



May 13, 2023

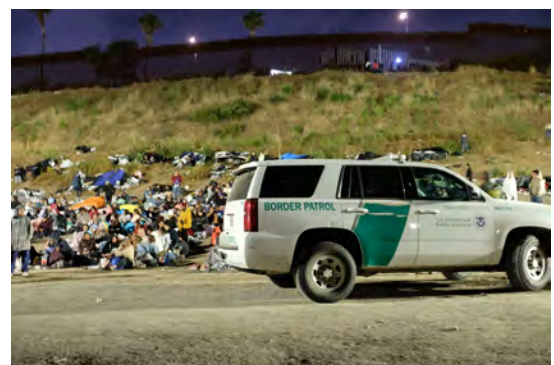
Shoba Sivaprasad Wadhia, Officer
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Compliance Branch, Mail Stop # 0190
2707 Martin Luther King, Jr. Ave., SE
Washington, DC 20528-0190

Via Electronic Mail: CRCLCompliance@hq.dhs.gov

RE: CBP Violations of Custody Standards and International Human Rights By Failing to Provide Water, Food, Shelter, Sanitation and Medical Assistance to Migrants Detained in Open-Air Corridor Between Border Wall Layers Near San Ysidro Port of Entry

Dear Officer Wadhia:

We write to file a formal complaint about grave violations of rights in the United States committed by U.S. Customs and Border Protection (CBP) agents, namely Border Patrol agents, who for months have used an open-air corridor between the primary and secondary walls west of the San Ysidro Port of Entry in California as a holding area for migrants in their custody without complying with custody standards. As detailed in this complaint and the attached witness declarations, Border Patrol agents are not providing adequate water, food, shelter, sanitation or medical assistance, exacerbating the trauma of already vulnerable migrants and undermining their basic human rights. Instead, they stand by with guns watching migrants in need.



Now, with the lifting of Title 42 exclusions, and the increase of migrants seeking asylum, it is imperative that CBP correct course to comply with custody standards and protect human rights. Your office, in conjunction with Congress, has an important oversight role to play. The violations of custody standards by CBP in this California corridor are systemic. They are not the actions of a few agents, but rather of an agency that has acted intentionally with full knowledge of the conditions they are subjecting migrants to while endangering their well being.

1. The migrants in the California corridor between walls are indisputably in CBP custody.



The area of concern in which CBP is violating rights is a space between the primary border wall that abuts Tijuana, Mexico, and the parallel secondary wall approximately 75 yards to the north. The area between the walls where CBP is holding migrants is U.S. soil. There is in fact a sign posted on the secondary wall in front of that space declaring it U.S. property. In that space, CBP exercises full control, patrolling it regularly with vehicles and ATVs. The area is also monitored by CBP cameras.

Civil society organizations who form part of the Southern Border Communities Coalition (SBCC) have borne witness to the treatment of migrants over the last several months in the California corridor. The migrants originate from countries all over the world, seeking refuge from the dangers they face at home. While visiting the site, our team observed and continues to observe Border Patrol agents clearly exercising control in the following ways:

- a. **CBP controls movement** — Agents drive in and out of the detention area, walk among detained migrants and occasionally direct them to different areas within the corridor. Pedro Rios observed “Border Patrol agents ushering migrants from the area near Las Americas to the Whiskey 8 area. Agents also directed single men to the area closer to the beach.”¹ Additionally, “Border Patrol told the migrants they had to sit in rows and stay seated. Occasionally, the agents would drive through with an ATV or cars, to check that they were seated.”²
- b. **CBP controls access to water and food** — Due to the migrants being detained in an area controlled by Border Patrol, agents control access to basic necessities. In Whiskey 8, our declarants have observed Border Patrol provided very limited water and only a granola bar that left them hungry and thirsty with no way to access more without the help of community members on the other side of the wall³ When Pedro Rios raised concerns about lack of access to water he was told “that the government was considering bringing in a buffalo water tank, but then the Border Patrol liaison told [him] they would not out of concern that it would attract more migrants. They never brought the tank in.”⁴

¹ Decl. of Pedro Rios at ¶ 21

² Decl. of Pedro Rios at ¶ 20

³ Decl. of Adriana Jasso at ¶ 8

⁴ Decl. of Pedro Rios at ¶ 12

c. **CBP controls migrant tracking system** — Border Patrol monitors migrants by issuing color coded or labeled wristbands. From Pedro Rios’ observations, “Border Patrol instituted the use of wristbands to identify people’s arrival based on the agent’s first interaction with them, which might be a day or two after they actually arrive in the corridor. The wristbands are like the ones used for concerts. They are different colors and some have the day of the week printed on them.”⁵



d. **CBP controls access to the area** — Border Patrol also controls access to the area, not allowing anyone to leave without the assistance of agents. Migrants “cannot leave the area because of the physical walls that stand in their way. Some of those arriving are suffering severe pain, diarrhea, headaches, etc. Many individuals are pregnant, have children with them, have no shoes, are muddy, wet and in terrible condition.”⁶ Individuals in need of medical attention are dependent on Border Patrol to transport them to a hospital, but they are slow to respond. For example, A 79-year old Colombian woman who fell off the border wall and suffered injuries to her leg and other distress because of a lack of medicine, was not provided medical attention by Border Patrol until after an entire day of advocacy by advocates.⁷

The control CBP has over every aspect of the migrant’s environment and well-being from where and how they are able to move, to the basic necessities they have access to, indisputably amounts to custody. CBP has the responsibility to follow the laws and protocols in place and uphold the human rights and dignity of all migrants in their custody.

