



It's Time for Customs and Border Patrol to Improve Its Woefully Inadequate Complaint System

By Jennifer Podkul, senior program officer, Migrant Rights & Justice program

“Eduardo” was 17 years old when he was [apprehended by United States Border Patrol](#). This is his story, as he shared it with us.

Eduardo was crossing the desert near the McAllen Border Patrol Station in Texas, along with a pregnant woman, two boys and a man. When they caught him, Border Patrol agents abused him physically and verbally. They grabbed him by the neck and dragged him along the ground, using their tasers even though he had not resisted or attempted to run. Eduardo was distressed to see the Border Patrol agents use tasers on the other people in the group, including the pregnant woman. They took Eduardo to *la hielera*—“the freezer”—as ice-cold holding cells at Border Patrol stations are known. There, guards continued to verbally harass him and the other exhausted children while they tried to sleep.

Last year, Women’s Refugee Commission staff met with Eduardo and over 150 other children who had recently been apprehended by Customs and Border Protection (CBP). Almost all of them told distressing stories of mistreatment at the hands of Border Patrol officials. Four children requested we file formal complaints on their behalf about the abuse that they suffered; they could not file their own complaints because they had no Internet access in federal detention.

In the course of filing these complaints, we learned firsthand that CBP’s abuse complaint system is much needed and vitally important, but woefully inadequate and unresponsive. Without a functioning complaint system, CBP is subject to little, if any, effective oversight. And indeed, complaints of abuse are difficult or impossible to file even for trained professionals, let alone a detained child. Once filed, the investigation of complaints is ineffective and inadequate. Responses are often not received at all. Such fundamental inadequacies beg the question of whether CBP has any serious interest in receiving or addressing complaints—and thus in running a system that recognizes the rights of the detained.

It is time for DHS and the administration to hold CBP accountable for their actions.

It is time to establish monitoring and oversight mechanisms.

It is time to ensure transparency and respect for human rights and due process in accordance with basic American values.

Despite the severity of the complaints filed by the Women’s Refugee Commission on behalf of these children, there has been little to no response from CBP or DHS. Months passed before CBP informed the WRC that the complaints were incorrectly filed. The agency admitted that the CBP complaint database needed improvements to track the complaints and redirect them to the proper reviewer. This has not been implemented: over the next year, we met several times with CBP and the [DHS Office of Civil Rights and Civil Liberties](#) about these issues, and sent reminders to CBP, but have not yet received a response.

CBP has provided no information about the investigation into the merits of the complaints or about any corrective measures taken to insure that no abuse like this will happen again.

CBP's lack of response to complaints is not the only problem. The current CBP complaint system is set up to perpetuate detained immigrants' ignorance of their rights to just treatment, and of their right to complain if they are abused.

There are no signs in CBP holding areas to inform children and adults of these dual rights. Even if they come to know their rights, they have no means to make a complaint while they are in custody. There are few communication channels for individuals being transferred from CBP to Immigration and Customs Enforcement (ICE) or HHS's Office of Refugee Resettlement (ORR). They have no Internet access, limited or no phone access, and are not provided with paper complaint forms.

Even if the victim of abuse is lucky enough to have an attorney or other individual make a third party claim for them, the online complaint system is inefficient and extremely difficult to use. An attorney representing children in DHS custody told us they spent two weeks trying to obtain a login and password for the online CBP complaint system. If the complaint system is difficult to navigate for a trained adult English speaker, then it must be nearly impossible for a non-English speaker—especially a child.

Other attorneys have told us they received no response, or incredibly troubling responses, to complaints filed on behalf of their clients. One attorney was told, "CBP cannot investigate an allegation about abuse because of [its] criminal nature." Another was told that a third party cannot file a complaint with CBP on behalf of an unaccompanied child if there is no release from that minor's parents or legal guardians. This is obviously problematic: by definition, an unaccompanied child does not have a parent or legal guardian.

At a recent meeting with CBP officials, the Women's Refugee Commission was informed that there is a telephone hotline available to make complaints about CBP. The hotline's existence came as a complete surprise to the Women's Refugee Commission and other human rights organizations, as there is nothing about it on the CBP website. Nor is there any information posted in CBP facilities—so, similarly to the online complaint system, there is no way for those who need it to access it. And even if they could, we have since learned that there are no Spanish speakers available to take calls on the hotline.

The lack of visibility, accessibility, transparency and language assistance makes the complaint system practically irrelevant, and renders the entire system useless.

To rectify these grave errors, the Women's Refugee Commission calls on DHS and CBP to:

1. Ensure individuals are informed of their right to make a complaint about their treatment and the conditions in CBP facilities. There should be postings in multiple languages that include the procedure for doing so.
2. Institute a mechanism for filing a complaint that is accessible to all detainees—both in custody and post-release or post-transfer. Fundamentally, the system should not limit the ability of an individual to make a complaint. It must accept handwritten complaints, and it must have an improved online interface. The hotline number should be provided, as well as confidential access to telephones and support for multiple languages.

3. Create a streamlined process for review of complaints to the agency. An autonomous office outside of CBP should review the complaints. This review should include identification of trends and areas of systemic abuse so the agency can modify its training and supervision accordingly.
4. Process complaints more quickly and inform the person filing the complaint of its status. As it stands, CBP does not provide updates on the status of the review process or information about actions being taken to address the complaints made.
5. Ensure that supervisors receive a report of all complaints made and meet to discuss the ways in which they can improve their practices and modify their training to ensure that harmful and abusive practices are curtailed.
6. Give access to NGOs to monitor CBP facilities, treatment of migrants in their custody and the implementation of standards, due process and access to complaint mechanisms.

CBP has stated that they rarely receive complaints, implying that there are no problems with the way in which migrants are treated in their custody. This sleight of logic is not only embarrassing to the agency, but frustrates any accountability and transparency to Congress and the public. With these concrete steps, CBP can make tremendous progress toward protecting the rights of vulnerable migrants.

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