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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

JENNY LISETTE FLORES, *et al*.,

Plaintiffs,

v.

MERRICK B. GARLAND, Attorney General of the United States, *et al*.,

Defendants.

CASE NO. CV 85-4544-DMG (AGRx)

NOTICE OF FILING OF JUVENILE CARE MONITOR REPORT BY ANDREA S. ORDIN

In accordance with the Court's Orders, Andrea Sheridan Ordin submits the attached Juvenile Care Monitor Report.

This Report is required by the provisions of the Agreement approved by the Court on December 14, 2023 [Doc.# 1381]. The Juvenile Care Monitor has discussed drafts of this Report with the Parties.

DATED: September 10, 2024

Respectfully submitted,

Andrea Sheridan Ordin
STRUMWASSER & WOOCHER LLP

By */s/ Andrea Sheridan Ordin*
Andrea Sheridan Ordin

Juvenile Care Monitor

JUVENILE CARE MONITOR REPORT
August 2024
(Monitoring April through July 2024)

Submitted by Andrea Sheridan Ordin
Juvenile Care Monitor
Dr. Nancy Ewen Wang, Medical Advisor
Dr. Paul H. Wise Medical Expert

CONTENTS

I. SUMMARY

This Report presents the evaluation and observations of the Juvenile Care Monitor (JCM) who is charged with conducting independent assessments of custodial conditions for children held in U.S. Customs and Border Protection (CBP) facilities in the Rio Grande Valley (RGV) and El Paso sectors. These assessments were first required by the provisions of a settlement agreement approved by the Court on July 29, 2022 [Doc. # 1278] (the "Settlement Order" or "Settlement") which mandates many new and specific custodial conditions and procedures for immigrant children in federal custody. The Settlement also established the JCM position to assess CBP compliance with the provisions of the Settlement.

II. CPB SETTLEMENT AND THE JUVENILE CARE MONITOR

The first JCM appointed was Dr. Paul Wise, who served in that position until the conclusion of his term on December 11, 2023. On December 14, 2023, Andrea Sheridan Ordin was appointed Juvenile Care Monitor for six months and Dr. Paul Wise was appointed as the Medical Expert to the JCM until February 1, 2024. [Doc. 1381]. On February 13, 2024, Dr. Nancy Ewen Wang, Professor, Pediatric Emergency Medicine at Stanford School of Medicine, was appointed Medical Advisor. [Doc. 1389]. Dr. Paul Wise was asked to remain as a consultant on the monitoring team as Medical Expert. [*Id.*]. On June 12, 2024, the Court extended the terms of the JCM, Medical Advisor, and Medical Expert by three months—until September 12, 2024. [Doc. # 1426].

The JCM conducts a variety of monitoring activities. This Report, like previous reports, draws upon site visits to CBP facilities, interviews with children in families in CBP custody, interviews with unaccompanied children (UCs), and analysis of data provided by CBP.

While the JCM examines all Settlement requirements and reports concerns on a regular basis related to Settlement compliance, the JCM has focused in this Report on those requirements and concerns that have the greatest potential consequences for the health and well-being of children in CBP custody.

Fortunately, in April, May, June and July 2024, minors held in the El Paso Hardened Facility (EHF) and in the Donna Facility in RGV maintained a level of occupancy which permitted sufficient physical space for the children to enjoy safe and sanitary surroundings.

In this reporting period, the primary focus for the JCM, Medical Advisor, and Medical Expert was to assess compliance with provisions relating to (a) the minors' time in custody, (b) separation and visitation of family members while in custody, (c) enhanced medical support, and (d) Caregivers.

A. MONITORED CONDITIONS UNDER THE SETTLEMENT

This report will summarize the observations and assessments of the JCM, Medical Advisor, and Medical Expert from their site visits to two Juvenile Priority Facilities (JPFs) in El Paso and Rio Grande Facility in RGV between April 30 and July 2024. Those visits included interviews with CBP personnel, contracted medical staff, and with children and families in CBP custody. In addition, analyses of data provided by CBP are also included in this report.

Transfer of Monitoring to CBP: At the completion of the Juvenile Care Monitor's current term, or at the completion of any extended term, CBP shall assume responsibility for monitoring compliance with the terms of the Settlement, including monitoring whether there is overcrowding, as defined above. For a period of 30 days after the Juvenile Care Monitor's term ends, the Juvenile Care Monitor will work with the CBP Juvenile Coordinator to ensure an effective transition of monitoring functions, and will be compensated for this work.

A review of the Settlement components critical to future monitoring protocols is presented below:

- **Juvenile Priority Facilities.** A fundamental provision in the Settlement is the designation of specific facilities in each sector to house and process Unaccompanied Children (UCs) and families. These Juvenile Priority Facilities (JPFs), often designated Central Processing Centers (CPCs), have been established in both the RGV and El Paso sectors. In the

RGV sector, the JPF during this reporting period was in the Donna Facility in Donna, Texas. In El Paso, the JPF was located in the El Paso Hardened Facility (EHF).

- **Overcrowding.** Overcrowding is the single custodial condition with the greatest potential to undermine the quality of care provided to children in CBP custody. The Settlement defines overcrowding as "A level of occupancy that exceeds the physical space required to maintain a safe and sanitary environment for each individual in custody."
- **Time in custody.** The TPRA recognizes the potential harm of excessive time in custody to children, and for that reason requires that unaccompanied minors be released from CBP custody in under 72 hours. It is also recognized that the Agreement provides that all children must be released as expeditiously as possible, and the CBP is required to record all stays for children which exceed three days, whether or not they are in custody with family members.
- **Holding members of families separate while in custody.** As noted in prior reports given that any holding of children separately from their parents during their time in custody is potentially harmful, the Settlement requires that this practice be justified by compelling operational concerns, take into consideration the child's age and vulnerabilities, and that steps be taken to mitigate any potential harm, including regular visitation and access to telephone contact with family members.
- **Warmth, garments, and sleep.** The Settlement requires that CBP ensure that the holding environments maintain a temperature between 69 and 83 degrees, provide sleeping mats, clean and warm garments to children in custody, and that the holding conditions are conducive to adequate sleep.
- **Nutrition.** The Settlement requires the provision of age-appropriate meals and snacks that meet children's daily nutritional needs. Water and adequate hydration are also mandated by the Settlement.
- **Hygiene and sanitation**. The Settlement outlines a series of hygiene and sanitation requirements for all children entering CBP custody. Showers are to be provided soon after arrival at the JPF and again at 48-hour intervals. Toothbrushes should be provided daily and also upon request.
- **Caregivers.** The Settlement requires that CBP develop a "Caregiver" program directed at providing a variety of custodial services to children in CBP custody. This provision is seen as the linchpin to provide a child-friendly, safe and sanitary environment. Caregivers are required to be well-trained in meeting the needs of the children during their stay, wherever

they stay while in custody, including any time spent in intake and medical isolation.

- **Child-friendly environment.** The Settlement requires that children be treated with dignity, respect, and in recognition of their particular vulnerabilities.
- **Enhanced medical care.** The requirements of the Settlement mandate that the JCM assess both the structure and the performance of the CBP medical system for children in custody.

III. MONITORING ACTIVITIES AND DATA ANALYSIS

A. Site Visits

Between April 1 and August 1, 2024, 5 site visits were conducted at CBP facilities, detailed below. The JCM team had full access to all sections of all facilities providing care for children. In addition, the JCM team had full freedom to conduct interviews away from CBP personnel with both children and parents in custody.

The dates and location of the site visits to CBP facilities were as follows:

- CBP El Paso
  - April 30-May 1, 2024: JCM (Andrea Sheridan Ordin), Medical Advisor (Dr. Nancy Ewen Wang), Medical Expert (Dr. Paul Wise) with Sarah Fabian concurrent with JCD monitoring.
  - June 27-29, 2024: JCM, Medical Advisor
- CBP Rio Grande Valley
  - April 9-12, 2024: Medical Advisor concurrent with OCMO team
  - May 23-24, 2024: JCM, Medical Advisor
  - July 21-24, 2024: Medical Advisor, Medical Expert

B. CBP Data Analysis

CBP provides monthly reports on the number of UCs encountered as well as the number of family unit encounters (includes all individuals in the family, including both adults and minors). CBP also provides data on children who are held in custody for longer than 72 hours. Fortunately, the Tables demonstrate that the number of UCs who remain in custody for longer than 72 hours is small. The Tables below do reflect, however, the dramatic increase in the time in custody for children in families in both El Paso and RGV during the months of May and June, 2024. It is difficult to understand the long delays in releasing minors when the total number of individuals apprehended in family units decreased dramatically during the same months.