2. **CBP is violating its own standards for conditions and length in custody.**

The U.S. Customs and Border Protection National Standards on Transport, Escort, Detention, and Search (“TEDS Standards”) dictate the custody standards that CBP must follow when they detain people in a holding facility.⁸ A holding facility is any “secure enclosure” that is “[u]nder the control of CBP; and [p]rimarily used for the short-term confinement of individuals who have recently been detained”.⁹ Individuals are detained when they are restrained from having freedom of movement.¹⁰ Border Patrol agents that hold migrants in the corridor between the walls are subject to the TEDS Standards.

⁵ Decl. of Pedro Rios at ¶ 22

⁶ Decl. of Adriana Jasso at ¶ 7

⁷ Decl. of Lilian Serrano at ¶ 2-4, 9-10

⁸ CBP National Standards on Transport, Escort, Detention, and Search (2015), <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf>. (“TEDS Standards”)

⁹ TEDS Standards at Pg. 29.

¹⁰ TEDS Standards at Pg. 28.

The TEDS Standards provide, among other things, that all detainees must be provided medical attention, meals at regularly scheduled times, adequate water, have restroom accommodations, and must be provided with personal hygiene items.¹¹ All efforts must be made to ensure care for migrants under the Standards.¹²

As described above and in the specific examples below, CBP is violating all of these standards at the open air detention site in the California corridor.

a. CBP does not provide medical assistance in violation of TEDS § 4.10

Observers have documented numerous examples of Border Patrol failing to provide medical attention to detained migrants, including at-risk populations.¹³ TEDS Standards provide that “[e]mergency medical services will be called immediately in the event of a medical emergency.”¹⁴ Adriana Jasso states in her declaration that she encountered an African man who collapsed and was described as dying by a Colombian nurse. Only after advocate intervention did Border Patrol come to assist.¹⁵ Additionally, she describes migrants “suffering severe pain, diarrhea, headaches, severe cuts and bruises. One Asian man’s leg was severely infected. He was in extreme pain with no way to communicate.”¹⁶



Lilian Serrano has various accounts of migrants needing medical assistance. In reaching out to the Border Patrol liaison she was told the liaison “was receiving our emergency flags and following up, but that when his agents went to take people to the hospital, the migrants were all of a sudden fine and that they didn’t have a medical need.”¹⁷ In another instance the liaison asked why she was calling him and not 9-1-1.¹⁸ Lilian also encountered a 79-year old Colombian woman who fell off the border wall and suffered injuries to her leg and other distress because of a lack of medication; she was not provided medical attention by Border Patrol until after an entire day of advocacy by multiple advocates.¹⁹ Additionally, she encountered an asylum seeking woman from Afghanistan who the Border Patrol took to the hospital after she suffered injury and infection to her arm. The woman was dumped at a hospital without any paperwork from

¹¹ TEDS Standards at Pgs. 17-18

¹² TEDS Standards at Pg. 3

¹³ TEDS Standards § 5.1 defines “at-risk populations” as including children, “pregnant individuals; those known to be on life-sustaining or life-saving medical treatment; those at higher risk of sexual abuse (including but not limited to gender nonconforming, intersex, and transgender); reported victims of sexual abuse; those who have identified mental, physical or developmental disabilities; those of advanced age; or family units.” The Standards provide such individuals “may require additional care or oversight”.

¹⁴ TEDS Standards § 4.10 (“Medical Emergencies”)

¹⁵ Decl. of Adriana Jasso at ¶ 11

¹⁶ Decl. of Adriana Jasso at ¶ 7

¹⁷ Decl. of Lilian Serrano ¶ 9.

¹⁸ Decl. of Lilian Serrano at ¶ 13

¹⁹ Decl. of Lilian Serrano at ¶ 2-4, 9-10

Border Patrol and was later denied access to agents so she could be processed.²⁰ In addition, Lilian encountered a 29-year old pregnant Somali woman suffering repeated vomiting without medical attention.²¹

Pedro Rios confirmed that a Jamaican woman who suffered a miscarriage after being kidnapped and raped in Mexico and remained in excruciating pain, was not provided medical attention by Border Patrol for days despite advocates raising the issue multiple times.²² Pedro also documented an infant no longer taking breastmilk who suffered vomiting and was listless and was only taken to a hospital after advocates' intervention.²³

b. CBP does not provide meals to detained migrants in violation of TEDS § 4.13

Border Patrol did not provide regular meals as required under the TEDS Standards, leaving migrants at risk of starvation while relying on the limited resources of NGOs providing emergency food aid. The TEDS Standards require that “[a]dult detainees, whether in a hold room or not, will be provided with food at regularly scheduled meal times.”²⁴ For children and pregnant individuals, the Standards require “a snack upon arrival and a meal at least every six hours thereafter, at regularly scheduled meal times. At least two of those meals will be hot. Juveniles and pregnant or nursing detainees must have regular access to snacks, milk, and juice.”²⁵



Instead, Border Patrol only provided migrants with a single small water bottle per person, and a granola bar.²⁶ Adriana Jasso observed that Border Patrol entered the corridor between the walls “[o]nce a day [to] provide a bottle of water and some kind of granola bar. To keep people from starving, NGOs, volunteers both on the Mexico and US side of the border, are supplying the basic necessities they can.”²⁷ One group of Indian men detained for five days were left to starve and resorted to eating leaves.²⁸

²⁰ Decl. of Lilian Serrano at ¶ 5-7

²¹ Decl. of Lilian Serrano at ¶ 13

²² Decl. of Pedro Rios at ¶ 30.

²³ Decl. of Pedro Rios at ¶ 16.

²⁴ TEDS Standards § 4.13.

²⁵ TEDS Standards § 5.6 (“Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees”).

²⁶ Decl. Adriana Jasso at ¶ 3, Dec. Flower Alvarez Lopez at ¶ 5.

