



Protecting Immigrant
Women and Girls
Fleeing Violence

June 11, 2018

U.S. Department of Homeland Security
Office for Civil Rights and Civil Liberties
Compliance Branch
245 Murray Lane, SW; Building 410, Mail Stop #0190
Washington, D.C. 20528

Submitted via electronic mail to: CRCLCompliance@hq.dhs.gov

Re: Violations of due process by U.S. Customs and Border Protection (CBP)

Dear Compliance Branch Director:

The Tahirih Justice Center is a non-partisan national immigration services organization that assists women and girls fleeing gender based violence. The women we serve survive unimaginable abuses such as human trafficking, rape, forced marriage, and domestic violence. Our staff in Texas recently learned of unlawful coercive conduct by CBP toward asylum seekers and others, described below. Through this complaint, we urge you to investigate this matter and take action accordingly to prevent CBP from further engaging in such egregious violations of due process.

On Monday, June 4, Tahirih legal staff observed criminal proceedings before Magistrate Peter E. Ormsby at the federal courthouse in McAllen, Texas, beginning at 7:30 AM. Nearly half of those present were mothers and fathers who had had their children forcibly taken away from them pursuant to the Department of Homeland Security's (DHS) new "zero tolerance" policy. The policy requires all who cross into the U.S. between ports of entry to be prosecuted for "unlawful entry," and therefore, processed separately from their children.¹ Most individuals our staff encountered in the courtroom had been taken into custody by CBP on Friday, June 1. They arrived in shackles from the CBP station and by the end of the day, the judge had entered 160 guilty pleas for unlawful entry.

Our staff spoke directly with dozens of parents, most of whom fled to the U.S. in order to escape violence at home. According to several parents, CBP officials told them that if they pled guilty to the charge that day, they would be reunited with their children. Many asked whether this was true. One mother repeatedly sought reassurance from our staff that her guilty plea would result in reunification with her child. She was very distraught because her daughter has epilepsy and she had no way of knowing whether she was receiving her seizure medication. Another mother who had never been away from her five year-old daughter explained how the girl was screaming and vomiting as she was taken

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away. The mother pled with the CBP official to have a moment to comfort her but the answer was no.

None of the parents we spoke with knew where their children were or when they would see them. They had not been in contact with them for several days, were given no telephone access, and were not told the name or address of the facility where they might be. One father shook uncontrollably as he explained that he didn't know if his child had been fed or not, or was being mistreated. Another asked if his son would have to wear shackles to court. A mother seeking asylum was told by CBP that they needed to take her son away for a few minutes to give him a shower. After some time, she asked where he was, and the official said he had been taken away and CBP did not know when she would see him again.

It is well documented that forcibly separating families, particularly with no ability to contact one another, is highly traumatizing for both parents and children.ⁱⁱ The parents our staff encountered were plainly in a state of profound anguish as the result of separation from their mostly young children.ⁱⁱⁱ Regardless of intent, CBP's promises of reunification following a guilty plea were inherently exploitative and coercive. Such promises are a violation of due process, as they inevitably influence an individual's decisions about her criminal case while under duress. CBP may contend that a swift guilty plea logistically results in reunification. Yet, it is noteworthy that to our knowledge, only ten out of one hundred and sixteen families Tahirih is tracking have actually been reunified following guilty pleas to date.

We appreciate your careful consideration of this complaint. You may reach me at 571-282-6180 or irenas@tahirih.org if you have any questions or would like to further discuss this issue.

Sincerely,



Irena Sullivan
Public Policy Advocate

ⁱ DHS maintains that separating families is not a deliberate strategy to deter migration, but rather, it is the inevitable consequence of the zero tolerance policy. The legality of DHS' practice of separating families is currently the subject of litigation. https://www.aclu.org/sites/default/files/field_document/71_mtd_order.pdf

ⁱⁱ <http://www.aappublications.org/news/2017/03/13/Immigration031317>

ⁱⁱⁱ The parents were also under extreme physical stress from hunger, exhaustion, and trauma as asylum seekers. Our staff learned that they had not been able to change clothes since being arrested three or four days earlier, and had not been provided with showers. One parent had dried blood on his pants from his journey.