ENCOUNTERS

In May, 41,821 individuals were encountered by the Border Patrol in family units, which was similar to the figure for April. In June, the total number of individuals apprehended in family units significantly decreased to 27,821.

LENGTH OF STAY

In May the total number of children in CBP custody for more than three days was 892, and in June that number doubled to over 1,783. In May, there were 12 UCs with more than 3 days in custody; 5 of these were held in the El Paso sector. In June, there were 9 UCs with more than 3 days in custody; 6 of these were held in the El Paso sector.

TABLES

The Tables below illustrate the impact on length of stay in El Paso Sector and RGV Sector alone. For point of comparison, length of stay data is also included for San Diego and Tucson sectors.

In the RGV sector, in May, 68 children were held in custody for more than three days, and 38 minors were in custody for five to eight days. In June, despite it being a time of decreased apprehensions, 77 minors were held in custody for over three days, and 60 children were in custody for six days to 14 days.

In the El Paso Sector, in May, 124 children were in custody for more than three days, of which 54 children were in custody between five and nine days. In June, despite it being a time of decreased apprehensions, 279 children were in custody for more than three days, and 151 children were in custody for five to 14 days.

The current statistics from CBP do not reflect in which facility each minor was held. For future statistics, the JCM will request information identifying the specific facilities in which children have been held in excess of three days.

Tender age children are defined by CBP as ages 0-12, and Teenage children are defined by CBP as ages 13-18.

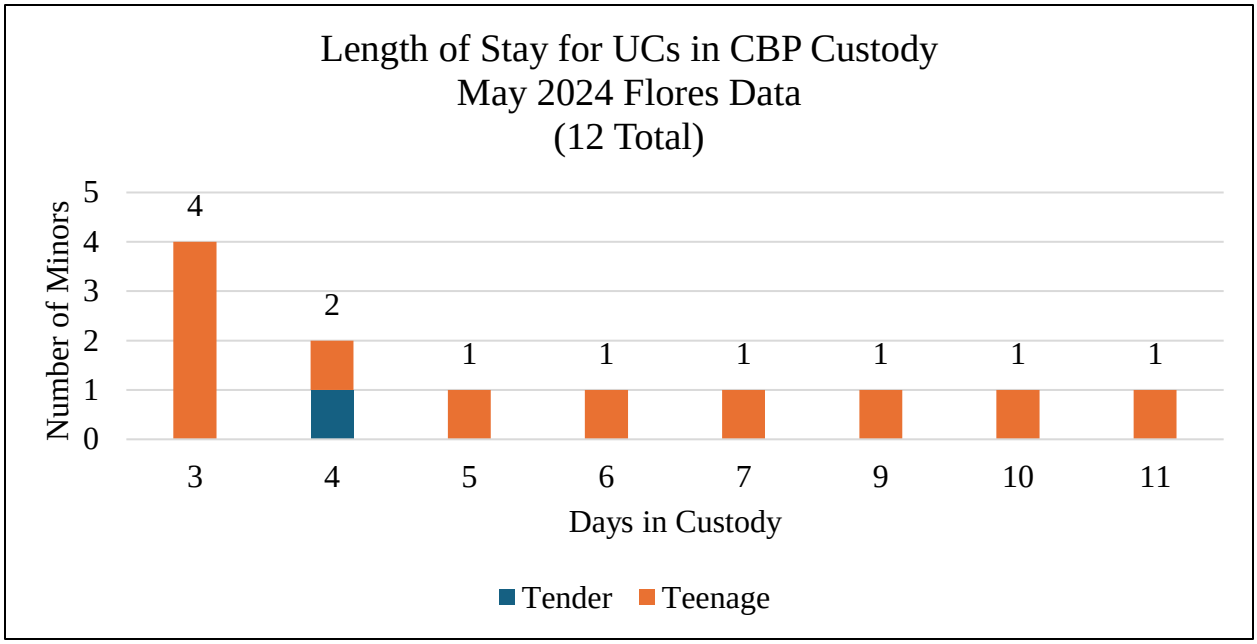
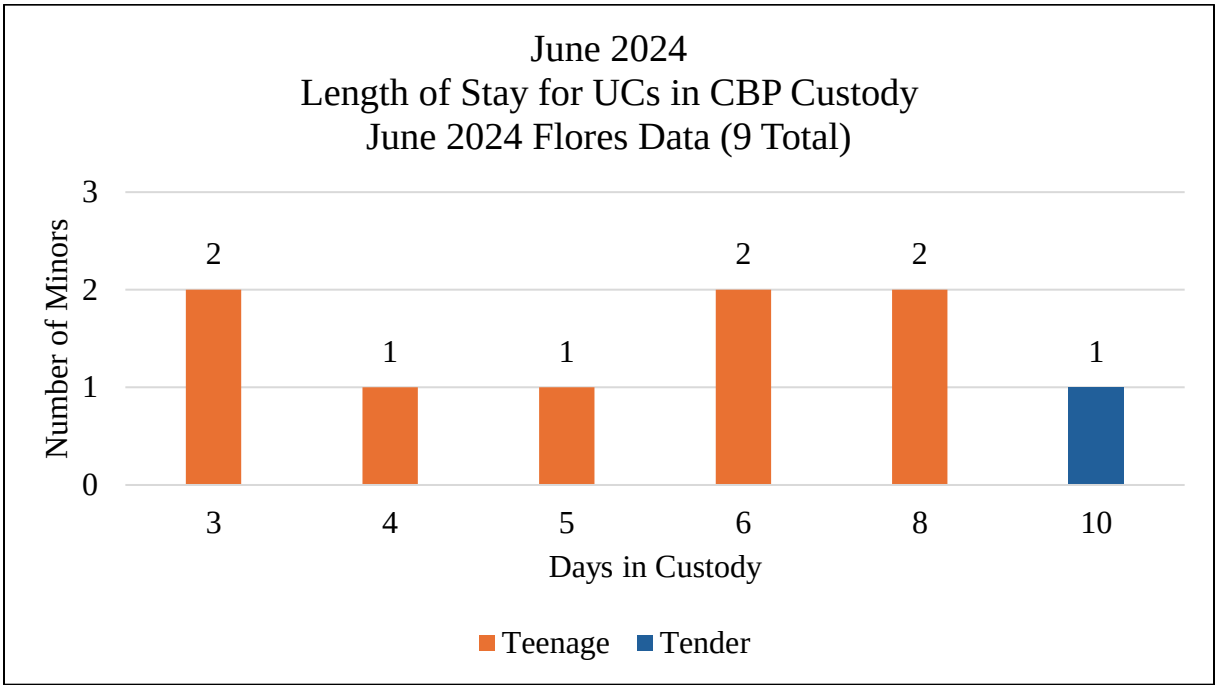