²⁷ Decl. of Adriana Jasso at ¶ 8

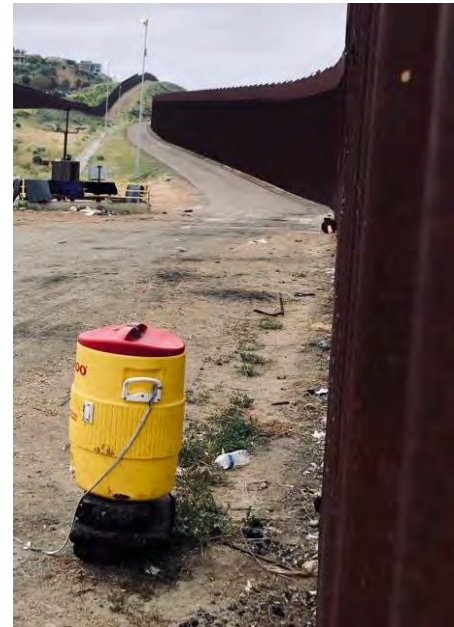
²⁸ Decl. of Pedro Rios at ¶ 15.

c. CBP does not provide adequate water to detained migrants in violation of TEDS § 4.14

CBP is required to make available clean drinking water along with clean drinking cups to detainees.²⁹ Pedro Rios stated that in April of 2023, “migrants reported waiting up to 7 days with no shelter, minimal water, and only a granola bar to eat. I communicated with the Border Patrol liaison about the conditions, and shortly thereafter, agents placed a 5 gallon container of water every morning, but this would finish quickly. By mid day there was no available water.”³⁰

The amount of water was wholly inadequate, requiring advocates to push Border Patrol to provide more water.³¹ The Border Patrol liaison said they considered bringing a buffalo water tank, but chose not to because they did not want to attract more migrants.³²

By May, Pedro stated, “Border agents had removed the 5 gallon water jug. They handed out one small water bottle per migrant every day, leaving migrants thirsty by the afternoon.”³³ As of May 12, declarants continue to report that Border Patrol is only providing one bottle of water per day.³⁴



d. CBP does not provide restroom facilities for detained migrants in violation of TEDS § 4.15 nor maintain cleanliness standards in violation of TEDS § 4.7

CBP is required to provide restroom accommodations to all detainees with a reasonable amount of privacy ensured.³⁵ Border Patrol agents have only provided one port-a-potty for hundreds of migrants.³⁶ The port-a-potty was brought into the area on April 28, 2023 when there were approximately 70 individuals in custody.³⁷ Within two days the port-a-potty was full and unusable.³⁸ Since that time, the number of migrants has grown to approximately 400 and no additional facilities have been added.³⁹ To date, we have not seen the one port-a-potty be cleaned and migrants have regularly complained since that is unusable.⁴⁰



²⁹ TEDS Standards § 4.14 (“Drinking Water”)

³⁰ Decl. of Pedro Rios at ¶ 9

³¹ Decl. of Pedro Rios at ¶ 12

³² Decl. of Pedro Rios at ¶ 12

³³ Decl. of Pedro Rios at ¶ 15.

³⁴ Decl. of Flower Alvarez Lopez at ¶ 5

³⁵ TEDS Standards § 4.15 (“Restroom Facilities”)

³⁶ Decl. of Flower Alvarez Lopez at ¶ 5

³⁷ Decl. of Pedro Rios at ¶ 13

³⁸ Decl. of Pedro Rios at ¶ 13

³⁹ Decl. of Pedro Rios at ¶ 14

⁴⁰ Decl. of Pedro Rios at ¶ 14; Decl. of Flower Alvarez at ¶ 5



Border Patrol fails to provide minimum standards of cleanliness; CBP TEDS standards require facilities “be regularly and professionally cleaned and sanitized.”⁴¹ Despite this, Flower Alvarez Lopez saw “a pile of trash that has not been picked up in days” and “one portable restroom for” hundreds of people that has “not been cleaned at all.”⁴²

e. CBP does not provide basic hygiene items and made no efforts to provide showers in violation of TEDS § 4.11

Additionally, CBP did not provide access to basic hygiene items as required under the Standards. TEDS provides that “Detainees must be provided with basic personal hygiene items, consistent with short term detention and safety and security needs” where “[f]amilies with small children will also have access to diapers and baby wipes” and restrooms must include “access to toiletry items, such as toilet paper and sanitary napkins.”⁴³ In contrast, Flower Alvarez Lopez found that “[t]here are no showers, hand washing stations, nor basic personal hygiene items like feminine hygiene products, baby wipes, toothbrushes, etc. I see families, babies, children, women with children, and people of all ages in here and they don’t have the basic necessities.”⁴⁴

CBP has made no effort to provide showers to migrants who were detained for up to a week, even though the Standards provide that “reasonable efforts will be made to provide showers, soap, and a clean towel to detainees who are approaching 72 hours in detention.”⁴⁵ Instead, Flower Alvarez Lopez confirmed no showers were available at the open air detention site.⁴⁶



f. CBP Detains Migrants Far Beyond 72 Hours in violation of TEDS § 4.1

The TEDS standards provide that migrants should not be detained for longer than 72 hours in holding facilities.⁴⁷ CBP is regularly detaining migrants in the corridor between the border walls for over 72 hours

⁴¹ TEDS Standards § 4.7 (“Cleanliness”)

⁴² Decl. Flower Alvarez Lopez ¶ 5

⁴³ TEDS Standards § 4.11.

⁴⁴ Decl. of Flower Alvarez Lopez at ¶ 5

⁴⁵ TEDS Standards § 4.11.

