

May 21, 2019

The Honorable John P. Sanders
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue NW
Washington D.C. 20229

Dear Acting Commissioner Sanders:

I am writing regarding reports over the past week that two children died in U.S. Customs and Border Protection (CBP) custody—the fourth and fifth reported deaths of children who had been held by CBP in the last six months, and the third death in the month of May. These are the first reported fatalities of any child held in CBP custody in more than a decade.¹ The deaths of five children who had been in CBP care in six months are appalling, and you owe the public an explanation and a full accounting for the causes and circumstances of their deaths.

On May 14, 2019, a 2.5-year-old Guatemalan boy died after being apprehended by Border Patrol agents at the U.S.–Mexico border and spending “several weeks” in the hospital.² According to a Guatemalan official, the boy “spent three days in federal custody [and] appeared to have developed a form of pneumonia.”³ Then, less than one week later, on May 20, 2019, Carlos Gregorio Hernandez Vasquez died at the Weslaco Border Patrol Station in Texas.⁴ Mr. Vasquez “was transported to the Central Processing Center in McAllen, Texas,” after being apprehended on May 13, 2019, according to one report. “Six days after being apprehended, he indicated to staff ... that ‘he was not feeling well’ [and] ‘was assessed and determined to have influenza A’” and prescribed Tamiflu.⁵ He was then “found unresponsive” on May 20, 2019, and the cause of death is currently unknown.⁶

¹ CNN, “5 Guatemalan children have died after crossing the border in the past six months,” Nicole Chavez, May 20, 2019, <https://www.cnn.com/2019/05/01/health/migrant-children-deaths-in-custody/index.html>.

² Washington Post, “Toddler apprehended at the U.S.-Mexico border dies after weeks in hospital,” Maria Sacchetti and Robert Moore, May 15, 2019, https://www.washingtonpost.com/immigration/toddler-apprehended-at-the-us-mexico-border-dies-after-weeks-in-hospital/2019/05/15/f69f8522-7755-11e9-bd25-c989555e7766_story.html; Associated Press, “4th death of migrant child since December raises new alarms,” Nomaan Merchant, May 16, 2019, <https://www.apnews.com/868e932ae76a4269a5dedab74f0ee9b4>.

³ Washington Post, “Toddler apprehended at the U.S.-Mexico border dies after weeks in hospital,” Maria Sacchetti and Robert Moore, May 15, 2019, https://www.washingtonpost.com/immigration/toddler-apprehended-at-the-us-mexico-border-dies-after-weeks-in-hospital/2019/05/15/f69f8522-7755-11e9-bd25-c989555e7766_story.html

⁴ CNN, “Fifth child dies after arriving at U.S. border from Guatemala since December,” Priscilla Alvarez and Geneva Sands, May 20, 2019, <https://www.cnn.com/2019/05/20/politics/migrant-child-dies-in-government-custody/index.html>.

⁵ *Id.*

⁶ *Id.*

These two deaths come in the wake of the December 2018 deaths of 7-year old Jakelin Caal Maquin and 8-year old Felipe Gómez Alonzo, who died after being taken into CBP custody, and the death earlier this month of 16-year old Juan de León Gutiérrez “days after arriving at an Office of Refugee Resettlement shelter.”⁷

On December 26, 2018, after the first two reported fatalities, Kirstjen Nielsen, who was then the Secretary of Homeland Security, announced “a series of extraordinary protective measures” to be put in place, including increased screening of children in custody and assistance from and coordination with the U.S. Coast Guard Medical Corps, the Centers for Disease Control and Prevention, and the Department of Defense.⁸ But the three fatalities this month reveal that current efforts to protect children held in U.S. custody after entering the country are failing.

I have been and continue to be extraordinarily concerned about this administration’s treatment of immigrant children. During a trip to the U.S.–Mexico border on June 24, 2018, I visited the McAllen Central Processing Center in McAllen, Texas, where I witnessed children being held in appalling conditions by CBP at the height of the Trump Administration’s family separation policy.⁹ In December 2018, I wrote to the DHS Inspector General (IG) with several questions to consider during the IG’s review of the deaths of these children.¹⁰ This review is under way, but it is not clear when it will be completed. In the interim, Congress and the public deserve answers about the steps you are taking to protect children in CBP custody. Children are dying, and CBP must do more to end this string of tragedies. I therefore ask that you provide answers to the following questions no later than June 4, 2019:

1. What is the implementation status of the “extraordinary protective measures” announced by Secretary Nielsen on December 26, 2018?
2. In the wake of the three deaths of children in May 2019, what additional steps will you be taking to protect individuals held in U.S. custody at the southern border?
3. Have CBP officials conducted a review of these three recent fatalities? If so, what were the findings of this review?

⁷ CNN, “5 Guatemalan children have died after crossing the border in the past six months,” Nicole Chavez, May 20, 2019, <https://www.cnn.com/2019/05/01/health/migrant-children-deaths-in-custody/index.html>.

⁸ U.S. Department of Homeland Security, “Secretary Kirstjen M. Nielsen Statement on Passing of Eight Year Old Guatemalan Child,” December 26, 2018, <https://www.dhs.gov/news/2018/12/26/secretary-kirstjen-m-nielsen-statement-passing-eight-year-old-guatemalan-child>.

⁹ U.S. Senator Warren, “After Visit to Border, Warren Calls on HHS, DHS to Explain Process for Reuniting the Thousands of Families They Separated,” press release, June 29, 2018, <https://www.warren.senate.gov/oversight/letters/after-visit-to-border-warren-calls-on-hhs-dhs-to-explain-process-for-reuniting-the-thousands-of-families-they-separated>.


¹⁰ U.S. Senator Elizabeth Warren, “Senator Warren Calls on Department of Homeland Security Inspector General to Conduct a Rigorous Investigation into the Death of a 7-Year-Old Girl in the Custody of U.S. Customs and Border Protection,” press release, December 18, 2018, <https://www.warren.senate.gov/oversight/letters/senator-warren-calls-on-department-of-homeland-security-inspector-general-to-conduct-a-rigorous-investigation-into-the-death-of-a-7-year-old-girl-in-the-custody-of-us-customs-and-border-protection->

4. Please provide a specific timeline of the three children's fatalities that have occurred in May 2019, including information on when the children were detained, when they were screened for illnesses or health conditions, when they or their parents first reported health problems, and what actions were taken in these cases by CBP officials.
5. Did CBP or other staff involved follow all relevant Department of Homeland Security rules and guidelines for apprehension, detention, and health screening in the case of the three fatalities that occurred in May 2019?
6. Aside from the five cases noted above, have there been any other cases in the past five years of children who either were detained at CBP facilities at the time of their death, or had been detained at any point prior to their death? If so, please provide a list of all such cases, including a specific timeline of events prior to these children's deaths.
7. Aside from the five cases noted above, have there been any other cases of children who were detained at CBP facilities who then developed serious illnesses or health problems that required hospitalization? If so, please provide a list of all such cases, including a specific timeline of events prior to these children's serious illnesses.

In addition to providing written answers to the questions above, I also ask that you provide me with a staff-level briefing on this matter no later than June 4, 2019.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator