



February 13, 2019

Dr. Felipe González Morales
Special Rapporteur on the Human Rights of Migrants
Office of the High Commissioner for Human Rights
United Nations
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland

Re: Allegation Letter Regarding the Death of Felipe Gomez Alonzo (Minor)

Dear Dr. Morales,

The American Civil Liberties Union (ACLU) is writing with regard to the death of Felipe Gomez Alonzo, an eight-year-old migrant child from the town of Yalambojoch, Guatemala. The ACLU continues to be gravely concerned about migrants' deaths, especially those of children, and the lack of transparency and accountability for these deaths. We hope you will take action with regard to U.S. failure to conduct independent investigation into Felipe's death and ensure that migrant children are not subject to abusive immigration detention.

Here is the publically available information regarding the death of Felipe Gomez Alonzo:¹

- 1) Felipe Gomez Alonzo and his father, Agustin Gomez, were apprehended by U.S. Border Patrol agents that operate as part of U.S. Customs and Border Protection (CBP). They were apprehended while attempting to cross the U.S.-Mexico border 3.29 miles west of Paso Del Norte Port of Entry in El Paso, Texas on December 18th, 2018 at approximately 13:00 MST. Later that day, at approximately 16:39, Felipe and his father were transferred to Paso Del Norte processing center.
- 2) On December 20th, at 12:00, Felipe and his father were transferred to El Paso Border Patrol Station (EPS).

¹ Nick Valencia and Eric Levenson, *The Final Days of Felipe Alonzo-Gomez, the 8-year-old Migrant Who Died in US Custody*, CNN (Dec. 26 2018), <https://www.cnn.com/2018/12/26/us/cbp-timeline-guatemala-boy-dies/index.html>; *See also, 8-year-old Migrant Boy Who Died in U.S. Custody Laid to Rest in Guatemala*, CBS News (Jan. 27, 2019), <https://www.cbsnews.com/news/yalambojoch-guatemala-felipe-gomez-alonzo-migrant-boy-dead-us-custody-funeral-today-2019-01-27/>; Lenny Bernstein, Philip Rucker, and Robert Moore, *Migrant Boy Dies in U.S. Custody; Trump Vows Shutdown Will Last Until Border Wall is Funded*, Washington Post (Dec. 26th, 2018), https://www.washingtonpost.com/national/health-science/an-8-year-old-migrant-has-died-in-us-custody-on-christmas-day/2018/12/25/b45d387a-0870-11e9-85b6-41c0fe0c5b8f_story.html?noredirect=on&utm_term=.2d1c403e85e6; *CBP Shares Additional Information about Recent Passing of Guatemalan Child*, Department of Homeland Security (Dec. 25, 2018), <https://www.dhs.gov/news/2018/12/25/cbp-shares-additional-information-about-recent-passing-guatemalan-child>.

- 3) On December 22nd, 2018, at approximately 23:17, U.S. Border Patrol transferred both Felipe and his father to the Alamogordo Border Patrol Station in Alamogordo, New Mexico to finalize processing because capacity was reportedly too high at the El Paso station. They both arrived at Alamogordo Station on December 23rd, 2018.
- 4) On December 24th, 2018, Felipe demonstrated signs of illness which included coughing. The processing center noticed that his eyes were glassy and it was believed that he had the flu. Accompanied by his father, at approximately 9:30, he was transferred to Gerald Champion Regional Medical Center in Alamogordo, New Mexico. Felipe was diagnosed with the common cold and given Tylenol. He had a fever of 103°F and was held for further evaluation but then released at about 14:50 with a prescription for antibiotics (amoxicillin) and ibuprofen.
- 5) Felipe and his father were transferred to temporary holding at the Highway 70 checkpoint which is not appropriate to hold migrant children. According to a CBP statement, at approximately 17:00, CBP agents gave Felipe the prescribed medications and “medical staff and agents conducted several welfare checks.”² However, Felipe’s situation continued to worsen. He reportedly vomited that evening (approximately around 19:00) and was returned back to Gerald Champion Medical Center only around 22:00 when he “appeared lethargic and nauseous again.” Felipe reportedly threw up and lost consciousness in transit and arrived at the hospital at approximately 23:00.
- 6) On December 24th, 2018, at 23:48, the hospital medical staff were unable to revive Felipe and pronounced him dead. The Guatemalan consulate in the U.S. was contacted on December 25 and learned that Felipe’s father was still detained pending deportation. He was subsequently released and has been in the care of the Guatemalan Consulate since December 28th, 2018 as his migration case goes forward.³
- 7) According to press reports, Felipe’s mother, Ms. Catarina Alonzo Perez, spoke to her son the day before they arrived at the U.S.-Mexico border and commented that “Felipe was okay and excited and healthy”.⁴
- 8) An autopsy performed by the New Mexico Office of the Medical Investigator revealed that Felipe had the flu but no official cause of death could be provided until they ran more tests.⁵ His body was repatriated to Guatemala and he was laid to rest on January 28th, 2019.