⁴⁶ Decl. of Flower Alvarez Lopez at ¶ 5

⁴⁷ CBP National Standards on Transport, Escort, Detention, and Search (2015) at Pg. 14

<https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf> (“TEDS Standards”)

and up to a week.⁴⁸ Every effort must be made to hold detainees for the least amount of time required."⁴⁹ Pedro Rios found that "migrants reported waiting up to 7 days."⁵⁰ After a Border Patrol liaison claimed migrants were exaggerating their length of detention, Pedro Rios confirmed that migrants "continued to tell [him] they had been there 2, 3, 4 and up to 7 days."⁵¹ The wristbands issued by agents to migrants are evidence of the length of detention.

For months, Border Patrol has continued to egregiously violate its basic obligations to people it detains under its own TEDS Standards in the California corridor between border walls.



3. CBP is violating international treaties on cruel, inhuman and degrading treatment.

The United States has signed and ratified the International Covenant on Civil and Political Rights (ICCPR), an international treaty that recognizes fundamental human rights. Under the U.S. Constitution's Article VI, treaties are the "supreme law of the land" governing the responsibilities of every part of government at the local, state, and federal level.⁵² Thus, CBP is bound by the ICCPR.

This year, the U.S. Government is under review by sister nations who are signatories to the ICCPR for compliance with the treaty's obligations. In fact, the U.S. Government led by the Department of State is preparing to appear before the ICCPR Human Rights Committee to answer questions from other nations about non compliance. Civil society groups, including SBCC, will be submitting reports to the Human Rights Committee to alert them to the violations we have witnessed, including those occurring now in the California corridor between the walls.

The ICCPR provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment."⁵³ The violations of the TEDS Standards described above and detailed in the attached declarations also constitute violations of migrants' rights under the ICCPR. Pedro Rios, who has observed CBP human rights violations in the California corridor for months, summarized:

⁴⁸ Decl. Pedro Rios ¶ 9, 10, 18

⁴⁹ TEDS Standards § 4.1

⁵⁰ Decl. Pedro Rios ¶ 9

⁵¹ Decl. Pedro Rios ¶ 18

⁵² U.S. Constitution, Art. VI., International Covenant on Civil and Political Rights (ICCPR) Art 2

⁵³ International Covenant on Civil and Political Rights (ICCPR) Art. 7

My overarching concern is the inhumane treatment that I have witnessed since February, the ongoing lack of water, food, and shelter, the degrading treatment, and overall lack of respect or compassion for the migrants who are seeking safety from the dangers they face in their home countries⁵⁴.... [T]hey should be treated with dignity and decency pursuant to human rights standards. That is not what's happening.⁵⁵

In his declaration, Pedro details how border agents treat migrants in cruel, inhuman, and degrading ways, leaving them starving and freezing while in their custody.⁵⁶ He also describes how some agents treat migrants with complete disregard, for example, one agent told migrants, “I don’t give a fuck how long you’ve been here,” and another said, “get the fuck away from me” when a migrant approached to ask a question.⁵⁷

Flower Alvarez Lopez in her declaration echoed the statements by other declarants, speaking to the indignity of the situation facing migrants. “This is devastating. We should not have to bear witness to what is happening today.... To see babies and children here in this type of setting, it's heartbreaking. We need to do better. Our government needs to do better.”⁵⁸

The ICCPR states that if violations of human rights occur, as they have for some time and continue to occur, the government shall provide an effective remedy.⁵⁹ That could be an administrative, legislative, or judicial remedy. Despite the pleas of migrants and advocates, CBP has not provided an effective remedy. Through this petition, we hope to prompt a remedy — the cessation of the violations and the protection of human rights.

4. CRCL must act to investigate and address these violations with Congress.

The Office of Civil Rights and Civil Liberties (CRCL) was established to, among other things, “oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities” of the Department of Homeland Security, including CBP,⁶⁰ in conjunction with Congress. You have the mandate to address both the violation of the TEDS custody standards and the ICCPR rights incorporated into U.S. law through the Constitution. We look to your office to end the harm caused by CBP in its treatment of migrants in the California corridor between walls west of the San Ysidro Port of Entry.

Those seeking safety at our border should be treated at all times with humanity, dignity, and respect. For months now, CBP has fallen short of this responsibility. We recognize that the challenges facing CBP are many, but that should never be an excuse for violating the rights of migrants. The violations that declarants describe have been going on for months. Since at least February 2023, migrants in the corridor have been left waiting for days without adequate water, food, shelter and other basic necessities. Long before that, CBP has taken custody of migrants in the corridor and used it as a pre-processing holding area, exercising control of migrants.

⁵⁴ Decl. of Pedro Rios at ¶ 26

⁵⁵ Decl. of Pedro Rios at ¶ 31

⁵⁶ Decl. of Pedro Rios at ¶ 27

⁵⁷ Decl. of Pedro Rios at ¶ 25

⁵⁸ Decl. of Flower Alvarez Lopez ¶ 7

⁵⁹ ICCPR Art. 2

⁶⁰ 6 U.S.C. § 345

CBP anticipated an increased number of migrants, especially asylum seekers. Congress increased CBP resources significantly, but those resources are not being used to comply with the agency's duties of care in the California corridor. If CBP is going to continue using the corridor as a holding area or a pre-processing area (as opposed to processing someone from the area that day), then the agency must stand up the infrastructure and engage in practices that honor the rights and dignity of migrants. That is what we committed to do as a nation when we signed the ICCPR and what the agency committed to do when it adopted the TEDS standards.

We call on CRCL to ensure that not only will the current violations cease and human rights be protected, but also that this situation will not be allowed to reoccur in California or anywhere else along the border. We stand ready to speak with your Office to discuss these claims further if needed. Please contact us to acknowledge receipt and discuss immediate next steps.

