



**OIDO**

Office of the Immigration  
Detention Ombudsman

# **OIDO OBSERVATION**

## **U.S. Border Patrol Yuma Soft-Sided Facility**

OIDO-23-003  
October 17, 2022



October 17, 2022

MEMORANDUM FOR: Chris Magnus  
Commissioner  
U.S Customs and Border Protection

FROM: David D. Gersten DAVID D GERSTEN  
Acting Ombudsman  
Office of the Immigration Detention Ombudsman

SUBJECT: OIDO-23-003  
U.S. Border Patrol, Yuma Soft-Sided Facility  
April 21, 2022

Attached is the Office of the Immigration Detention Ombudsman's (OIDO) updated draft report based on our observation of U.S. Customs and Border Protection (CBP) U.S. Border Patrol's (USBP) Soft-Sided Facility in Yuma, Arizona on April 21, 2022. OIDO observed the facility for compliance with the National Standards on Transport, Escort, Detention, and Search (TEDS) as well as USBP's *Personal Effects Internal Operating Procedures* memorandum.

The report contains two recommendations aimed at improving Yuma Soft-Sided Facility and its compliance with CBP standards and policies. Your office concurred with both recommendations provided herein. Based on the information provided in your response to the draft report, OIDO considers both recommendations resolved and open.

Consistent with our responsibility under the Homeland Security Act of 2002, Pub. L. 107-29, as amended, including section 405 (6 U.S.C. § 205), we will post the report on our website for public dissemination.

Attachment



**OIDO OBSERVATION  
OF  
YUMA SOFT-SIDED FACILITY**  
Yuma, Arizona

---

Pursuant to its statutory responsibilities, the Department of Homeland Security (DHS) Office of the Immigration Detention Ombudsman (OIDO) Detention Oversight (DO) Division conducted an announced observation of the Yuma Soft-Sided Facility (YSS) in Yuma, Arizona on April 21, 2022. OIDO's review focused on the issue of detainee personal property. Specifically, OIDO reviewed YSS's processes for handling, storing, securing, and searching detainee property for compliance with U.S. Customs and Border Protection's (CBP) *National Standards on Transport, Escort, Detention, and Search* (TEDS) as well as U.S. Border Patrol's *Personal Effects Internal Operating Procedures* memorandum.

OIDO found that the facility had discarded large amounts of detainee personal property. OIDO made two recommendations designed to improve operations at the facility and meet CBP detention standards and policies. CBP concurred with both recommendations.

## Table of Contents

|  |   |
|--|---|
| Introduction.....                              | 3 |
| Background.....                                | 3 |
| Results of Observation.....                    | 4 |
| Recommendations.....                           | 6 |
| Response from Component and OIDO Analysis..... | 7 |

## Appendices

|                                     |   |
|-------------------------------------|---|
| Appendix A: Component Response..... | 8 |
|-------------------------------------|---|

## Introduction

Pursuant to its statutory responsibilities, the Department of Homeland Security (DHS) Office of the Immigration Detention Ombudsman (OIDO) Detention Oversight (DO) Division conducts independent, objective, and credible inspections of U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) facilities throughout the United States. OIDO often completes follow-up assessments to determine whether a facility has taken corrective action to resolve violations or concerns identified during a prior inspection. OIDO also reviews, examines, and makes recommendations to address concerns with or violations of contract terms and internal policies regarding immigration detention facilities and services.

Prompted by information shared by detainees during OIDO's inspection of U.S. Border Patrol (USBP) facilities in the Tucson Sector, Arizona, in April 2022, OIDO conducted an observation of Yuma Soft-Sided Facility (YSS) to review its processes for handling, storing, securing, and searching detainee property.

## Background

Section 7.1 of the TEDS standards states that CBP will safeguard detainees' personal property unless it is deemed contraband or a health hazard. DHS's Office of Inspector General (OIG) previously reported on property disposal and storage concerns in its Capping Report 20-38: *CBP Struggled to Provide Adequate Detention Conditions During 2019 Migrant Surge*.<sup>1</sup> At the time of its inspection, OIG observed that practices for processing property varied by station and, at some locations, USBP agents were indiscriminately discarding detainee property. OIG issued a recommendation to CBP to implement consistent national guidance regarding the handling of detainee personal property.

As a result of OIG's recommendation, USBP issued an Internal Operating Procedure (IOP) for Personal Property.<sup>2</sup> The primary purpose of the IOP was to establish procedures to safeguard personal effects discovered during apprehension or processing; to establish guidelines identifying any item that cannot be stored within USBP facilities due to it being classified as contraband or a health hazard; and to clarify any previously issued guidance or directive for personal effects handling. The IOP went into effect on April 15, 2021.