Several members of Congress and civil society organizations, including the ACLU, have called for an independent investigation into the death of Felipe Gomez Alonzo.⁶ The American Academy of Pediatrics (AAP) called on the federal government to appoint an independent group

² According to the DHS article cited above, a welfare check is defined as: “Agent directly observes all detainees are safe and secure, and attends to any issues observed or relayed by those detained.”

³ *Medical Examiner Says Guatemalan Boy Who Died in US Custody Had the Flu*, CNN: Wire (Dec. 29, 2018), <https://fox40.com/2018/12/29/medical-examiner-says-guatemalan-boy-who-died-in-us-custody-had-the-flu/>.

⁴ Sofia Menchú and José Alejandro García, *‘I’m in Despair’: A mother and Village Mourn Guatemalan Boy’s Death in US*, The Guardian Dec. 29, 2018), <https://www.theguardian.com/world/2018/dec/29/felipe-gomez-alonzo-guatemala-boy-death-us-custody-home-village-mourns>.

⁵ Amber Jamieson, *The 8-Year-Old Boy Who Died In Border Patrol Custody Was Sick With The Flu*, Buzzfeed News (Dec. 28, 2018), <https://www.buzzfeednews.com/article/amberjamieson/felipe-gomez-alonzo-dead-flu?ref=bfnsplash>.

⁶ Stephan Dinan, *Democrats Visit Border Station Where Migrant Boy Died, Demand Better Care*, The Washington Times (Jan. 7, 2019), <https://www.washingtontimes.com/news/2019/jan/7/congressional-hispanic-caucus-democrats-visit-bord/>.

of medical experts with full access to CPB facilities to ensure optimal care for children.⁷ Sadly, Felipe's death is not the first migrant death reported in the United States. Just two weeks earlier, 7-year-old migrant child Jakelin Caal Maquin from Guatemala died while in U.S. CBP custody.⁸ The ACLU Border Rights Center has documented at least 8 deaths in CBP custody from 2010-2016.⁹ This includes the deaths of Anastacio Hernández Rojas, who endured fatal tasing and beatings in custody,¹⁰ and Cruz Velazquez, a teenager who died after two CBP officers encouraged him to drink liquid methamphetamine.¹¹

The ACLU and other organizations have documented pervasive abuse and neglect of migrants detained by CBP, including unaccompanied migrant children.¹² A report published last year by the ACLU and the International Human Rights Clinic at the University of Chicago Law School exposed numerous cases of violence and abuse against migrant children, many of them asylum seekers fleeing violence in their home countries. The report, which is based on over 30,000 pages of documents dated between 2009 and 2014, details numerous cases involving federal officials' verbal, physical and sexual abuse of migrant children including denial of clean drinking water and adequate food; failure to provide necessary medical care; detention in freezing, unsanitary facilities; and other abuses. The documents provide evidence that U.S. officials were aware of these abuses as they occurred, but failed to properly investigate, much less remedy, these abuses. The report also shows evidence of CBP holding migrant children in excess of the 72-hour maximum period permitted by law, as well as officials' efforts to deport children without due process and via coercion.¹³ A recent report by Physicians for Human Rights called on CBP to "rigorously evaluate border enforcement practices for negative impact on the right to life, including through ongoing consultations with independent medical professionals to evaluate health consequences of existing policies and practices and during development of new policies and guidelines."¹⁴

While Felipe's death occurred in CBP custody, many other migrants have also died in other forms of U.S. custody, especially in immigration detention facilities under the direct supervision of U.S. Immigration and Customs Enforcement (ICE). According to the American Immigration

⁷ Devin Miller, *AAP Pushes for Appropriate Medical Care for Immigrant Children*, American Academy of Pediatrics: News (Jan. 31, 2019), <http://www.aappublications.org/news/2019/01/31/washington013119>.