Sincerely,



Ricky Garza, Border Policy Counsel
Southern Border Communities Coalition⁶¹

Enclosures:

1. *Declaration of Pedro Rios*
2. *Declaration of Lilian Serrano*
3. *Declaration of Flower Alvarez Lopez*
4. *Declaration of Adriana Jasso*

CC:

Chairman Dick Durbin
Ranking Member Lindsey Graham
Senate Judiciary Committee

Chairman Jim Jordan
Ranking Member Jerrold Nadler
House Committee on the Judiciary

Chairman Gary Peters
Ranking Member Rand Paul
Senate Committee on Homeland Security & Governmental Affairs

Chairman Mark Green
Ranking Member Bennie Thompson

⁶¹ SBCC is a program of Alliance San Diego, which is based in San Diego, but staffs SBCC throughout the border region and in D.C. SBCC is governed by a steering committee of members from CA, AZ, NM, and AZ.

House Committee on Homeland Security

Chairman James Comer
Ranking Member Jamie Raskin
House Committee on Oversight and Reform

Majority Leader Mitch McConnell
Minority Leader Charles Schumer
United States Senate

Speaker Kevin McCarthy
Minority Leader Hakeem Jeffries
United States House of Representatives

Attorney General Merrick Garland
U.S. Department of Justice

Assistant Attorney General Kristen Clarke
Civil Rights Division
U.S. Department of Justice

Erin Barclay
Acting Assistant Secretary of State for Democracy, Human Rights, and Labor
U.S. Department of State

Acting Commissioner Troy A. Miller
Customs and Border Protection
Department of Homeland Security

Nathaniel Kaine
Chief of Staff
Customs and Border Protection
Department of Homeland Security

Chief Raul Ortiz
United States Border Patrol
Customs and Border Protection
Department of Homeland Security

DECLARATION OF PEDRO RIOS

I, Pedro Rios, declare the following:

1. I am the director of the American Friends Service Committee (AFSC) US-Mexico Border Program. I have been monitoring and advocating for human rights at AFSC for twenty years.
2. For the last several months, I have observed migrants trapped between the primary and secondary barriers on the western most segment of the US-Mexico border near San Ysidro. Migrants have identified themselves as from many different countries including Afghanistan, Jamaica, India and Colombia, and they state they are seeking asylum because of dangers they face in their home countries.
3. The area in which they are trapped is north of the primary barrier abutting Mexico. That area north of the barrier is in the United States. The migrants state they have crossed the barrier to turn themselves in to border agents and are doing so out of desperation, because they seek safety. Once over the barrier, they await to be processed by border agents.
4. The migrants are trapped in an area bounded by a secondary barrier to the north of the primary barrier. This corridor between the barriers is fully controlled by the U.S. Border Patrol. Agents pass along this corridor with vehicles and ATVs. The area is also monitored by cameras. Anyone in this corridor is under their control and in their custody.
5. In February 2023, I first spoke to migrants trapped in the corridor, while I was at an event we held near the border walls. About a dozen migrants approached the northern barrier to talk to me and told me that they had been in the corridor for several days hoping to be processed by border agents, but had not yet been, even though agents were regularly passing by. The agents had given them mylar blankets but little else. During this time, it rained regularly in San Diego.
6. I have continued to see migrants in the corridor since, and have monitored their conditions. I have seen them in several locations in the corridor identified as follows from east to west: near the Las Americas mall, at the section known as Whiskey 8, and closer to the beach.
7. The number of people that I have been able to see has varied from dozens to hundreds. In March, I began coming 2-3 times a week to talk to migrants and monitor the conditions. In most cases, they had been there for at least 2 days. Some had mylar blankets given to them by border agents, others had nothing to cover themselves at night. During this time it rained regularly and was cold day and night. They told me they were thirsty and hungry with little to nothing to eat or drink.
8. In April, the number of migrants in the corridor seemed to grow until it was regularly around 70 people who were visible to me at the Whiskey 8 area, and I knew there were more at other locations in the corridor. More women and children appeared in the corridor. Because Whiskey 8 is most accessible from the U.S. side, this is where I came to speak to migrants.
9. Migrants reported waiting up to 7 days with no shelter, minimal water, and only a granola bar to eat. I communicated with the Border Patrol liaison about the conditions, and shortly thereafter,

agents placed a 5 gallon container of water every morning, but this would finish quickly. By mid day there was no available water.

