

**Congress of the United States**  
**Washington, DC 20515**

December 14, 2018

Mr. John Kelly  
Acting Inspector General  
Office of Inspector General/MAIL STOP 0305  
245 Murray Lane SW  
Washington, D.C. 20528-0305

Dear Mr. Kelly:

We write to express our profound concern and sadness over the death of a 7-year-old girl in Customs and Border Protection (CBP) custody last week. This death raises significant questions about the conditions in CBP's short-term holding facilities, and the general suitability of such facilities for families and children. We are also troubled by the fact that we learned of this incident from the *Washington Post*, rather than through congressional notification as required under Department of Homeland Security (DHS) appropriations laws. To address these and other concerns, we request that you open an investigation immediately.

According to information provided to Congress after the *Washington Post* report was already public, U.S. Border Patrol apprehended the 7-year-old girl around 10:00 pm on the evening of December 6, 2018. She was apprehended with a large group of migrants who turned themselves into Border Patrol custody. At 6:25 am the following morning, the 7-year-old girl began experiencing seizures and later died, according to an initial medical diagnosis obtained by CBP, of septic shock, fever, and dehydration. It is so far unclear whether the girl and accompanying migrants were provided any food or water during the 8.5 hour period in which she remained in Border Patrol custody.

Due to the seriousness of this tragedy and the many questions that remain, we request you initiate an investigation into this incident, as well as CBP policies or practices that may have contributed to the child's death. The investigation should focus on policies and practices designed to protect health and safety, as well as policies and practices that may result in increased migration through particularly harsh terrain. For example, your office issued a report in September describing the impact of CBP's policy of turning away asylum seekers.<sup>1</sup> That report concluded that the practice of turning away asylum seekers at international bridges and "limiting the volume of asylum-seekers entering at ports of entry" may have caused an increase

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<sup>1</sup> DHS Office of Inspector General, *Special Review – Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy* (Sep. 27, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf>.

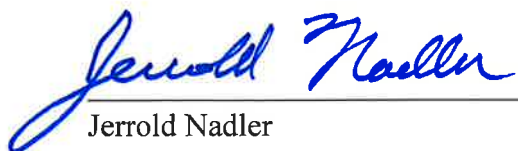
in unauthorized crossing attempts.<sup>2</sup> One asylum seeker interviewed by the OIG stated that “she had been turned away three times by an officer on the bridge before deciding to take her chances on illegal entry.”<sup>3</sup> These facts are particularly troubling considering clear instructions from DHS Secretary Nielsen that asylum seekers should present themselves at ports of entry, instead of crossing between the ports.<sup>4</sup>

The investigation should also examine the appropriateness of holding children in Border Patrol stations, which were never designed to hold children. On Tuesday, CBP Commissioner Kevin McAleenan appeared before the Senate Judiciary Committee, testifying that the agency’s short-term holding cells are “incompatible” with increased migration of family units and unaccompanied children. The Commissioner added that “[o]ur Border Patrol stations were built decades ago to handle mostly male single adults in custody, not families and children.”<sup>5</sup>

Finally, you should investigate CBP’s failure to timely notify Congress of this incident. It is hard to overstate our frustration with the fact that we learned of this incident through media reports one week after the incident occurred. It is clear that CBP failed to follow the reporting requirements laid out in last year’s omnibus appropriations bill until after the news of this death was already public. It is imperative that CBP, and DHS more generally, provide prompt notification to Congress when these types of incidents occur. DHS can and must do better.

Thank you for your prompt attention to this matter. We look forward to your timely response and notification that an investigation has been opened.

Sincerely,



Jerrold Nadler  
Ranking Member  
House Committee on the Judiciary



Zoe Lofgren  
Ranking Member  
Subcommittee on Immigration  
and Border Security

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<sup>2</sup> *Id.*, at 7.

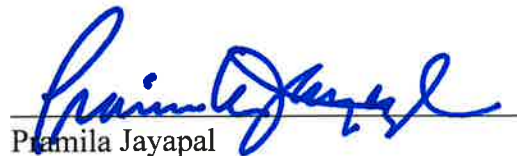
<sup>3</sup> *Id.*

<sup>4</sup> Neena Satija, *The Trump administration is not keeping its promises to asylum seekers who come to ports of entry*, Texas Tribune (July 5, 2018), available at <https://www.texastribune.org/2018/07/05/migrants-seeking-asylum-legally-ports-entry-turned-away-separated-fami/>.

<sup>5</sup> *Id.*



Joaquin Castro  
Chairman Elect  
Congressional Hispanic Caucus



Pramila Jayapal  
Member of Congress



Lucille Roybal-Allard  
Ranking Member  
House Appropriations Subcommittee  
on Homeland Security

CC: The Honorable Bob Goodlatte, Chairman, House Judiciary Committee  
The Honorable Kirstjen M. Nielsen, Secretary, U.S. Department of Homeland Security  
The Honorable Kevin K. McAleenan, Commissioner, U.S. Customs and Border  
Protection