Table A



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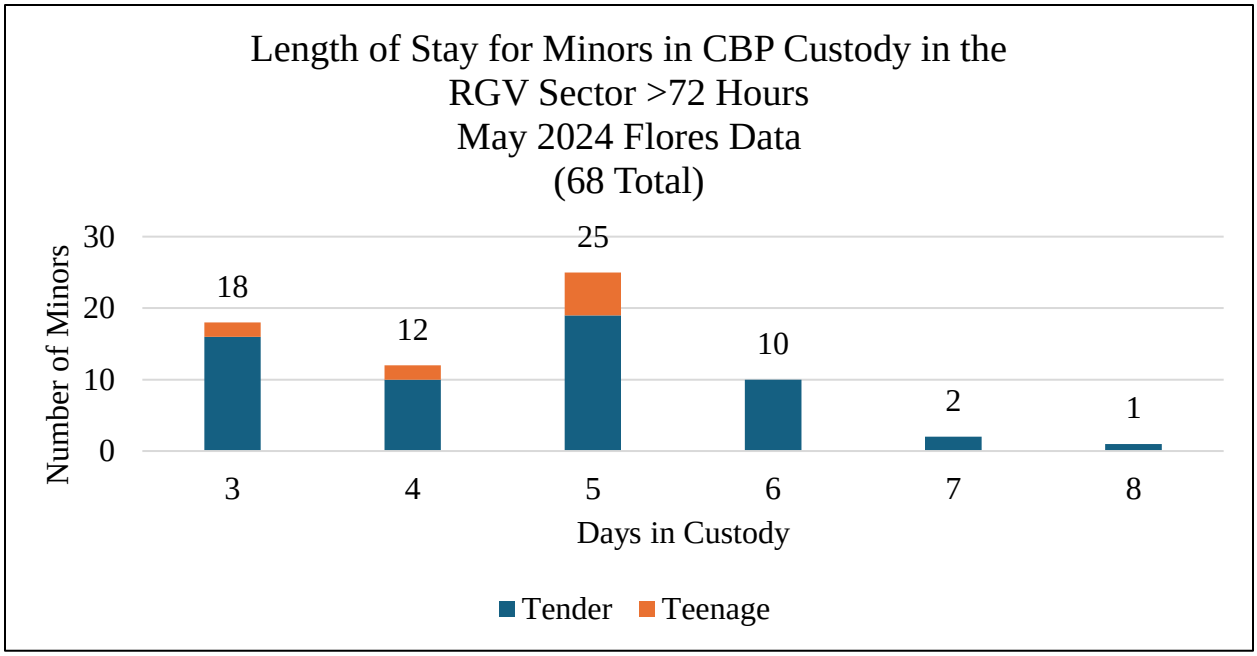

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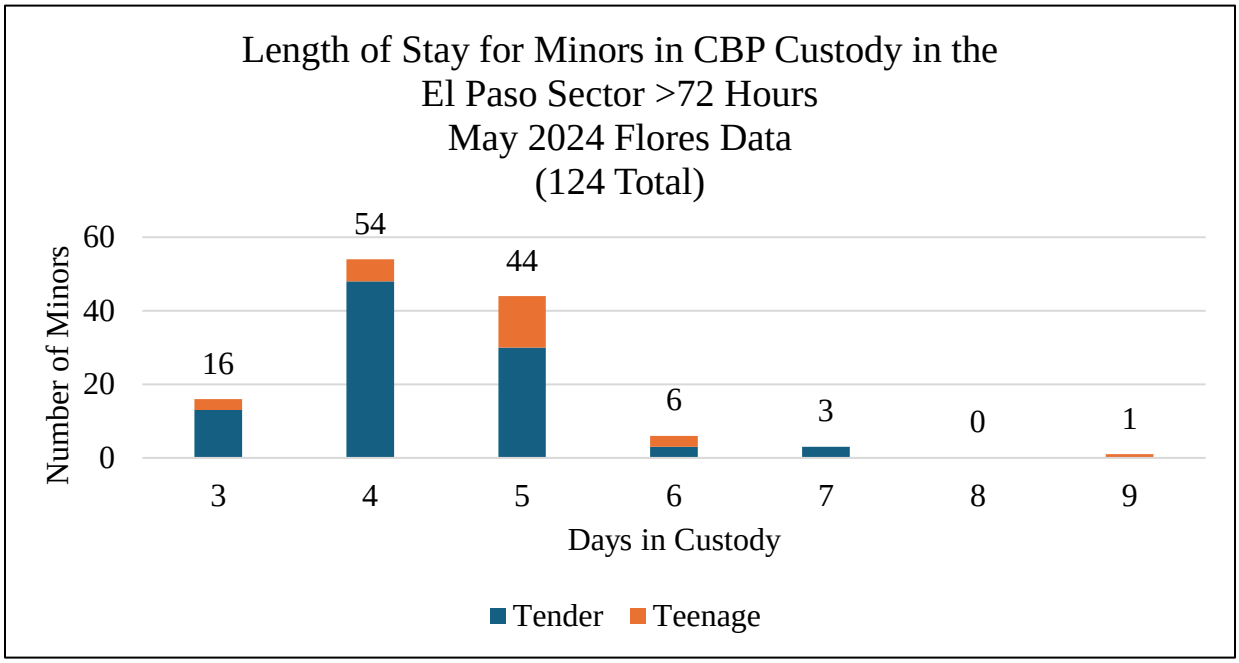

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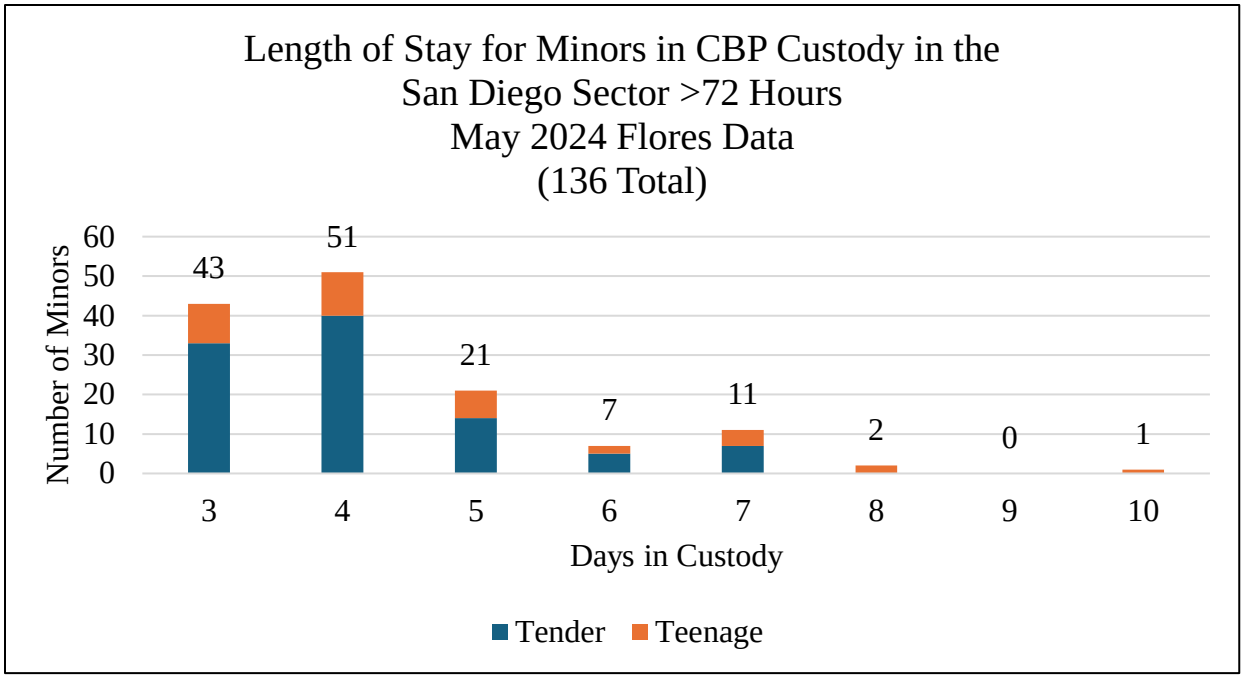