10. This year, San Diego has been unusually cold and rainy. I recall a particularly rainy night in mid April. The following morning, I came to the border and spoke to a group of migrants who were all from Africa. They had not been given mylar blankets, but had regular blankets that were soaked. They had no other clothes or cover to protect them from the weather. They told me they had been there for 5 days.
11. In the last week of April, I spoke to the Border Patrol community liaison as well as the Department of Homeland Security Civil Rights and Civil Liberties liaison expressing concerns about the conditions, including the lack of water and sanitation.
12. Initially they told me that the government was considering bringing in a buffalo water tank, but then the Border Patrol liaison told me they would not out of concern that it would attract more migrants. They never brought the tank in.
13. On April 28, several months after I began witnessing the presence of migrants in the corridor, agents brought in a single port-a-potty to the Whiskey 8 area, but it was not enough for what was then about 70 people on average in that area. I don't know if they brought additional port-a-potties to other parts of the corridor.
14. Two days after the port-a-potty arrived, it was full and unusable. It may have been serviced, but I never saw that happen, and migrants have regularly complained since that it is unusable. As of today, there is only one port-a-potty, even though the number of migrants has grown to an estimated 400.
15. Beginning in May, I began coming to the border nearly every day, spending several hours at a time. On May 1st, I spoke with a group of men from India who told me they were starving. They showed me the leaves they were eating. They had been there for 5 days. During that time, I observed that border agents had removed the 5 gallon water jug. They handed out one small water bottle per migrant every day, leaving migrants thirsty by the afternoon.
16. On May 3rd, migrants told me that border agents had taken their shoelaces, and they did not know why, but believed it was in preparation for agents to take them in. I am familiar with this practice, a tactic that border agents have previously said they use to prevent migrants from running away. I took photos of their shoes without laces.
17. Out of grave concern for the condition of migrants, my organization began to provide basic necessities to migrants, including water, food, and mylar blankets. Initially, an agent scolded me, telling me that we needed to alert Border Patrol every time we came. They told the media that was starting to cover the encampment the same thing. This is not a requirement, but something they suggested we must do nonetheless. I believe this was meant to dissuade us from coming, especially as the media began to arrive.
18. After the first article in the San Diego Union-Tribune was published, stating that migrants were there up to 7 days, the Border Patrol liaison told me that this was not true, that migrants were exaggerating and were conflating their days in Tijuana with their days in the corridor. But I had been witness to migrants trapped in the area, waiting to be processed for many days. I asked

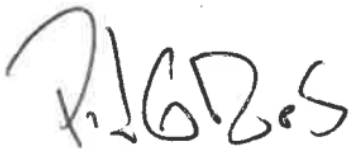
migrants to clarify and confirm the number of days they had been in the corridor, and they continued to tell me they had been there 2, 3, 4 and up to 7 days.

19. At the end of the first week of May, the number of migrants grew significantly to around 400. I worked with my organization to alert the media. Migrants shared with them what they had told me — that agents were waiting days to process them, but not providing them with basic necessities including sufficient water, food, and shelter.
20. With the arrival of the media, Border Patrol told the migrants they had to sit in rows and stay seated. Occasionally, the agents would drive through with an ATV or cars, to check that they were seated. This would happen at various times of the day. Migrants have told me they believe this is in anticipation of them being processed, but the agents will make them all sit for hours on end and not process any of them. Then they will come with vans and take a few people or sometimes 20, but there are hundreds of people.
21. I have observed Border Patrol agents ushering migrants from the area near Las Americas to the Whiskey 8 area. Agents also directed single men to the area closer to the beach. Between the direction for them to sit in rows to ushering them from one part of the corridor to another, agents are controlling the movement of migrants.
22. This week, Border Patrol instituted the use of wristbands to identify people's arrival based on the agent's first interaction with them, which might be a day or two after they actually arrive in the corridor. The wristbands are like the ones used for concerts. They are different colors and some have the day of the week printed on them.
23. Migrants have now organized themselves in rows based on their wristband, hoping that the more organized they are, the more quickly they will be processed, but they are still waiting for days. Migrants state, and I have observed, that agents come through every so often to see if people are sitting and if they are not, they sometimes yell at the migrants. This includes children, who don't understand what is happening. They sit under full sun and then rain and cold, they sit and they wait.
24. One of the migrants who took the initiative to organize the other migrants shared his frustrations that agents come to scold the migrants, but not to process them. He told me he had not slept for 3 days and was concerned that the other migrants thought he was colluding with the agents and felt he was in danger, and that the agents are not there to protect him or anyone, but to leave them waiting.
25. Throughout my time monitoring the conditions in the corridor, I have also witnessed some Border Patrol agents speaking aggressively towards migrants. For example, I heard one agent say, "I don't give a fuck how long you've been here," and another say, "get the fuck away from me" when a migrant approached to ask a question.
26. My overarching concern is the inhumane treatment that I have witnessed since February, the ongoing lack of water, food, and shelter, the degrading treatment, and overall lack of respect or compassion for the migrants who are seeking safety from the dangers they face in their home countries.

27. I am especially concerned about the treatment of migrants who are out of sight from us, especially the area where the men have been directed to, closer to the beach. Last night, I spoke with two men who came to the Whiskey 8 area hoping volunteers would charge their phones. They told me they were hungry and freezing. One was from a Spanish speaking country (not sure which) and one appeared to be from Eastern Europe.
28. I'm also concerned about the children. Two days ago, I witnessed a child who was less than a year old whose mother said was no longer taking her breast milk and was throwing up and listless. I called the Border Patrol liaison for medical assistance, and they came to take the child and mother to the hospital. But had I or another human rights observer not been there, that child might not have received any assistance. Especially since agents are not making themselves approachable and some are actively aggressive towards migrants.
29. In another instance, parents of an 8 year old child approached me to tell my colleague that their child had had a seizure as a result of his medication being taken away by Mexican authorities. They were concerned for the child's health. I left a message for the Border Patrol liaison and agents came for him soon after. As with other incidents, I am concerned that if we had not been there, the child would have fallen into greater danger.
30. One migrant told me that in the night, the children cry. He said that the adults have a way to cope, but the children are scared.
30. I am deeply concerned about other vulnerable migrants. Today, I alerted the Border Patrol liaison that a Jamaican woman had approached me to tell me she had suffered a miscarriage after being kidnapped and raped in Mexico and is now in what she described as excruciating pain. Other human rights observers shared that they alerted Border Patrol to this woman's condition several days ago, but nothing was done.
31. In conclusion, there is no doubt that the migrants in the corridor are in Border Patrol custody. As such, they should be treated with dignity and decency pursuant to human rights standards. That is not what's happening.

I affirm that the statements in this affidavit are true to the best of my knowledge and belief.

May 12, 20223

A handwritten signature in black ink, appearing to read 'Pedro Rios', written in a cursive style.

