

**U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

CBP DIRECTIVE NO. 2210-003

DATE: 28 January 2019

**ORIGINATING OFFICE: OC
SUPERSEDES: N/A
DATE: N/A**

CBP Interim Enhanced Medical Efforts (January 2019)

1. **PURPOSE.** This directive directs U.S. Customs and Border Protection (CBP)'s deployment of interim enhanced medical efforts to mitigate risk to, and improve care for, individuals in CBP custody along the Southwest Border (SWB) as a result of surges in Unaccompanied Alien Children (UAC) and Family Unit Aliens (FMUA). This Directive shall be executed in compliance with all applicable statutes, regulations, or Department of Homeland Security (DHS) policies regarding medical care for those in CBP custody. This interim Directive will be followed until such time as a permanent CBP Medical Policy is completed, reviewed, approved and is able to be implemented.
2. **SCOPE.** This Directive applies to U.S. Border Patrol (USBP) and Office of Field Operations (OFO) until such time as a permanent CBP Medical Policy is completed, reviewed by appropriate oversight bodies, and able to be implemented.
3. **POLICY.** To address growing public health concerns stemming from the increase in UAC and FMUA encountered and in CBP custody along the SWB, CBP will enhance its protection of individuals in its custody, with a special emphasis on juvenile (under the age of 18) aliens, through this Directive. The procedures set forth in this Directive incorporate guidance from the DHS Chief Medical Officer (CMO), CBP Senior Medical Advisor (SMA), CBP Office of Chief Counsel (OCC) and CBP Privacy and Diversity Office (PDO).¹ Specific implementation details of this Directive shall be determined by the operational components, as identified in the "Procedures" section below.
4. **AUTHORITIES.**
 - 4.1 6 U.S.C. 321e(c) (3)-(5)
 - 4.2 Delegation of to the Assistant Secretary for the Countering Weapons of Mass Destruction Office, DHS Delegation25000 (May 21, 2018).²
 - 4.3 *Countering Weapons of Mass Destruction Act of 2018*, Pub. Law No. 115-387 (Dec. 12, 2018).

¹ Please reference DHS CMO correspondence to CBP Operational Support 3 January 2019.

² <http://dhsconnect.dhs.gov/Policy/delegations>

- 4.4 Delegation of Authority to the Commissioner of U.S. Customs and Border Protection, DHS Delegation 7010.3 (May 11, 2006).³

5. DEFINITIONS.

- 5.1 Alien – A person not a citizen or national of the United States.⁴
- 5.2 CBP EMS Personnel – An employee of U.S. Customs and Border Protection (CBP) who is an Emergency Medical Technician (EMT) or Paramedic, who has received certification from the National Registry of Emergency Medical Technicians (NREMT), and has completed the Department of Homeland Security (DHS) Emergency Medical Services (EMS) provider credentialing process with their CBP component office and the DHS Office of Countering Weapons of Mass Destruction (CWMD).
- 5.3 Employee – All permanent and temporary CBP employees.
- 5.4 Exigent Circumstances – Any set of temporary and unforeseen circumstances that requires immediate action in order to combat a threat to the security or institutional order of a facility, or a threat to the safety or security of any person.
- 5.5 Fair Information Practice Principles (FIPPs) – The policy framework adopted by DHS in directive 047-01, “Privacy Policy and Compliance,” regarding the collection, use, maintenance, disclosure, deletion, or destruction of PII.
- 5.6 Health Interview – Standardized medical questionnaire for aliens in CBP custody completed by CBP employees, Federal, State or Local government employees assigned to work with CBP, and contracted personnel.
- 5.7 Medical Assessment – An evaluation of an individual, which shall include but not be limited to a full set of vital signs – including temperature check – and review of any positive replies from a health interview, conducted by a medical practitioner.
- 5.8 Medical Practitioner - A health professional who, by virtue of education, credentials and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice.
- 5.9 Personally Identifiable Information (PII) – Any information that permits the identity of an individual to be directly or indirectly inferred, including other information that is linked or linkable to an individual. Sensitive PII, including medical information, is PII which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual.

³ <http://dhsconnect.dhs.gov/Policy/delegations>

⁴ 8 USC 1101(a)(3)

- 5.10 Privacy Compliance Documentation – Any document required by statute or by the Chief Privacy Officer that supports compliance with DHS privacy policy, procedures, or requirements, including but not limited to Privacy Threshold Analyses (PTA), Privacy Impact Assessments (PIA), System of Records Notices (SORN), Notices of Proposed Rulemaking for Exemption from certain aspects of the Privacy Act (NPRM), and Final Rules for Exemption from certain aspects of the Privacy Act.