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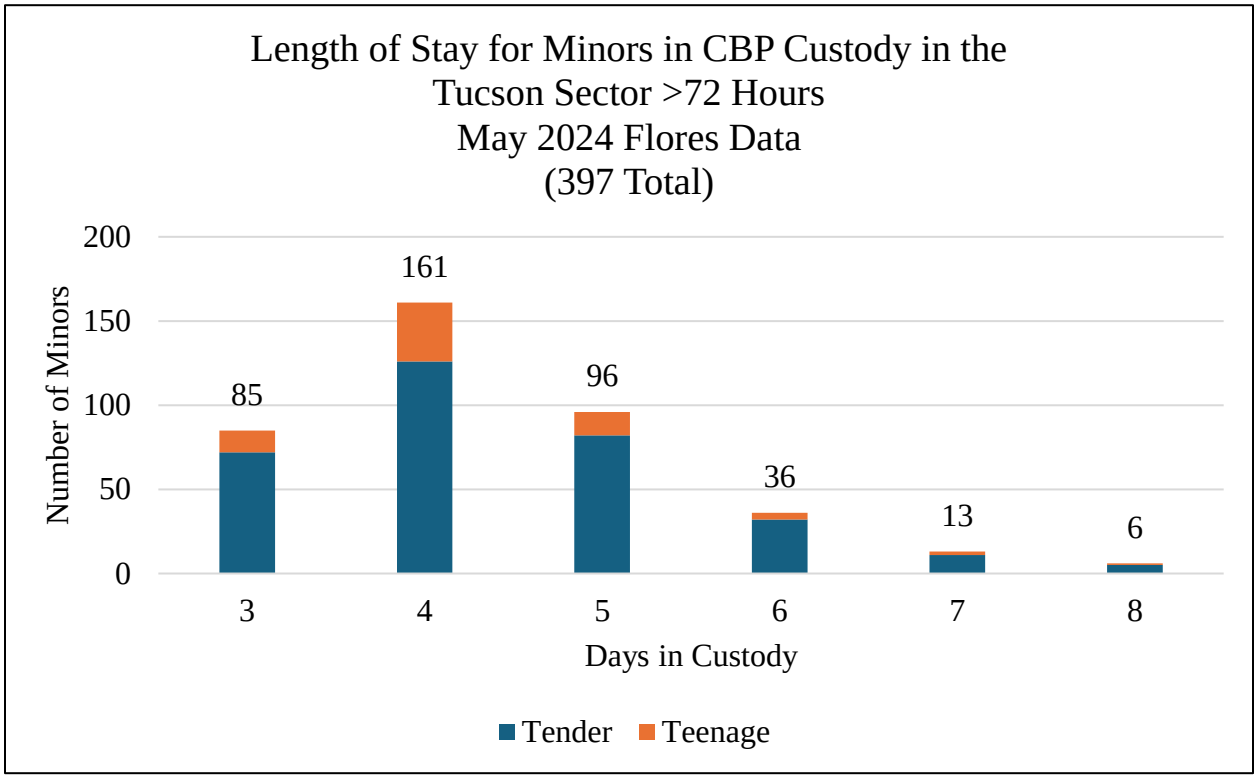

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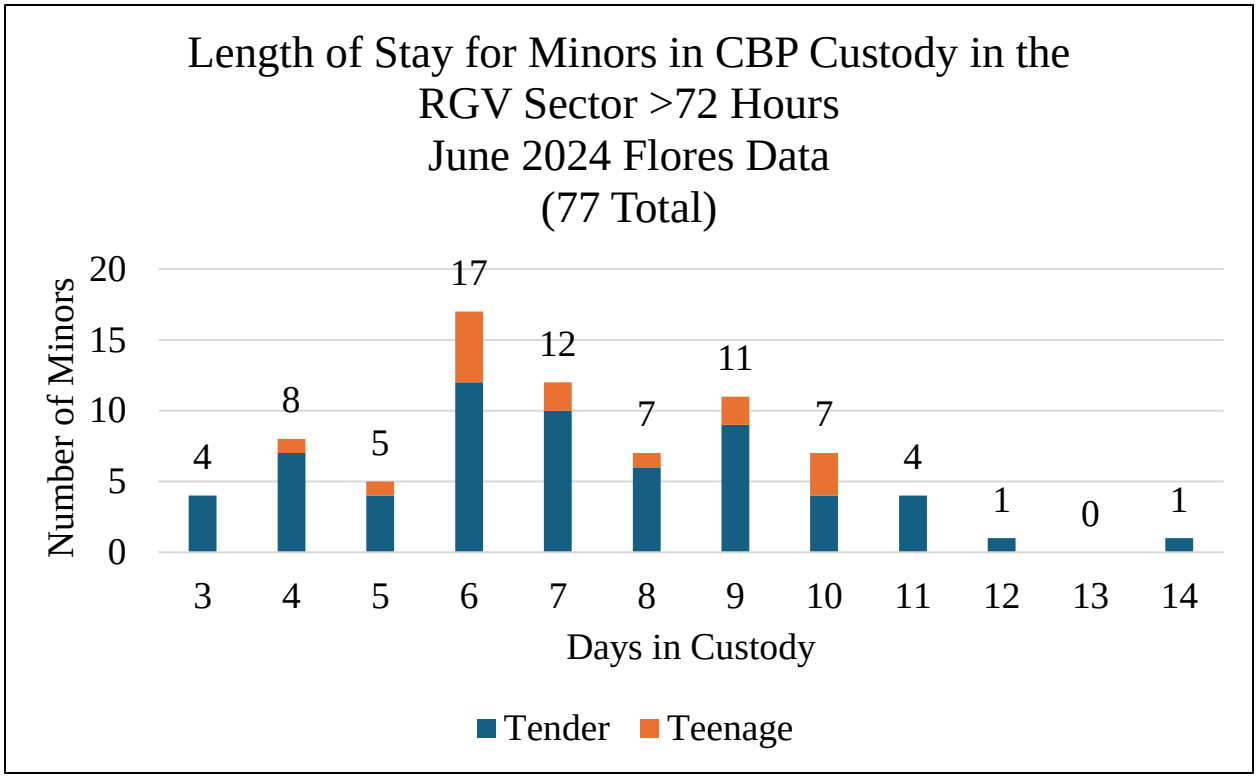

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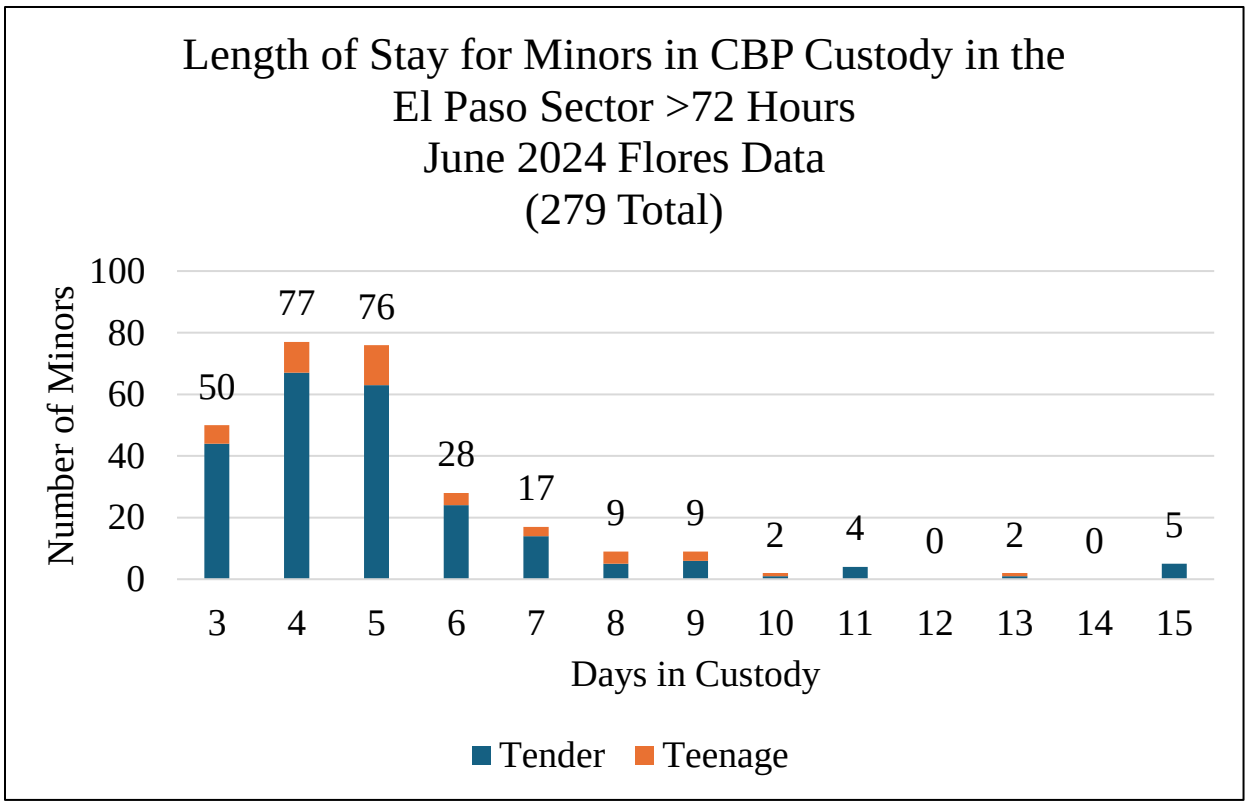

