



# Short Term Detention

*January 11, 2023*

Fiscal Year 2023 Report to Congress



**Homeland  
Security**

*U.S. Customs and Border Protection*

# Message from the Acting Deputy Commissioner of CBP

January 11, 2024

I am pleased to submit the following report, “Short Term Detention,” which was prepared by U.S. Customs and Border Protection (CBP).

This report was compiled pursuant to direction set forth in the Joint Explanatory Statement which accompanies the Fiscal Year 2023 Department of Homeland Security Appropriations Act (P.L. 117-328).

The report provides details on infrastructure changes, training protocols, and other investments made or planned to ensure the safe, humane, and orderly processing and holding of single adults, families, and unaccompanied children in CBP custody. The report is in compliance with the CBP National Standards on Transport, Escort, Detention, and Search (TEDS) and related policies, as well as the Flores Settlement Agreement. It also describes CBP’s efforts to improve stakeholder monitoring and access policies at CBP facilities.



Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable David Joyce  
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Henry Cuellar  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Chris Murphy  
Chair, Senate Appropriations Subcommittee on Homeland Security

The Honorable Katie Britt  
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I would be pleased to respond to any questions. Please do not hesitate to contact my office at (202) 344-2001.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Flores".

Pete R. Flores  
Acting Deputy Commissioner  
U.S. Customs and Border Protection

# Executive Summary

This report includes the types of short-term detention facilities in use, the average times in custody from October 1, 2022 through June 28, 2023, and CBP's compliance with the requirements of the Flores Settlement Agreement, TEDS, and other related policies. CBP statistical data is based on fiscal year to June 28, 2023.



# Short Term Detention

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# I. Legislative Language

This document was compiled pursuant to direction set forth in the Joint Explanatory Statement that accompanies the Fiscal Year (FY) 2023 Department of Homeland Security (DHS) Appropriations Act (P.L. 117-328).

The Joint Explanatory Statement states:

In addition to direction in House Report 117–396, the Commissioner shall provide a report to the Committees, within 90 days of the date of enactment of this Act, on infrastructure changes, training protocols, and other investments made or planned to ensure the safe, humane, and orderly processing of single adults, families, and unaccompanied children in CBP custody, in compliance with the CBP National Standards on Transport, Escort, Detention, and Search as well as the Flores Settlement. The report shall also describe CBP efforts to improve stakeholder monitoring and access policies at CBP facilities. These directives should not be construed to interfere with the rights obtained, or obligations owed, under any federal consent decree.

## II. Background

The safety of U.S. Customs and Border Protection (CBP) employees, individuals in CBP custody, and the public is the top priority during all aspects of CBP operations. CBP's National Standards on Transport, Escort, Detention, and Search (TEDS) provides that individuals in CBP custody "[s]hould generally not be held for longer than 72 hours in CBP hold rooms or holding facilities. Every effort must be made to hold detainees for the least amount of time required for their processing, transfer, release, or repatriation as appropriate and as operationally feasible." TEDS also provides custodial standards for CBP facilities. In accordance with the requirements of the Flores Settlement Agreement, all juveniles in custody are held in safe and sanitary conditions, with access to appropriate food, drinking water, emergency medical care, adequate temperature control and ventilation, and adequate supervision to protect the minor.

Additionally, it is CBP's policy that at-risk or medically fragile individuals, including, but not limited to, individuals with a chronic illness; infants or elderly; minors with an acute injury, medical or mental health condition; pregnant women or postpartum mothers with complications; and individuals with a disabling mental disorder should be expeditiously processed to minimize the length of time in CBP custody. While such individuals are in CBP custody, it is imperative to ensure timely medical assessments, recurring wellness checks, and follow up assessments by medical providers are conducted pursuant to CBP policies and documented via appropriate systems. CBP considers the impact of custodial conditions, including the length of time-in-custody, the number of individuals in custody, and medical issues for individuals in its custody, when determining the appropriate processing pathways for individuals. In making these decisions, particular consideration shall be given to whether individuals have been or are likely to be in custody for more than 72 hours or the facility is over capacity. All unaccompanied children who are determined to be ineligible to withdraw their application for admission, will be transferred to the Department of Health and Human Services, as required under the law and CBP policies. Moreover, U.S. Border Patrol (USBP) sectors and Office of Field Operations (OFO) field offices are reminded to ensure all current laws and policies are followed, including requirements with respect to family unit separation and family group unity. Finally, it is critical that all monitoring systems in holding facilities used for at-risk individuals, such as closed-circuit television and incident driven video recording systems, are both fully functioning and used appropriately to enhance transparency and documentation of events.

### III. Data Report

#### A. Permanent Short-Term Detention Facilities

Permanent short-term detention facilities are structures that have permanent infrastructure and utilities. They are traditionally the most frequently used and the easiest to secure due to their hardened nature and robust locking mechanisms. Personnel assigned are both uniformed and/or contracted staff. Contracted medical staff are available at these detention facilities. Medical staff completes initial assessments upon intake into the facility and assesses when a higher level of care is needed. Hold rooms in these facilities have been equipped with monitoring equipment and are supervised in a regular and frequent manner. CBP tracks and logs movements and actions relating to a subject’s detention, which include hold room checks, welfare checks, at-risk checks, use of telephone, and provision of hygiene items, showers, medication, bedding, meals, and snacks, in the e3 system of record.