6. RESPONSIBILITIES.

- 6.1 U.S. Border Patrol is responsible for executing the provisions detailed in the “Procedures” section.
- 6.2 Office of Field Operations is responsible for executing the provisions detailed in the “Procedures” section.
- 6.3 The relevant operational components, supported by CBP’s Office of Enterprise Services, will ensure that all contractual needs for implementation of this Directive are met, contingent upon the availability of appropriations and budgetary resources.
- 6.4 The CBP Policy Directorate will:
- 6.4.1 Develop, in coordination with USBP, OFO, DHS CMO, CBP SMA, and other CBP components, a long-term CBP-wide medical directive, which will supersede this interim Directive upon completion; and,
 - 6.4.2 Coordinate with CBP Program Offices on any questions that may arise about the implementation of this Directive.
- 6.5 The CBP Executive Director for the Privacy and Diversity Office will:
- 6.5.1 Review the standardized health interview medical questionnaire to ensure CBP is collecting the least amount of PII necessary to meet operational needs consistent with the FIPPs;
 - 6.5.2 Within 60 days of the ratification of this policy, in coordination with USBP and OFO, review the implementation plans of each in order to ensure they are in accordance with this Directive and other CBP and DHS guidance, including the storage of the paper and electronic records associated with this information collection;
 - 6.5.3 Ensure appropriate collection, storage, maintenance, and dissemination of PII collected pursuant to this Directive. This is consistent with Agency and Departmental policies and guidance;

- 6.5.4 Review all personnel services contracts for CBP contracted Physicians Assistants (PAs), Family Nurse Practitioners (FNPs), or Federal, State and Local credentialed healthcare providers consistent with existing policy and best practices; and,
- 6.5.5 Monitor compliance with this and existing policy, consistent with existing best practices.
- 6.6 The CBP Office of Chief Counsel will:
 - 6.6.1 Review documents created pursuant to this directive for legal sufficiency, and provide legal and ethics advice and guidance during the development and implementation of subsequent policies and procedures.
- 6.7 The CBP Senior Medical Advisor will:
 - 6.7.1 Provide advice on the implementation of this interim directive in accordance with DHS CMO medical guidance; and,
 - 6.7.2 Coordinate any changes in medical guidance, priorities, or guidelines between the DHS CMO, other Federal, State or Local agencies, and CBP.
- 6.8 The Chief of the U.S. Border Patrol and the Executive Assistant Commissioner of OFO, or their designees will:
 - 6.8.1 Ensure the execution of their respective component's interim Implementation Plan;
 - 6.8.2 Coordinate with CBP OCC to ensure legal sufficiency in the execution of this interim Directive;
 - 6.8.3 Coordinate with other Federal, State, or Local agencies and medical health providers deployed to support the care for UAC and FMUA in CBP custody, as appropriate; and,
 - 6.8.4 Facilitate requests for information, demonstrations, site visits, and documentation reviews as appropriate.
- 7. **PROCEDURES.**
 - 7.1 USBP General Procedures
 - 7.1.1 USBP will conduct a health interview and medical assessment for all aliens in USBP custody under the age of 18. These medical assessments will normally be conducted by CBP contracted medical professionals or Federal, State or Local

credentialed healthcare providers. Only in exigent circumstances will these assessments be conducted by CBP Emergency Medical Services (EMS) personnel.

The health interview for all aliens in USBP custody under the age of 18, which will be conducted during initial alien processing based on existing best practices or the enhanced, standardized CBP health interview form once completed and determined to be legally and medically sufficient, will begin immediately upon ratification of this policy. The medical assessments will be implemented immediately upon the receipt and allocation of contingent funding according to the phased rollout plan briefed in CBP's Information Memo to the Secretary, *CBP's Expansion of Existing Medical Services Contracts and Expedited Deployment of Additional Contracted Medical Services Personnel to the Southwest Border*, dated 9 January 2019.