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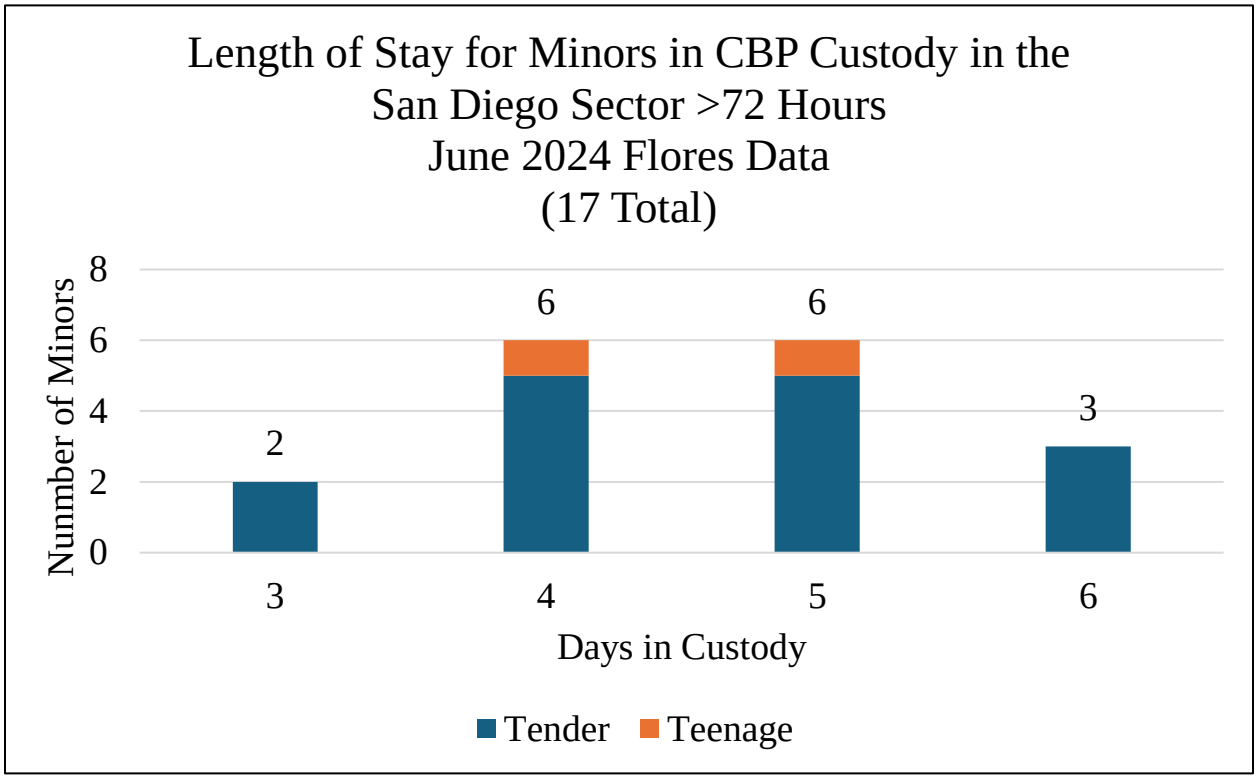

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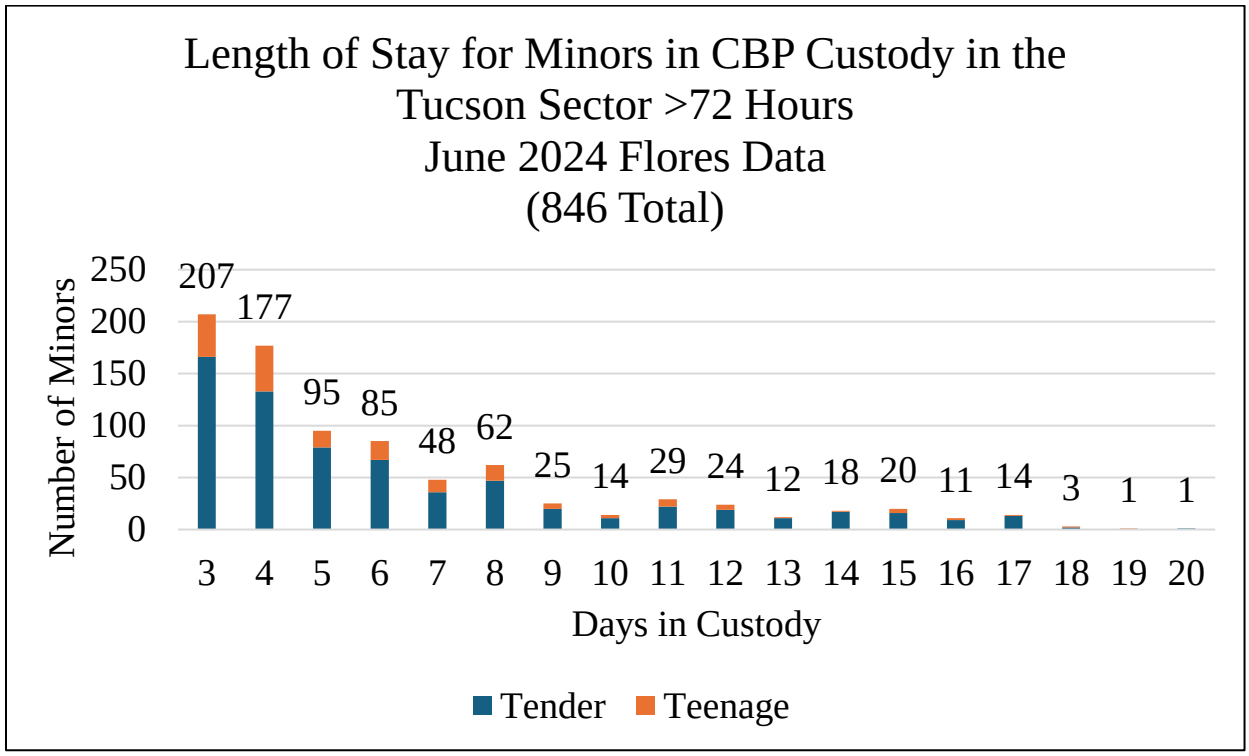

Table J

IV. CONDITIONS AT CBP FACILITIES

Since August 2023, the JPF has been the Donna Facility, which is composed of a series of large, soft-sided structures, some with hardened walls, and had been long used as the JPF in this sector. Occasionally, some families have been processed in non-JPF Border Patrol (BP) stations, including the McAllen BP station in particular.

A. Overcrowding

During all 5 site visits during this period, the census at both sites has been significantly below capacity. The number of individuals in each of the holding pods was observed to be below capacity.

B. Holding Members of Family Separate While in Custody

The Settlement is explicit in supporting family unity while in CBP custody. The section "child-appropriate environment" begins with "Absent an articulable operational reason, class members apprehended with adult family members (including non-parents or legal guardians) shall remain with that family member during their time in CBP custody." The Settlement goes on to insist that "When there is an operational need to house family members separately, CBP shall make and record the reasons for holding them apart and all reasonable efforts to ensure that the family members have the opportunity to interact."

Current Observations

In the El Paso JPF, although a small number of parents were held separately from other members of their family, the separations appeared appropriate and consistent with gender and age criteria. Children apprehended with a trusted adult other than a parent or legal guardian were often housed separately although it appeared that they could have been housed together as a family until transfer of the child to ORR as a UC. During one visit this reporting period, two tender-aged girls in a UC holding pod were distressed that they were being housed separately from their grandmothers. There was no documentation available which explained the necessity for separating the two girls from their grandmothers.

Whenever a parent or trusted adult is held separately from the children, regular visitation is required. In the El Paso JPF, in addition to providing visitation for families, there was a special area where fathers were held directly across the corridor from mothers and children which allowed family members to see one another, which decreased the stress of separation and permitted some line-of-sight

communication. Children and parents/trusted adults housed separately reported that they were generally able to have visits but the timing of the visits was not always known. In interviews, Caregivers appeared aware of the ability of the children and family members' rights to visit, but they did not know the timing. One Caregiver stated that if a child was seriously distressed she would let Border Patrol know.