Pedro Rios

DECLARATION OF LILIAN SERRANO

I, Lillian Serrano, declare the following:

1. I am the director of the Southern Border Communities Coalition, a program of Alliance San Diego. As part of that role, I monitor human rights conditions in the border region.
2. On May 11, after hearing from colleagues about migrants trapped in the corridor between the two border walls, both of which are in the United States, near San Ysidro, California, I arrived at the border wall at 5:45 am. The first thing I saw was a group of migrants that had spent the night outdoors between the two border walls. When I approached the wall, a man called us over. His mother was in need of medical attention.
3. He had traveled with his 79 year old mother from Colombia. He told us she has several medical conditions and at that moment had been without her medication for 2-3 days, trapped in Border Patrol custody. Without her medication, she was falling ill. She was also suffering from an injury to her leg after falling from the wall she had climbed to turn herself in to border agents. Her son was also worried that she hadn't used the restroom in 5 days. The day before she was able to walk a little, but that morning she was just laying down and couldn't move.
4. I immediately contacted the Border Patrol community liaison for the San Diego sector. I called him to try to provide details about what was happening, but he didn't pick up. I sent him a text at 8:00 am with general information about the woman and that we needed to get her medical care. We didn't hear back from him. The son checked in with me on multiple occasions, but at one point I lost track of him amidst the hundreds of migrants.
5. Around the same time, I encountered another woman, who we later learned was an asylum seeker from Afghanistan, who was sleeping by herself on the US side of the border wall wrapped in blankets. She was wearing a hijab. I approached her with colleagues and asked her why she was there. She showed us documents from Scripps hospital. She was taken in an ambulance from the encampment the day before. She told us she wasn't feeling well, she showed us her arm and it was swollen, and had an infection.
6. She told us she had flagged this for Border Patrol, and they took her to Scripps hospital. When the hospital released her, they put her in a taxi. She didn't know where she was, she had no way of contacting anyone, she didn't have an address, so the taxi brought her back to the border wall. She didn't know what to do, she wanted to make sure Border Patrol knew she wasn't trying to sneak into the country. She was waiting for them, but they never arrived at the hospital.
7. She told us she arrived at this site at 2:00 am and knocked multiple times on the gate trying to get inside the encampment. The agents did not open it. She told us that she had family in New York, but didn't have a way to contact them. We had her take a nap in my car. It was the first time she slept indoors after 4 days.
8. She slept and our partner organization PANA (Partnership for the Advancement of New Americans) was able to pick her up around noon. They were able to get her placed in a Catholic Charities shelter. We believe they were able to get in contact with her family in New York, but she doesn't have any paperwork from Border Patrol that would allow her to travel on a plane.

9. In the evening, I eventually spoke with the Border Patrol liaison regarding the 79 year old Colombian woman described above. The liaison said he was receiving our emergency flags and following up, but that when his agents went to take people to the hospital, the migrants were all of a sudden fine and that they didn't have a medical need. I reiterated that the woman we were discussing needed medical attention and told him that the people we were talking to had medical needs. He said that he felt that migrants were taking advantage of this situation and that they were using this to get into the United States.
10. The Border Patrol liaison mentioned he was going to be on site last night because at 9:00 pm "migrants were going to rush the border." Because of this I came back to the site around 8-8:30 pm. At 9:45, I noticed that Border Patrol agents were carrying a woman to their truck who was accompanied by another woman. Her son told me he finally got the attention from the Border Patrol and that they were taking his mother to the hospital, but they would only let one person go with her. He decided to have his wife accompany his mother.
11. To follow up, my colleagues and I went to the hospital and we found his wife. She was confused. As soon as she arrived at the hospital, staff told her she couldn't go in and they left her outside. The Border Patrol left and gave her no instructions, so she was outside of the hospital, and she said she was waiting for them to come and give her instructions. We explained they were not coming back. She didn't get any documents from Border Patrol and was told she couldn't go inside. It was cold and late and she had no way to communicate with her mother-in-law inside. We stayed in the hospital past midnight and assisted her to communicate with the hospital staff to get information about her mother-in-law.
12. The mother-in-law was released this morning, and a family member in the United States was able to come and accompany her. The family member shared that the 79 year old woman was concerned about her Colombian passport, which Border Patrol agents had asked her for before transporting her to the hospital. She gave it to them and she saw an agent put it in his pocket. The passport was never returned to her. She now has no identity documents, nor does she have any paperwork from Border Patrol from her entry to apply for asylum. Her son is still in custody in the area between the walls, separated from his mother and wife, all of whom have a related asylum claim. It is uncertain whether he will be released or whether his asylum claim will be heard. For the moment, they face the prospect of indefinite separation far from a country they fear returning to.
13. In another incident, I was notified today at 4:15 pm that a 29 year old pregnant Somali woman had thrown up 5 times today. I contacted the Border Patrol liaison, and he told me that I should have just called 9-1-1. Then he said he would call them. Several hours have now passed and no one has arrived to assist the pregnant woman. We are keeping a close eye on her and hopefully she will receive help soon.

I affirm that the statements in this affidavit are true to the best of my knowledge and belief.

May 12, 20223

A handwritten signature in black ink, appearing to be 'Lilian Serrano', written in a cursive style.

Lilian Serrano

DECLARATION OF FLOWER ALVAREZ LOPEZ

I, Flower Alvarez Lopez, declare the following.