- 7.1.1.1 USBP will continue to follow its established guidelines for referral of all individuals in custody to the appropriate level of healthcare based on the consultation and professional opinion of the relevant credentialed medical personnel, or the direction of the supervisory USBP Agent on scene. If in conflict, USBP policy will defer to the opinion which provides for additional medical services. Medical assessments will normally be conducted by CBP contracted medical professionals or other Federal, State and Local credentialed healthcare providers. CBP EMS Personnel will only be used to conduct the medical assessment in exigent circumstances; and,
- 7.1.1.2 USBP will ensure that all health information obtained shall be handled in accordance with CBP PII safe handling guidance and stored in an approved system of record.

7.2 OFO General Procedures

- 7.2.1 OFO will conduct a health interview for all aliens in OFO custody and a medical assessment on every juvenile alien in custody under 18 years of age, as well as on all adult aliens in custody who answer positively to a "referral mandatory" question during the health interview, as defined by the OFO implementation plan. These medical assessments will normally be conducted by CBP contracted medical professionals, or other Federal, State and Local credentialed healthcare providers. CBP EMTs will only be used to conduct the medical assessment in exigent circumstances.

The health interview will be based on existing best practices or the enhanced, standardized CBP health interview form once completed and determined to be legally and medically sufficient, and will begin immediately upon ratification of this policy. The medical assessments will be implemented immediately upon the

receipt and allocation of contingent funding according to the phased rollout plan briefed in CBP's Information Memo to the Secretary, *CBP's Expansion of Existing Medical Services Contracts and Expedited Deployment of Additional Contracted Medical Services Personnel to the Southwest Border*, dated 9 January 2019.

7.2.1.1 OFO will continue its policy of referral for all individuals in custody to the appropriate level of healthcare after medical assessments are completed based on the consultation and professional opinion of the relevant credentialed medical personnel or the direction of the supervisory CBP Officer on scene. If in conflict, OFO policy will defer to the opinion which provides for additional medical services. Medical assessments will normally be conducted by CBP contracted medical professionals, or other Federal, State and Local credentialed healthcare providers. CBP EMTs will only be used to conduct the medical assessment in exigent circumstances.

7.2.1.2 OFO will ensure that all health information obtained shall be handled in accordance with CBP PII safe handling guidance and stored in an approved system of record.

7.3 Medical Questionnaire

7.3.1 USBP and OFO will coordinate to develop and incorporate into operations an enhanced, standardized Health Interview form that is legally and medically sufficient.

7.1.1.1 This form will be reviewed by the DHS CMO, CBP SMA, OCC, and the Department of Justice.

7.4 60 Day Reviews

7.4.1 USBP and OFO will establish independent implementation plans for the successful execution of this interim Directive. USBP and OFO will conduct a review of their implementation of this Directive within 60 days of ratification to assure that they are in line with policies, procedures and requirements herein; and,

7.1.3 Upon appropriation and allocation of requisite funding, USBP and OFO will begin to execute their implementation plans.

8. **PRIVACY INCIDENT HANDLING.**

8.1 Unauthorized collection, use, maintenance, and dissemination of medical information about individuals will be considered a Privacy Incident;

8.2 In accordance with DHS Privacy Incident Handling Guidance [DHS Instruction 047-01-008], all Privacy Incidents are to be immediately reported, as appropriate, to the DHS Security Operations Center (SOC) or CBP Computer Security Incident and Response Center (CSIRC) for review, investigation, mitigation, and remediation, as necessary; and,

8.3 Unauthorized collection, use, maintenance, and dissemination of medical information about individuals may be grounds for appropriate disciplinary action or contract termination, consistent with applicable law and CBP policy.

9. MEASUREMENT/AUDIT.

9.1 CBP's Enterprise Services, Office of Accountability, Management Inspections Division, supported as necessary by PDO and OCC, shall develop and administer within 60 days of the execution of each Operational Component's Implementation Plan, a Focused Assessment plan, in coordination with USBP and OFO to determine whether CBP Offices are in full compliance with this directive.

10. **DISCLOSURE.** This directive is for internal CBP use only and may not be shared with the public.

11. **NO PRIVATE RIGHT CREATED.** This document is for internal CBP use only and does not create or confer any rights, privileges, or benefits for any person or entity.

12. APPROVAL.

(b)(6) (b)(7)(C)

Kevin McAleenan 28 January 2019
Commissioner
U.S. Customs and Border Protection

Attachment (1): *CBP's Expansion of Existing Medical Services Contracts and Expedited Deployment of Additional Contracted Medical Services Personnel to the Southwest Border* (9 January 2019)