

Congress of the United States
Washington, DC 20515

August 3, 2022

Chris Magnus
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229

Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street S.W.
Washington, D.C. 20536

Dear Commissioner Magnus and Acting Director Johnson,

We are writing today to request information on the standards, policies, and procedures that each migrant facility within the jurisdiction of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) has established relating to migrants' personal property. Migrants encountered by CBP at the border have recently reported instances of CBP agents confiscating and discarding their personal documents such as passports, birth certificates, and other confidential documents necessary for asylum cases, as well as religious items.¹ Ensuring that fair and consistent standards regarding migrant possessions are properly implemented is even more crucial as policies such as Migrant Protection Protocols and Title 42 have severely limited migrant's access to seek asylum.

As detailed under the 2015 CBP National Standards on Transport, Escort, Detention, and Search (TEDS) section §7.1, "operational offices are responsible for creating policies and procedures relating to the handling, retention, retrieval, and return of detainee personal property." The policy further states that "all detainees' personal property discovered during apprehension or processing and not deemed to be contraband will be safeguarded, itemized according to the operational office's policies and procedures, and documented in the appropriate electronic system(s) of record."² We are concerned that operational offices have not developed adequate policies and procedures or carried out appropriate oversight to properly implement these standards, leading to possessions being improperly retained or discarded by CBP.

Reports indicate that policies and levels of adherence have varied across facilities and implementation of the policy has not led to possessions being returned at a higher rate than before the guidelines were implemented.³ It is important to have uniform standards and

¹ [The Things They Carried: Is the Border Patrol discarding asylum seekers' documents? \(theborderchronicle.com\)](https://www.theborderchronicle.com)

² [National Standards on Transport, Escort, Detention, and Search \(cbp.gov\)](https://www.cbp.gov)

³ [Deported with No Possessions | American Immigration Council](https://www.americanimmigrationcouncil.org)

interagency communication across facilities so individuals may retrieve their possessions, including important personal documents, even if they are transferred from the custody of one agency to another, including CBP, ICE, the U.S. Marshals Service, the Bureau of Prisons, and private prison corporations.

As detailed under the 2019 ICE National Detention Standards, §2.4.1, “all facilities will provide for the control and safeguarding of detainees’ personal property.” The policy also stipulates that this should include “the secure storage of funds, valuables, baggage, and other personal property.” Furthermore, “each facility shall have a written procedure for returning funds, valuables, and personal property to a detainee being transferred or released” and that “U.S. and foreign currency will be returned to the detainee as cash, when possible.”⁴ Facilities must comply with national detention standards to ensure that detainees’ property is kept safe, and that they are able to easily retrieve their belongings. Similarly, the 2011 Performance-Based National Detention Standards (PBNDS) revised in 2016 state that all detention facilities must have policies to “account for and safeguard detainee property from time of admission until date of release.” Additionally, policies must be set to “return funds, valuables and personal property to detainees being transferred or released” and “provide for a detainee to report missing or damaged property.”⁵ Yet it appears that these standards have not been properly implemented as a report by the Government Accountability Office from August 2020 details that from 2017-2019 the ICE Detention Reporting Information Line (DRIL) received over 1,100 complaints related to detainee property and it is unclear whether these complaints were investigated.⁶

In the past, there have been numerous reports of migrants having been deported without their personal belongings, including their personal identification, sensitive documents, family pictures, and cash.⁷ These individuals are often stranded in unfamiliar border towns with little hope of having their belongings returned. Without their belongings, individuals face difficulty contacting loved ones and can become targets of violence. The loss of identification documents and inability to access funds can make it nearly impossible for them to return to their home cities; if they are able to return home, they face hardship in finding work as they are unable to prove their identity.⁸

Given the serious and sensitive nature of these personal belongings and documents, we request that your agencies answer, the following questions regarding the specific standards, policies and procedures facilities under your jurisdiction are establishing and implementing and how oversight is conducted to ensure compliance with standards:

U.S. Customs and Border Protection:

1. According to TEDS §7.1, “whenever operationally feasible, officers/agents will transfer a detainee’s personal property with the detainee when the detainee is transferred within CBP.” When is this transfer not operationally feasible?

⁴ [2019 National Detention Standards for Non-Dedicated Facilities | ICE](#)

⁵ [PBNDS 2011, Rev. 2016 \(ice.gov\)](#)

⁶ [GAO-20-596, IMMIGRATION DETENTION: ICE Should Enhance Its Use of Facility Oversight Data and Management of Detainee Complaints](#)

⁷ [Report: Migrants often deported without cash, IDs or belongings \(tucsonsentinel.com\)](#)

⁸ [When Immigrants Are Deported Without Their Belongings or IDs, They Are Placed in Even Greater Danger \(immigrationimpact.com\)](#)

2. According to TEDS §7.1 personal property will be “documented in the appropriate electronic system(s) of record.” What specific electronic systems are used in facilities?
3. Are reports that border patrol agents have told migrants to leave their confidential documents necessary to seek asylum behind and have dumped them along the border being investigated? If not, will you investigate and ensure that those agents are held accountable?
4. What policies have been adopted to ensure that detainees are able to retain access to religious property while in custody?
5. When item is confiscated by CBP, how long is it held for and what is the process to recover?