CBP tracks the length of time inadmissible applicants for admission are being processed and detained prior to the transfer, repatriation/release, and parole of the individual. It should be noted that CBP rigorously follows all requirements applicable to CBP short-term detention facilities. In addition to the mandatory annual Flores Settlement Agreement training USBP has recently instituted mandatory annual training on TEDS using the ACADIS platform (USBP Virtual Training).

#### B. Temporary Short-Term Detention Facilities

Temporary short-term detention facilities are structures that do not have permanent infrastructure and utilities. They are often referred to as soft-sided facilities and were erected to enhance the capacity of USBP short term detention and manage the unprecedented volume of undocumented migrant encounters along the southwest border within the past two years. Personnel assigned are both uniformed and/or contracted staff. These detention facilities have contracted medical staff who complete initial assessments upon intake into the facility and assess when a higher level of care is needed. Hold rooms in these facilities have been equipped with monitoring equipment and are supervised in a regular and frequent manner. CBP tracks and logs custodial actions, which includes hold room checks, welfare checks, at-risk checks, use of telephone, and provision of hygiene items, showers, medication, bedding, meals, and snacks, in the e3 system of record. Temporary short-term facilities have a quick and stand-up timeline and can be placed in a “warm” status in order to remain flexible for large surge volumes. OFO does not maintain temporary short-term detention facilities.

This report covers FY 2023 to-date (October 1, 2022 to June 28, 2023)

Short Term- Detention Types*	Average Time in Custody (hours)
Permanent Detention	61.57
Temporary Detention	74.24

\*Note: average times in custody vary widely not because of the type of facility, but rather, based on their Immigration processing pathway.

## C. Flores Compliance (All Juveniles)

In accordance with the Flores Settlement Agreement, all juveniles must be held in short-term detention facilities that are safe and sanitary. Personnel are required to document access to drinking water, food, toilets, and appropriate hold room temperatures, and to document that the hold room is pest and vermin free. Hard copies will be created in the event the electronic record system is not available and will be uploaded into the system when it comes back online. CBP monitors and addresses any observed noncompliance with documentation requirements.

The following enhancements have been added to the Flores Settlement Agreement in El Paso and Rio Grande Valley Sectors:

Additional Guidance for El Paso and Rio Grande Valley.

- Provide age-appropriate meals/formula.
- Hold room temperatures recorded no less than twice per day.
- Minimize disruptions between the hours 10:00 p.m. and 6:00 a.m.
- Provide adequate supply of diapers and diaper wipes.
- Provide beanies for class members less than five years of age.
- Provide additional blankets upon request.
- Provide swaddling blankets for children under two years of age.
- Make reasonable effort to provide unaccompanied children with a daily phone call.
- Inform juveniles they have the right to self-refer for medical treatment
- All juveniles must receive an exit medical interview.

Additional requirement for Priority Juvenile facilities.

- Showers as soon as possible and every 48 hours after arrival.
- Make an effort to provide child appropriate furniture.
- Place clocks in visible locations.
- Provide infant changing table where space is available.
- Reasonable effort to provide a television in pods.
- Make an effort to available age-appropriate toys/activities.
- Provide unaccompanied children with at least one daily message of reassurance regarding their safety and orienting them to date, time, location, and general process/disposition/expectations.
- If juveniles remain in custody over 72 hours, provide supplemental health interview every 5 days.
- Conduct enhanced medical monitoring.



This chart covers FY 2023 (October 1, 2022 to September 30, 2023) for USBP:

<b>Subject Type</b>	<b>Average Time in Custody (hours)</b>
<b>All FY 2023</b>	<b>63.26</b>
<b>Family Unit FY 2023</b>	<b>56.75</b>
<b>Unaccompanied Children FY 2023</b>	<b>26.56</b>
<b>All Post-Title 42 – as of May 12, 2023</b>	<b>70.73</b>

This chart covers FY 2023 (October 1, 2022 to September 30, 2023) for OFO:

<b>Subject Type</b>	<b>Average Time in Custody (hours)</b>
<b>All FY 2023</b>	<b>4.49</b>
<b>Family Unit FY 2023</b>	<b>4.23</b>
<b>Unaccompanied Children FY 2023</b>	<b>16.15</b>
<b>All Post-Title 42 – as of May 12, 2023</b>	<b>4.86</b>

#### D. Stakeholder Monitoring and Policies at CBP Facilities

CBP actively manages the effectiveness of security technology at short-term detention and other high-risk migrant processing facilities. Access control, video surveillance, and personal surveillance procedures by CBP law enforcement, are required by security policy at all CBP short-term detention facilities.

## IV. Conclusion

CBP continues to maintain detention standards in accordance with applicable statutes, TEDS and related policies, and the Flores Settlement Agreement. At the same time, CBP is committed to the continual improvement of its processes and standards for short term detention.

## V. Appendix: List of Abbreviations

<b>Abbreviation</b>	<b>Definition</b>
FY	Fiscal Year
OFO	Office of Field Operation
TEDS	CBP National Standards on Transport, Escort, Detention, and Search, October 2015
USBP	U.S. Border Patrol