1. My name is Flower Alvarez Lopez and I am a Co-Director at Universidad Popular.
2. Around 12 pm on May 11, I went to the border wall near San Ysidro to find hundreds of people in an encampment between two fences, unable to leave. Border Patrol provided the migrants with wristbands of different colors to indicate when they arrived and have created some sort of a system for when they will process them.
3. I stayed overnight at the encampment and observed and talked to Border Patrol agents around 2:00 am during a big round up. I saw Border Patrol agents ask those who had children to raise their hands. I saw them yelling at folks that were sitting down telling them to not get up. If they tried to move, they would be immediately yelled at. I tried to gather information from the agents about how many people they were taking and where they were taking them. They said 60 people and didn't say anything else. Border Patrol has not communicated their plans for the individuals who are trapped in the corridor between the border walls.
4. They are being treated inhumanely. The government has not provided any blankets or shelter for these individuals. At night, it is cold and everyone is exposed to the elements including our most vulnerable populations: children, pregnant women and the elderly.
5. There is a pile of trash that has not been picked up in days. There is only one portable restroom for all 300-450 people to use and it has not been cleaned at all. There are no showers, hand washing stations, nor basic personal hygiene items like feminine hygiene products, baby wipes, toothbrushes, etc. I see families, babies, children, women with children, and people of all ages in here and they don't have the basic necessities. They are sleeping on the ground with few clothes to keep them warm. Border Patrol has only provided one water bottle and one granola bar per person per day. A lot of them have been sleeping directly on the dirt and gravel ground except for those who we were able to provide cardboard boxes to use as mattresses.
6. Border Patrol is not providing medical support on site. We are providing the limited first aid we can, but we don't have any medics on site. We know a few people have been taken by ambulance to other hospitals.
7. This is devastating. We should not have to bear witness to what is happening today. Folks are showing up and they are very emotional to what they are seeing because it is a devastating sight. To see babies and children here in this type of setting, it's heartbreaking. We need to do better. Our government needs to do better.

I affirm that the statements in this affidavit are true to the best of my knowledge and belief.

May 12, 20223



Flower Alvarez Lopez

DECLARATION OF ADRIANA JASSO

I, Adriana Jasso, declare the following:

1. I have worked with the American Friends Service Committee for 16 years assisting migrants. I am currently working alongside a border wall in the San Ysidro area that is one of two parallel walls at the border of the United States and Mexico. The space between the first and second wall is inside the United States. In the space between the walls, there are approximately 400-500 individuals who are waiting with nothing but the clothes on their backs to be processed for asylum claims.
2. I first arrived at the San Ysidro border just south of South Bay Water Reclamation Plant about 2 weeks ago. Border agents refer to that area as Whiskey 8. When I arrived, I saw approximately 20 people. Then 20 quickly turned to 80 and 80 quickly turned into 120. Later on we started seeing 400-500 individuals. Not only have the numbers changed, but the demographics as well. Now we are seeing mainly women with children. As the encampment grew, Border Patrol moved males to an area approximately 20 minutes away on foot to a different canyon.
3. I have not been able to access the canyon, but have heard there are anywhere between 600-800 single men in the encampment. What we have heard is that the conditions there are a lot worse in terms of access to food and shelter. I took a statement from a Colombian family that said they only received a bottle of water for a whole day. We haven't been able to transport anything to them and we are not able to carry things over there. It would require us hiking to the location.
4. The individuals who come through the primary fence and who are then between the two walls are in the United States. For the last several weeks I have witnessed Border Patrol direct and control their movements, such as the movement of men to a different part of the corridor. Border Patrol agents are the only people who have access to the encampment. They are the only ones on site. These individuals are in their custody and Border Patrol is responsible for their fundamental well being. The individuals are being detained in dire conditions.
5. Border Patrol developed a system to track the individuals who are in the encampment by providing them with wrist bands to track when they entered into their custody. The wristbands vary in color from red, yellow, blue, green and gray to reflect the date they entered the encampment.
6. It appears they have different wristbands for the day of the week that border agents first identify them, and it appears to indicate the priority based on the days and nights that they have been here. But we have seen over and over again that the system isn't being followed and it depends on what officers they get on which wristband they are given. For example, migrants have told us they have been here for 4 days, but their wristband indicates less.
7. Individuals cannot leave the area because of the physical walls that stand in their way. Some of those arriving are suffering severe pain, diarrhea, headaches, severe cuts and bruises. One Asian man's leg was severely infected. He was in extreme pain with no way to communicate. We had to wait for Border Patrol to respond to our texts and.

Many individuals are pregnant, have children with them, have no shoes, are muddy, wet and in terrible condition. All they can do is wait for Border Patrol to take them to be processed for asylum.

8. Border Patrol agents do not come often to the site. Once a day, they provide a bottle of water and some kind of granola bar. To keep people from starving, NGOs, volunteers both on the Mexico and US side of the border, are supplying the basic necessities they can. It is a dire situation.
9. On Tuesday, May 9th, 2023, an incident happened where two Colombian women were traveling alone and were being sexually harassed. Four males became abusive towards them and the women decided to approach us (there were no agents to approach). We let the authorities know. Fortunately there was no sexual attack, but there was physical and verbal abuse. If we were not there, we don't know whether the attack would have been prevented.
10. We have seen several pregnant women come through. One woman, approximately a week ago, had a miscarriage. She has continually expressed the pain she is going through, especially at night.
11. In a particularly distressing incident, a man from Africa was walking and collapsed. A Colombian nurse tried to help and told us he was dying. We alerted the Border Patrol. Fortunately, the Border Patrol came and picked him up.
12. On a different occasion, a child suffered an epilepsy attack and we were able to get assistance from Border Patrol. I continue to be concerned that if we were not there bearing witness that children and adults would suffer harm while in Border Patrol custody.

I affirm that the statements in this affidavit are true to the best of my knowledge and belief.

May 12, 20223

A handwritten signature in black ink, appearing to read 'Adriana Jasso', with a large, stylized flourish at the end.

Adriana Jasso