U.S. Immigration and Customs Enforcement:

1. How long is property held in ICE facilities and what policies are in place to ensure that migrants may recover their property if they are deported without it?
2. According to the NDS §2.4.1 and similarly noted in PBNDS §2.5 “Identity documents, such as passports, birth certificates, etc., shall be copied for the detention file, and the original forwarded to ICE/ERO. Upon request, facility staff will provide the detainee with a copy of the document.” Do individuals in your facilities have the right to obtain the original(s) of any document(s) they provide and if not, please explain the reasoning.
3. According to the NDS §2.4.1 and similarly written in PBNDS §2.5 “The facility may make shipping arrangements for the excess personal property of detainees requiring such assistance. In all cases, detainees shall be provided written notice prior to the destruction of their property.” Do facilities under your jurisdiction provide this notice in the detainee’s first language?
4. According to PBNDS §2.5 “at minimum all facilities shall provide: 1. A secured locker for holding large valuables, which can be accessed only by designated supervisor(s) and or property officer(s) and 2. A baggage and property storage area that is secured when not attended by assigned processing staff.” What policies have been implemented to ensure that all detainees are able to place belongings in these lockers and storage areas and what consequences exist for failure to provide these storage facilities?
5. According to PBNDS §2.5 and NDS §5.3 detainees are permitted to keep religious items in their possession while in detention and in any case of denial, reasoning for denial of access to religious items shall be documented. What factors would constitute the denial of religious items?

U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement:

1. What specific policies have facilities adopted to ensure the timely return of belongings to those detained is applied consistently and that belongings are not destroyed when individuals are detained, including for longer than 30 days?
2. What policies have been adopted and implemented to ensure that sensitive documents such as birth certificates and government issues-voting cards are not destroyed regardless of the elapsed time since they were seized?
3. What policies have been adopted to ensure coordination between ICE and CBP in reference to the belongings of individuals who have been detained and transferred? How have these policies been implemented?
4. With respect to the belongings of those who are detained and transferred, what policies are in place to ensure coordination between different agencies and those under the

jurisdictions of the U.S. Marshall Service, Bureau of Prisons, private prison corporations, and those run by private contractors and that belongings are not destroyed within 30 days of initial confiscation? How are those policies implemented?

6. In instances where cash is seized, what procedures have your facilities adopted to ensure it is returned to them in the same form as was received? Please provide an explanation when cash return would not be possible.
7. What policies have been put in place to ensure that data related to migrant possessions is tracked for further transparency and accountability? Are the facilities able to publicly release a quarterly report of property that is retrieved, retained, lost, or discarded?
8. What policies have been put in place to ensure compliance with NDS, PBNDS, or TEDS standards?

Thank you for your attention to this matter and for taking these recommendations into consideration. It is crucial that we prioritize the well-being and safety of all asylum seekers and migrants. We must ensure that all those who have been detained are treated fairly and with dignity and that their personal belongings are safeguarded.

Sincerely,

Raúl M. Grijalva

Member of Congress

Raúl M. Grijalva

Member of Congress



Juan Vargas

Member of Congress



Alan Lowenthal

Member of Congress



Eleanor Holmes Norton

Member of Congress



Carolyn B. Maloney

Member of Congress



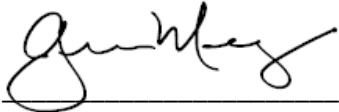
Bonnie Watson Coleman

Member of Congress



Adriano Espaillat

Member of Congress



Grace Meng

Member of Congress



Mike Quigley

Member of Congress



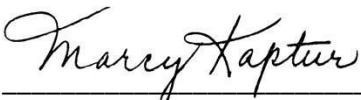
Jamaal Bowman, Ed. D.

Member of Congress



Mark Takano

Member of Congress



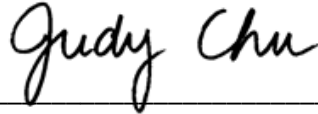
Marcy Kaptur

Member of Congress



James P. McGovern

Member of Congress



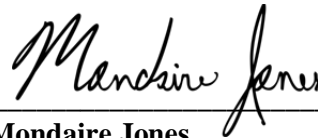
Judy Chu

Member of Congress



Ilhan Omar

Member of Congress



Mondaire Jones

Member of Congress



Albio Sires

Member of Congress



Tony Cárdenas

Member of Congress

Grace Napolitano

Member of Congress

Nanette Diaz Barragan

Nanette Diaz Barragan

Member of Congress

Jesús G. García

Jesús G. "Chuy" García

Member of Congress

Sara Jacobs

Member of Congress

JOAQUIN CASTRO

Joaquin Castro

Member of Congress