Despite the national Personal Effects IOP, OIDO has received complaints related to the involuntary disposal of property. These complaints were received from multiple detainees. For example, during OIDO's announced inspections of four USBP facilities in the Tucson Sector in April 2022, OIDO received numerous reports that the Yuma Soft Sided Facility (YSS) required detainees to discard any property that did not fit in a CBP evidence bag.<sup>3</sup>

As a result of these complaints, OIDO visited YSS on April 21, 2022, initially to review video

---

<sup>1</sup> The full OIG report is available here: <https://www.oig.dhs.gov/sites/default/files/assets/2020-06/OIG-20-38-Jun20.pdf>.

<sup>2</sup> Scott, R. (April 22, 2021) *Personal Effects Internal Operating Procedures* [Memorandum]. United States Border Patrol.

<sup>3</sup> CBP utilizes evidence bags in the following sizes (in inches): Extra Large: 36x21; Large: 26x16; and Small: 13x9.

footage of the facility’s procedures for processing detainee property. Because the facility did not have footage of the intake area where detainee property was processed, OIDO observed operational conditions that existed on that day. OIDO reviewed YSS’s processes for handling, storing, securing, and searching detainee property. Specifically, OIDO considered the facility’s compliance with CBP’s National Standards on Transport, Escort, Detention, and Search (TEDS) as well as USBP’s *Personal Effects Internal Operating Procedures* memorandum. OIDO did not conduct interviews of detained individuals while onsite at YSS.

## Results of Observation

Section 7.1 of TEDS requires personal property discovered during apprehension or processing and not deemed to be contraband to be safeguarded, itemized, and documented. Whenever operationally feasible, officers and agents will transfer a detainee’s personal property with the detainee when the detainee is transferred within CBP. Officers and agents will make every effort to transfer a detainee’s personal property with the detainee when the detainee is transferred to another agency, repatriated, and/or released. If the property cannot be transferred with the detainee, CBP will generally hold the property for a minimum of 30 days from the date of processing of a detainee.

In addition to TEDS requirements, USBP’s Personal Effects IOP outlines further procedures for managing personal effects of individuals at the point of apprehension or processing until the items are seized or the individual is detained, transferred, or returned to the detainee upon release or removal.<sup>4</sup> Section 6.1 of the IOP states that all personal effects taken during law enforcement action are to be safeguarded, itemized, and documented unless they are classified as contraband or a health hazard.<sup>5</sup> While the IOP defines and provides some limited examples of what may be classified as contraband or a health hazard, section 6.2.3 also suggests that “items deemed a health hazard may vary from station to station based on storage capabilities and designs. Local office procedures and policies may provide additional guidance as to which items are categorized as a health hazard.”

Regardless of how each local office defines its policies for classifying contraband or health hazards, section 6.3.1 of the IOP states, “[a]ll subjects are notified if personal effects are classified as contraband or a health hazard and are not permitted to be taken into USBP facilities. Proper notification protocols are determined by the local office and must be done visually through signage ... or in writing (no verbal notifications).” Upon notification, if the detainee refuses to dispose of items willingly and voluntarily, local procedures and protocols are to be followed to ensure prompt identification and abatement per the CBP Occupational Safety & Health Handbook (HB 5200-08B). The IOP describes that, “[i]n general, detainees must

---

<sup>4</sup> OIDO notes that the directives are limited to personal effects that enter a USBP facility.

<sup>5</sup> Section 6.2.1 of the IOP defines contraband as: “any item that may have the capability to cause harm to Border Patrol Agents (BPAs), contractors, or other detainees if left in the possession of the subject or held in their property. Items typically considered contraband include, but are not limited to weapons, knives, pens, pencils, sharp objects, toothbrushes, combs, lighters, metal objects (even if embedded in toys or shoes), medication of unknown origin, or any item that may puncture a plastic bag.” Section 6.2.2 of the IOP further defines a health hazard, a subclass of contraband, as: “personal property which, if stored within USBP facilities for any length of time, may pose a risk to detainees, contractors, or employees.”

willingly and voluntarily dispose of items unfit for storage.”<sup>6</sup> OIDO notes that the Personal Effects IOP does not reference COVID-19, though USBP issued the memorandum a year after the start of the pandemic.