⁸ As of December 28th, 2018, the Department of Homeland Security has reportedly opened an investigation into the deaths of Felipe and Jakelin. Maria Sacchetti, *Official: Guatemalan boy who died in U.S. custody tested positive for influenza B, final cause of death remains under investigation*, Washington Post (Dec 28, 2018), https://www.washingtonpost.com/local/immigration/father-whose-son-died-in-custody-knew-bringing-him-would-ease-entry-into-us/2018/12/27/4c210bfc-0a1d-11e9-85b6-41c0fe0c5b8f_story.html?noredirect=on&utm_term=.1a9f611a679d.

⁹ *Fatal Encounters with CBP*, ACLU (April 26, 2017), <https://www.aclu.org/fact-sheet/fatal-encounters-cbp>.

¹⁰ Randal C. Archibold, *San Diego Police Investigate the Death of a Mexican Man Resisting Deportation*, N.Y. Times (June 1, 2010), <https://www.nytimes.com/2010/06/02/us/02border.html>.

¹¹ *Teen Died After Drinking Liquid Methamphetamine*, CBS News (Jan. 16, 2014), <https://www.cbsnews.com/news/teen-died-after-drinking-liquid-methamphetamine/>.

¹² *Doe v. Johnson*, 163 F. Supp. 3d 630 (D. Ariz. 2016).

¹³ *Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention*, Human Rights Watch (June 20, 2018), available at <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration>.

¹⁴ Kathryn Hampton, *Zero Protection: How U.S. Border Enforcement Harms Migrant Safety and Health*, Physicians for Human Rights (Jan. 10, 2019), available at <https://phr.org/resources/zero-protection-how-u-s-border-enforcement-harms-migrant-safety-and-health/#top>.

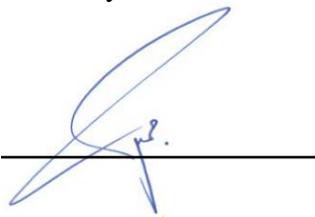
Lawyers Association, at least twelve people have died in U.S. Immigration and Customs Enforcement (ICE) custody at adult detention centers in 2018 alone. And twelve people died in immigration detention in fiscal year 2017 (October 1, 2016 through September 30, 2017), more than any year since 2009.

In a report released last June, the ACLU, Human Rights Watch, Detention Watch Network and National Immigrant Justice Center found deep, systemic problems with the medical care in immigration detention facilities—problems that contributed to death in more than half of the cases reported by ICE for the 16 months between December 2015 and April 2017. The report is based on independent medical analyses of records kept by ICE about the people who have died in immigration detention. The report found that 8 of the 15 public death reviews show that inadequate medical care contributed to the person’s death. The physicians conducting the analyses also found evidence of substandard medical practices in all but one of the remaining reviews. A recent NBC News report analyzing dozens of government reports, death reviews and audits of ICE detention centers confirmed the systemic and continuous problems of inhumane conditions and abusive treatment of migrants.¹⁵

The United States is obligated to conduct independent, thorough and credible investigations into deaths in custody. The U.S.’s human rights treaty obligations also require humane treatment of detainees in U.S. custody including adequate medical care during detention.

We respectfully ask you to review the U.S.’s failure to conduct independent investigations into deaths in custody and failure to provide adequate medical care for migrants and asylum seekers, and make appropriate recommendations to the United States government.

Sincerely,



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¹⁵ Lisa Riordan Seville, Hannah Rapple, and Andrew W. Lehren, *22 Immigrants Died in ICE Detention Centers During the Past 2 Years*, NBC News (Jan. 6, 2019), <https://www.nbcnews.com/politics/immigration/22-immigrants-died-ice-detention-centers-during-past-2-years-n954781>.