documented at 99.8 degrees; the child was drinking water with no complaints of nausea.

- o Medical Records – On p.70, the child's temperature taken by RN Ca (b)(6) & (b)(7)(C) at 13:58 and registered 99.86 degrees.

GCRMC Timeline – At 13:59: Discharge instructions reflect the child was ambulated from the emergency department with his father and a BPA.

- o Medical Records – On p.12, the Discharge Order was documented at 12:22; p.75 notes that the child was given water and discharge instruction, as well as the father and the BPA being verbalized understanding of the discharge instructions.

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On January 3, 2019, the OPR El Paso regained access to the OPR HQ share drive (b) (7)(E) uploaded the following items:

Video of apprehension that occurred on December 18, 2018.

El Paso Station radio transmissions for December 20, 2018.

(b) (7)(E) dispatch reports for Alamogordo and El Paso Stations.

Apprehension forms (I-213) for G (b)(6) & (b)(7)(C) GOMEZ-Alonzo.

Transport Manifests related to the transfer of GO (b)(6);(b)(7)(c) GOMEZ-Alonzo from the Paso del Norte Processing Facility to El Paso Station, from El Paso Station to Alamogordo Station, and from Alamogordo Station to HWY 70 CP.

Audio recordings and summaries for GO (b)(6) & (b)(7)(C) interviews.

On January 3, 2019, the OPR El Paso provided the OIG El Paso with the names of 19 El Paso Sector USBP employees for potential interviews, based on their assignments from December 18, 2018, through December 24, 2018. All interviews will be coordinated with the OIG El Paso and scheduled for a later date.