On April 13, 2022, prior to OIDO’s observation of YSS, OIDO interviewed four detainees who had recently transferred to the Tucson Soft-Sided Facility from YSS. These detainees informed OIDO that USBP agents at YSS had instructed them to throw away most of their property, except for personal items such as cellphones, valuables, life-saving medications, important documents, and U.S. currency. One detainee reported that they were told to fit everything they wanted inside a small plastic CBP bag. During its visit to YSS, OIDO observed the facility’s intake area, which had tables for agents to conduct property inspection and 13 large plastic bins on rollers for detainees to discard property. OIDO observed that large quantities of detainee personal property had been disposed, such as clothes, backpacks, non-U.S. medications, coins, religious figurines, and shoes (*See Exhibit 1*).



**Exhibit 1. Discarded detainee property in red and black bins at the Yuma Soft-Sided Facility as observed by OIDO on April 21, 2022.**

*Source: OIDO*

OIDO also observed a pile of clothes and shoes located along a chain link fence in the intake area. Some of the clothes were in new condition, clean, and/or still wrapped in plastic retailer bags. Finally, OIDO observed discarded non-U.S. medications in retailer bubble packs or bottles.<sup>7</sup> The items discarded did not appear to follow a consistent pattern of classification.

The acting Watch Commander (aWC) at YSS reported that USBP agents at the facility instructed detainees during intake to place their property into an evidence bag, which would travel with them while they were in CBP custody. Any property that did not fit in the bag would be left at YSS Central Processing Center (CPC) for a period of 30 days unless the detainee returned to

<sup>6</sup> See, Personal Effects IOP, Sections 6.4.1 and 6.4.2.

<sup>7</sup> Medications included pain relievers, steroids, and treatments for gastrointestinal-related conditions, among others.

claim it. If the detainee did not return, the property would be discarded. The aWC further indicated that USBP agents told detainees that if they did not plan to return to Yuma CPC, they should discard the property. The aWC told OIDO that although detainees were given this opportunity to store property, the majority chose to discard it.

OIDO found that the facility had a room designated for storing detainee property. The property room consisted of a large indoor space with several rows of metal shelving and red, yellow, and green plastic bins (*See Exhibit 2*). Each detainee's property was contained within a CBP evidence bag. OIDO did not observe any property in the storage room that was not inside a clear plastic evidence bag.



**Exhibit 2. The property room at Yuma Soft-Sided Facility as observed by OIDO on April 21, 2022. Rows of metal shelves had red, yellow, and green bins with detainee property stored in plastic CBP evidence bags.**

*Source:* OIDO

The Executive Officer (XO) of Yuma Sector told OIDO that some detainees arrived at the facility with wet clothes and personal property because they had recently crossed the river. Therefore, the facility could not store the detainees' property because the wet clothes could become moldy, or they could carry Coronavirus disease 2019 (COVID-19) or scabies. The XO did not provide information regarding what percentage of detainees at the facility arrived with wet clothes and/or were apprehended after crossing a river. However, USBP reported in its technical comments that a recent analysis of Yuma Station's arrests (Fiscal year 2022 through May 10, 2022) showed that 91 percent of this year's arrests have occurred in border zones along the Colorado River. Further, in a follow-up meeting on June 23, 2022, a USBP Deputy Chief Patrol Agent indicated that he made the call to label property as contraband in January. He further indicated that USBP has lost a number of agents to COVID-19, and he believes that the handling of property may have contributed to their deaths.

## Recommendations

Based upon its observations, OIDO recommends the following:

**Recommendation 1:** USBP should evaluate whether COVID-19 conditions pose a risk to detainees, contractors, or employees and support classifying all property as contraband or a health hazard.

**Recommendation 2:** USBP should evaluate whether local office procedures and policies should be implemented to clarify agent and officer determinations related to classifying property as a health hazard.

## **Response from Component and OIDO Analysis**

CBP officials concurred with two recommendations and identified corrective actions to address the issues raised in OIDO's observation. OIDO considers both recommendations resolved and open. OIDO also received technical comments to the draft report and revised as appropriate. Below is a summary of CBP's response and OIDO's analysis thereof.

**Component Response to Recommendation 1:** Concerning the evaluation of COVID-19 conditions and the labeling of property as contraband, CBP concurred. CBP indicated that OCMO will coordinate internally with Occupational Safety and Health (OSH), USBP and Office of Field Operations (OFO) to evaluate whether COVID-19 conditions pose a risk to detainees, contractors, or employees and support labeling property as contraband or a health hazard and to update policies, as necessary.

**OIDO Analysis:** OIDO finds the proposed actions responsive to the recommendation and considers the matter resolved and open. We will close this recommendation when CBP submits documentation showing efforts to evaluate and update policies, as needed.

**Component Response to Recommendation 2:** Concerning the evaluation of whether local policies should be implemented to clarify detainee property labeling, CBP concurred. CBP indicated that OCMO will coordinate with OSH, USBP, and OFO to review current CBP procedures to determine if additional guidance is needed to clarify officer and agent determinations related to labeling property as a health hazard and update local office procedures and policies, as necessary.

**OIDO Analysis:** OIDO finds the proposed actions responsive to the recommendation and considers the matter resolved and open. We will close this recommendation when CBP submits documentation showing efforts to evaluate and update policies, as needed.

## Appendix A: Component Response

1300 Pennsylvania Avenue, NW  
Washington, DC 20229



**U.S. Customs and  
Border Protection**

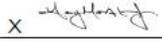
October 5, 2022

MEMORANDUM FOR: David Gersten.  
(A) Immigration Detention Ombudsman  
Department of Homeland Security

FROM: Henry A. Moak, Jr.  
Senior Component Accountable Official  
U.S. Customs and Border Protection

SUBJECT: Management Response to Draft Report: U.S. Border Patrol Yuma  
Soft-Sided Facility (OIDO Case No. 22-001045)

10/05/2022

X   
Signed by: HENRY A. MOAK, JR.

Thank you for the opportunity to comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the work of the Office of Immigration Detention Ombudsman (OIDO) in planning and conducting its review and issuing this report.

CBP takes its role in providing care and ensuring the health, safety, security, and welfare of each adult and child in its custody very seriously. Within CBP, U.S. Border Patrol (USBP) personnel at sectors and stations employ various mechanisms, at multiple levels, to monitor and provide appropriate care of individuals in short-term custody and help ensure that personnel are adhering to the October 2015 National Standards on Transportation, Escort, Detention, and Search (TEDS). In addition, the CBP Office of the Chief Medical Officer (OCMO) conducts ongoing evaluations of field level medical support efforts with appropriate stakeholders to ensure compliance with TEDS and the December 2019, CBP Enhanced Medical Directive.

In addition, USBP remains committed to adhering to CBP policies regarding detainee personal property to ensure the safeguarding of detainee personal property, while properly identifying items that would be considered contraband or could pose a health hazard to government employees, contractors, and detainees.

The draft report contained two recommendations, with which CBP concurs. CBP previously provided technical comments addressing accuracy, contextual, and other issues under separate cover for OIDO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment

**Attachment: Management Response to Recommendations  
Contained in U.S. Border Patrol Yuma Soft-Sided Facility  
(OIDO Case No. 22-001045)**

OIDO recommended:

**Recommendation 1:** USBP should evaluate whether COVID-19 conditions pose a risk to detainees, contractors, or employees and support labeling property as contraband or a health hazard.

**Response:** Concur. CBP's OCMO will coordinate internally with Occupational Safety and Health (OSH), USBP and Office of Field Operations (OFO) to evaluate whether COVID-19 conditions pose a risk to detainees, contractors, or employees and support labeling property as contraband or health hazard. After the evaluation is complete, OCMO will update policies, as necessary. Estimated Completion Date (ECD): January 31, 2023.

**Recommendation 2:** USBP should evaluate whether local office procedures and policies should be implemented to clarify agent and officer determinations related to labeling property as a health hazard.

**Response:** Concur. OCMO will coordinate with OSH, USBP and OFO to review current CBP procedures outlined in TEDS, USBP's April 2021 "Internal Operating Procedure on Personal Effects," and CBP's Directive 3340-030B, August 2008 "Secure Detention, Transport and Escort Procedures at Ports of Entry" to determine if additional guidance such as local office procedures and policies are needed to provide further clarity. Specifically, OCMO, OSH, USBP and OFO will collaborate to see if local station and port procedures and policies are necessary to clarify agent and officer determinations related to labeling property as a health hazard. After the evaluation is complete, OCMO will collaborate with OSH, USBP and OFO, as necessary, to update local office procedures and policies. ECD: January 31, 2023.

## **Additional Information and Copies**

To view any of our other reports,  
please visit:  
[www.dhs.gov/OIDO](http://www.dhs.gov/OIDO).

For further information or questions, please contact the Office  
of the Immigration Detention Ombudsman at:  
[detentionombudsman@hq.dhs.gov](mailto:detentionombudsman@hq.dhs.gov).