In the Donna JPF, as documented in prior JCM reports, CBP had routinely held children separately from parents or trusted adults. During the earlier visits of this reporting period, JCM observed some children below 13 years being held separately. However, on the last visit, except for one 12-year-old girl, the children being held separately were older than 13 years.

Interviews at Donna with parents and children being held separately revealed significant variation in the availability of regular visits while in custody. Interviews with children who had not been offered contact with a parent revealed that some were experiencing some emotional distress. There were also problems in keeping parents informed of any issues that had arisen when children were held separately from their parents. One father was unaware of the status of his teenage daughter who had been brought to the hospital the day before.

The required posters (Exhibit 1) were not observed inside family pods in Donna. Caregivers read a script regarding rights at each shift change but many parents and children did not appear to know that they could request visits. Parents and Caregivers who did ask for visitation, often emphasized that they were told to wait until sufficient staff were available to facilitate the visit.

Assessment

As noted in prior reports, given that any holding of children separately from their parents, guardians, or trusted adult during their time in custody is potentially harmful, the Settlement requires that this practice be justified by compelling operational concerns, take into consideration the child's age and vulnerabilities, and that steps be taken to mitigate any potential harm. The reasons for holding a child separately should also be documented. Although improvements in RGV were noted on the most recent visit, there are still inadequacies in the consistent implementation of separate housing and visitation procedures. The holding of children apart from a trusted adult, such as a grandmother, aunt, or older sibling occurs in both JPFs. The failure to effectively communicate visitation rights to families in custody and to implement routine visitation opportunities at the Donna

Facility even during times of low census stands out as an area of continued concern.

C. Nutrition

The Settlement requires that CBP ensure that children have access to age-appropriate meals and snacks that meet their daily nutritional needs. Water and adequate hydration are also mandated by the Settlement.

Current Observations

During site visits and interviews with families, children held apart from their parents and UCs documented that water and snacks were always available from soon after apprehension through their entire time in CBP custody. During all site visits to the JPFs, infant formula, bottled water, and mixing instructions were readily available. Families with young children reported variable access to pureed pouches and milk for toddlers. (Some were told their children were too old for milk in bottles or pureed foods). Reports regarding the quality of the food remain generally satisfactory, with reports in the latest visit to Donna that some evening meals had been "cold" or "frozen". The lack of menu variety becomes an issue for families held for longer than three days.

As noted in all prior JCM reports over the last several years, there remains no food offerings appropriate for young children between 2 and 5; they continue to be provided with adult meals. This has usually meant that young children were primarily relying on snacks for nutrition. Parents complained that their children were not eating enough.

Assessment

The primary nutritional concern remains the continued practice of providing young children (2-5 years) with adult meals. During this reporting period, the site visits to both the RGV and El Paso JPFs revealed no improvement in the appropriateness of meals provided to young children. A contract for appropriate food was entered into in February 2024 but at the time of monitoring, no food had been delivered under the new contract. This issue becomes increasingly problematic as time in custody rises, as some families with young children had been in custody for longer than a week. At the time of writing this Report, the JCM received reports that deliveries of appropriate food for young children had been made to the JPFs.

D. Warmth, garments, and sleep.

Current Observations

The JPFs continue to be in general compliance with the temperature requirements of the Settlement. However, as noted in prior JCM reports, many children feel cold at night and at the lower end of the allowable temperature range. This occurs when children are exposed to blowing air from the active ventilation systems in the soft-sided facilities. Consequently, the ready availability of extra sweatshirts, sweatpants, and other outerwear must be available to compensate for the cold ambient environment.

During this reporting period, there was relatively poor communication with children and parents regarding the availability of extra warm clothing if needed by their children. Interviewed parents at the Donna JPF reported that they did not know that they could request additional clothing. Some reported that they were told that they could have only one sweatshirt for their child in addition to the mylar blanket. Although families were shown a video explaining the amenities available to them at the time of intake, families did not recall that information.

Assessment

It is essential that additional clothing be available for children who are cold while in custody. Children have long reported cold temperatures in CBP facilities and having extra clothing readily available for children has been the primary means of avoiding the necessity of raising the minimum allowable temperatures or revising ventilation systems in the JPFs. The availability of clothing requires both that an adequate quantity of clothing be readily available at the holding pods and that children and parents know that they are entitled to request additional garments for children from Caregivers or agents. The JCM recommends that this Agreement provision be addressed and that consistent compliance is ensured.

E. Sleep

The Settlement requires that CBP make efforts to create custodial conditions that are compatible with adequate sleep.

Current Observations

As in more recent visits, site visits and interviews confirmed that in both sector JPFs, all UCs and families had been provided with a sleeping mat and mylar blanket. The census in both sectors had fallen to where there was no overcrowding, generally the greatest impediment to the sleep environment.

Although the lights still cannot be dimmed in the Donna JPF there were few complaints. Adequate sleeping mats and spacing was observed in all holding pods.

However, several parents in families who were laterally transferred from other sectors reported that they were kept in facilities with no mats, which required sleeping on the cement floor.

F. Hygiene and Sanitation

The CBP Settlement outlines a series of hygiene and sanitation requirements for all children entering CBP custody. Showers are to be provided soon after arrival at the JPF and again at 48-hour intervals. Toothbrushes should be provided daily and also upon request.

Current Observations

During this current monitoring period, the reports on sanitation and showers were uniformly favorable. Toilet and shower areas were clean and soap and hand sanitizer was available. Caregivers appeared to be responsive and understood their role in facilitating showers. However, families who were laterally transferred to RGV stated that at the original facility they did not receive showers, although it was not clear how long these families were held in the other sector facilities.

Assessment

Hygiene and sanitation conditions were good. The low census placed relatively low cleaning pressure on the holding environment and opportunities for showers met Settlement requirements.

G. Caregivers

The CBP Settlement requires that CBP develop a "Caregiver" program directed at providing a variety of direct custodial care services to children in CBP custody, including vigilance for medical need or distress, helping parents as well as providing activities for children.

Current Observations

Site visits revealed that there was significant variation in the extent to which Caregivers assisted families with child needs and supervised child-focused activities. Caregivers too often were hesitant about interaction with the families

and unclear regarding their responsibilities to communicate with the CBP personnel when children or families wished to visit other family members, use the telephone, or seek medical attention. Outside of paper and crayons, Caregivers brought in their own materials for child activities.

In El Paso, Caregivers were actively engaged with all unaccompanied children inside the pods. However, no Caregivers were providing assistance in the family pods. The activities for UCs at El Paso were diverse and included books, games and drawing (materials were donated/brought in by the Caregivers). The activities for children in families was limited to writing/drawing on newly installed chalk boards. El Paso had painted some child friendly pictures on the walls. El Paso also facilitated recreation outside.

At the Donna JPF, tender-age unaccompanied children are held in a special area in which Caregivers provide comprehensive childcare services. As noted in prior JCM reports, the Caregivers in this special holding area have been consistently observed to be actively involved with the children and supervise play with a variety of child-friendly toys and activities._Caregivers in the holding areas for older UC's (generally older than 6 years) were stationed in the corridor between holding pods and supervised some activities. The level of engagement was variable, with some Caregivers actively engaged with the children, while others remained more passive. Unlike El Paso, Caregivers stated they were not permitted to enter the older UC pods. They also did not enter the family holding pods and were generally less sure of their roles and responsibilities. Outdoor activities were rare at Donna.

Assessment

There continues to be variation in Caregiver function and the understanding of the Caregiver role. Turnover in the program appears to be high as many of the Caregivers reported that they were new to the position. Clarification of the Caregiver role and enhanced training and supervision for the Caregivers remains a persistent need.

As noted in the prior reports, CBP is meeting the Settlement's requirements regarding the number and deployment of Caregivers. However, there remain important opportunities for improvement. The major benefits of the Caregiver program have been reviewed in prior JCM reports. Since the last report, there have been significant increases in the number of Caregivers, and the new January Statement of Work is in effect. However, specific Caregiver duties and

responsibilities as outlined in the Statement of Work have not yet been implemented in any uniform manner. For example, the Statement of Work requires that the Caregivers "shall be actively engaged in all pods holding children, including pods holding families." The Caregivers are further instructed to "plan, organize, supervise, and participate in activities and recreation (e.g., games, art, crafts, reading, outdoor physical activity, etc.)."

It is strongly recommended that Caregivers be provided with more and better child-friendly materials and activities. It is also recommended that Caregivers meet the needs of children throughout the duration of their stays, including during any time spent in intake and medical isolation. Also, despite expectations that the Child Welfare Specialist Program (CWSP) would help strengthen the Caregiver and trauma-informed care programs, the JCM visits to both sectors found no indication that the CWSP has engaged in enhancing these programs.

V. TRAUMA-INFORMED CARE AND CHILD-APPROPRIATE ENVIRONMENT

The Settlement mandates that the JPFs implement care strategies that attend to the emotional and psychological challenges that migrant children confront both before and during CBP custody. Recognizing the potential that children in CBP care may have experienced trauma in their home communities, on their journey, and while in custody, the Settlement calls upon CBP to make efforts to foster reassurance, resilience, and psychological well-being. (See Section VII.3.D.7 and Section VII.8.B8 in the Settlement). Feeling secure and safe, having the ability to rest and play, to contact sponsors and to know the next steps of the journey (especially for unaccompanied children) are all components of a trauma-informed, child appropriate environment.

Current Observations

Interviews with UCs and families continue to confirm that all felt physically safe while in CBP custody and had been treated professionally by CBP personnel and contractors in the RGV and El Paso sectors. Some families who had been laterally transferred stated that CBP personnel in prior facilities had not treated them in a professional manner.

Of note, the JCM interviewed unaccompanied children in the Donna JPF who were unaware of their right to make phone calls. Others reported that they had tried to gain access to the phones, but were unable to do so. The children

consistently expressed anxiety because of lack of information regarding family awareness of their status and where and when they were to be going next.

In the Donna JPF, the pods holding unaccompanied children have phones located in an accessible area. However, the children reported that they had received no routine guidance regarding the use and availability of making calls. Interviews with Caregivers reported that were instructed not to assist children in making phone calls. On two different site visits, phones were noted to be working only sporadically. In El Paso, a cellular phone was brought to each holding pod daily, a system that both the children and CBP agents reported to be working well.

Assessment

That UCs and families feel safe in CBP custody is a fundamental precondition for trauma-informed care. It is, therefore, essential to emphasize the importance of the reports from UC's, parents, and children held apart from their parents, that they felt safe in CBP care.

The variability in access to phone calls and the role of the Caregivers continues to be problematic. As mentioned earlier in this report, it is CBP's responsibility to provide basic child-friendly materials, such as coloring books, crayons, games, etc. in all JPFs. Although Caregivers have contributed many such materials, CBP should ensure that these materials are available. The persistent failure to address these issues will continue to undermine the implementation of trauma-informed elements of CBP custodial care.

VI. ENHANCED MEDICAL SUPPORT

The Settlement requires a robust medical care system for juveniles in CBP custody. CBP has addressed this requirement by deploying contracted medical teams in the RGV and El Paso JPFs and any other facilities housing children. These teams include an advanced medical practitioner (either a nurse practitioner or physician assistant) and 2-3 medical support personnel, usually medical assistants or emergency medical technicians. These teams are required to be present 24 hours a day, 7 days a week. In addition to the on-site medical teams, supervising physicians, including pediatricians, are assigned in each sector to provide on-call consultation, clinical protocol development, and quality assurance reviews.

JCM monitoring has focused not only on whether the required medical system is in fact present in the JPFs but also on the system's performance in providing quality medical services to children in CBP custody.

Prior JCM reports have attempted to elevate those elements of the CBP medical care system that are of particular importance in meeting the special character of CBP's medical mission. These include:

- The identification of children at elevated medical risk
- The reduction of medical risk in CBP facilities;
- Enhanced pediatric consultation and enhanced medical monitoring of children at elevated medical risk while in CBP custody;
- Improved conveyance of medical information among CBP personnel, contracted health providers, and subsequent medical providers.

This report finds continued general improvement in the performance of the CBP medical system for children.

A. Identification of Children at Elevated Medical Risk

Prior JCM reports have emphasized the importance of accurately identifying children at elevated medical risk upon entry into CBP custody. It has been a longstanding CBP protocol to administer an initial medical assessment to all juveniles entering CBP custody. OCMO has recently implemented a protocol to help ensure that the examining medical personnel assess elevated risk in a more complete and standardized format. This protocol also requires direct consultation with a supervising pediatrician whenever a child with a potentially elevated risk diagnosis was identified. The prior JCM report recognized that while this protocol had been distributed to the contracted CBP medical staff, its use was somewhat variable. The report recommended enhanced training of contracted medical staff and stronger accountability mechanisms to ensure the protocol's complete implementation.

Current Observations

Site visit interviews and reviews of medical documentation suggested routine provider compliance with the OCMO risk assessment protocols. The OCMO protocol defines elevated risk by a list of specified diagnoses. The electronic medical record (EMR) system flags the child at elevated risk whenever one of the elevated risk diagnoses is noted in the EMR record.

Assessment

JCM site visits during this reporting period suggest that there has been substantial improvement in the ability of the CBP medical system to identify elevated medical risk in children as they enter custody or soon thereafter. The reliance on a specified list of risk diagnoses requires ongoing reassessment as some adjustment of the listed may be necessary as experience with the system grows. The JCM will continue to work with OCMO on refining this system. However, the central importance of risk identification upon entry will require that the CBP monitoring system be committed to ongoing reassessment of this process and revision whenever necessary.

B. Conveying Essential Medical Information to CBP

It is essential that medical providers convey information regarding children at increased medical risk to appropriate CBP personnel. CBP is ultimately responsible for the well-being of all individuals in their custody and should know when a child at elevated medical risk enters their custody.

Prior JCM reports noted the lack of a standard mechanism by which medical personnel communicated with CBP operators regarding the medical status of children in custody. Communicating acute medical needs, such as a medical decision to transfer a patient to a local medical facility, is a routine, daily occurrence in the JPFs. What was reported lacking was a systematic means by which medical personnel could alert CBP leadership in the JPF that a child at elevated medical risk, but not in acute distress, was in custody.

Current Observations

Interviews with medical staff and CBP personnel found that medical staff were aware of the need to alert CBP personnel if a child were at elevated risk. In the past, communication of medical risk between the medical providers and CBP was primarily through ad hoc verbal notification. However, during this reporting period, site visits found that there has been a system in which medical information regarding children at elevated medical risk was being conveyed to CBP personnel electronically.

Assessment

The system for conveying medical information to CBP personnel is in transition. Establishing a digital mechanism that allows medical personnel to place an alert on the child's computer-based CBP record. While this system is an important

improvement, the JCM was not able to assess its use or impact on CBP procedures. Further monitoring is required to ensure that the new system is fully implemented and informing CBP operations and decision-making.

C. The Reduction of Medical Risk in CBP Facilities

Prior JCM reports have suggested that CBP could take steps to reduce the clinical burden on its medical system by expediting the disposition of children at significantly elevated medical risk. Based on JCM site visits during this reporting period, the identification of children at elevated medical risk and the conveyance of this information to appropriate CBP personnel have both improved. However, it is not clear that this information is being used consistently in determining the nature or timing of disposition. As noted in prior JCM reports, the Agreement does not require CBP to consider medical risk in disposition decisions. Nevertheless, holding children at elevated medical risk in custody for what appears to be increasingly longer times in custody will inevitably place additional stress on the ability of the CBP medical system to ensure the well-being of children at elevated medical risk while in custody.

D. Enhanced Pediatric Consultation of Children Identified at Elevated Medical Risk While in CBP Custody

Identification of children at elevated medical risk or potentially at elevated medical risk requires direct consultation with a supervising pediatrician. Although this had long been encouraged, prior reports have emphasized that such consultation was not occurring regularly and that this failure needed urgent attention.

Current Observations

Interviews with medical staff and review of medical records suggest that medical providers in the JPF were appropriately consulting supervising pediatricians and that the supervising pediatricians were responsive to the medical staff's consultative calls.

Assessment

There has been clear improvement in the utilization of pediatric consultation by medical providers in the JPFs. This assessment is based on both interviews with medical staff and in the review of EMR case records. This improved system of pediatric consultation is important as CBP is charged with caring for tens of thousands of children each year without any pediatricians on site. Because this element of care is so important to the quality of medical services provided children

in custody, the improvements in consultation will require ongoing monitoring and continued reinforcement.

E. Enhanced Medical Monitoring

Children at elevated medical risk require enhanced monitoring of their medical condition and well-being while in custody. Early JCM reports documented a worrisome absence of a systematic approach to monitoring children at elevated medical risk. More recently, OCMO has instituted an Enhanced Medical Monitoring (EMM) protocol for the JPFs which provides guidelines for whom EMM is required and the nature and frequency of the monitoring. Special elements of the EMM include checks by medical personnel at least every 4 hours while in custody.

Current Observations

Site visits during this reporting period found that children in the EMM system were being monitored every 4 hours by contracted medical personnel. Some children in the EMM system had communicable diseases, including influenza and Covid-19, and as per protocol, were placed in isolation holding pods until they no longer posed a risk to others. Caregivers were stationed at the isolation pods, although they were prohibited from entering.

In the Donna JPF, selected families with children considered at elevated risk but not requiring isolation for communicable diseases were being held in the small isolation rooms near the medical stations. These rooms measure approximately 8ftx5ft with space for only one mat.

In prior JCM site visits, children put into isolation pods at both sites sometimes were not given showers, warm clothing or the right to make calls. The JCM also noted there was variation in the conduct of a repeat medical evaluation after 5 days in custody.

During site visits, medical providers at both JPFs were unclear about the OCMO medication policies and reported contradictory practices regarding the use of medications sourced from other countries. It was also noted that the speed with which UCs are transferred to ORR can make it difficult to acquire (usually from local pharmacies) and dispense needed medications prior to their transfer.

Assessment

The EMM program has improved the care of children identified at elevated medical risk. The potential that a child will deteriorate without recognition by medical personnel has been reduced substantially. Ongoing evaluation of this system is essential, particularly whether the list of conditions triggering entry into the EMM program should evolve. The use of isolation holding areas in the JPFs rather than in other CBP facilities, such as Border Patrol stations, has been an important advance.

The use of the small isolation rooms requires immediate reconsideration. Locating the families of concern near the medical station is commendable. However, the size of these rooms is inappropriate for holding families for any significant length of time. One interviewed family with an infant with a significant developmental delay disorder had been held in a small isolation room area for a week at the time of the interview. This is inappropriate and some alternative should be developed. Although we do not feel we have enough information to make any specific recommendation, it might be possible to create a more livable space for the families, including tables and chairs for meals and activities, in the area of the small isolation rooms so that the families would have an alternative to staying in their assigned rooms for long periods of time. Additionally, a special effort should be made to assure children in isolation have access to their rights, and make sure they are not cold and have been able to make phone calls.

As noted in prior JCM reports, there has been considerable variation in the administration of medications to children in CBP custody. Some children enter CBP custody with medications in hand. It can sometimes be difficult for a health provider to identify the medication being taken or the precise justification for its use. Guidelines exist for utilizing medications in hand or replacing them with a new prescription. New prescriptions may take time to acquire which can sometimes be difficult when UCs are transferred quickly to ORR. The medication protocols have been problematic for some time. A comprehensive review of the current protocols is indicated and new strategies may be required.

The Settlement specifies that children who are held for prolonged periods must receive a medical reassessment every 5 days. The 5-day repeat evaluation is an important means by which the medical system can ensure that children have not developed or exacerbated a risk condition while they are in custody. This component of care becomes even more essential when the times in custody are prolonged. The observed variation in complying with the 5-day reexamination

requirement remains a concern and suggests that a systematic remedial strategy is required as well as ongoing monitoring.

F. Strengthened Procedures for Referral to Local Medical Facilities

One of the most important components of the CBP medical system is the ability to transfer ill individuals to local health facilities for more definitive care. Prior JCM reports noted that interviews with medical providers revealed that on occasion, the medical decision to transfer a patient to a local health facility had been questioned by CBP personnel.

Current Observations

Interviews during this reporting period suggested that CBP personnel have been responsive to medical requests for transfer and have facilitated transfers in a timely manner. However, one provider felt some pressure with the decision to transfer multiple patients. There were also reports that referral facilities were not provided with adequate information regarding the child's care in CBP custody.

Assessment

Given the vital need to refer children with serious medical issues to local hospitals, it is important to continue to monitor this element of collaborative medical and CBP response. It is also potentially problematic for the referral facility if medical information regarding the patient is not adequately conveyed from CBP. This can be particularly problematic when a child is referred without a parent or trusted adult. Important aspects of the medical history may not be available if the parent or trusted adult does not accompany the child or without CBP facilitating direct communication between hospital personnel and the trusted adult in CBP custody. Policies regarding parental or trusted adult accompaniment or phone communication should be reviewed and revised to ensure that health providers in local facilities will have full and timely access to all medical information which may prove critical to the care of the child being referred for care.

G. Ensuring Hospital Records Are Conveyed to CBP Medical Personnel

High-quality medical systems ensure that a record of the evaluation and treatment of a patient referred to another health provider be transmitted back to the original referring medical provider. Prior JCM reports identified a lack of a consistent mechanism to ensure that this communication actually occurred.

Current Observations

Medical providers stated that hospital records were being sent back to the JPF from referrals to outside hospitals but were limited to patient discharge information. The documents did not include information regarding tests performed, the results of these tests or the medications given. There was also not a functional mechanism to request or receive the information. All information sent back from the hospital was however scanned into the patient medical record.

Assessment

The conveyance of discharge information from local hospitals to medical personnel at the JPF is an improvement in the care of children at elevated risk. The JCM is highly supportive of efforts by OCMO to enhance the coordination of care between CBP and local health facilities. Because of its importance, this component of care should be monitored closely.

H. Conveyance of Medical Information from CBP to the Office of Refugee Resettlement (ORR) or a Child's Parents or Guardian.

It is essential that ORR receive relevant medical information regarding the conditions and management of UCs while in CBP custody.

Current Observations

It is difficult for the JCM to ascertain how well CBP is conveying important medical information to ORR for UCs upon transfer. However, medical information was noted in the travel packets for UCs upon their transfer from CBP to ORR facilities. This information is now being provided by medical personnel and is generated automatically by the EMR system which is a useful advance. However, a problem with this automated system was noted during a site visit. The electronically generated transfer form was indicating no medical problem even though significant medical problems were documented in other areas of the form. Examination of packets for families leaving CBP custody did not consistently include relevant medical information for the children.

Assessment

The JCM will seek permission to speak with ORR medical leadership to assess the adequacy of medical information conveyance to ORR. In addition, as noted in prior JCM reports, it is important to routinely provide parents or guardians of children at elevated medical risk with medical summary sheets that include

diagnoses, medications, and other pertinent medical information prior to transfer out of CBP custody. The automatic generation of medical forms for transfar out of CBP custody holds promise for the standard provision of this information. Ongoing evaluation of this element of care, therefore, is warranted.

I. Medical Referrals for Children at Elevated Medical Risk in Families Being Released into the United States

Prior JCM reports have emphasized the need for CBP to ensure appropriate referral for those few children at significantly elevated risk who require specialized care soon after release into the United States. This referral capability would help ensure that children at elevated medical risk do not deteriorate soon after release from CBP custody. There remains no standard protocol for this requirement, an issue that deserves continued attention, monitoring, and collaborative engagement between OCMO and potential medical referral partners.

CERTIFICATE OF SERVICE

Case No. CV 85-4544- DMG (AGRx)

I am a citizen of the United States. My business address is 250 Sixth Street, Suite 205, Santa Monica, California 90401 . I am over the age of 18 years, and not a party to the within action.

I hereby certify that on September 10, 2024, I electronically filed the following documents with the Clerk of the Court for the United States District Court, Eastern District of California by using the CM/ECF system:

NOTICE OF FILING OF JUVENILE CARE MONITOR REPORT BY ANDREA S. ORDIN

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the United States the foregoing is true and correct. Executed on September 10, 2024, at Los Angeles, California.

Jeff Thomson