

Border Patrol “Hieleras” – Background and Legal Action

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What is a hielera?

Hielera is the Spanish word for “ice box,” and the term commonly used to describe Border Patrol’s notorious “holding cells” because of the bone-chilling temperatures at which the cells are maintained. Though the cells are designed for short-term detention where individuals are supposed to be held for only a [matter of hours](#), in practice, Border Patrol agents hold individuals in *hieleras* for days, even weeks.

In addition to extreme temperatures, *hieleras* are commonly characterized by harsh, overcrowded, and unsanitary conditions. Detained individuals are denied the opportunity to bathe, access to beds, basic hygiene supplies and adequate food, water, and medical attention. As a matter of policy, agents strip detainees of outer layers of clothing while also denying blankets, bedding, or other means of shelter from the frigid temperatures. Detainees must try to sleep on cold, concrete floors, and are denied communication with the outside world—held virtually incommunicado— for days on end.

These alarming conditions are described with great consistency in [lawsuits](#), [complaints](#), and non-governmental and [governmental](#) reports, as well as the more than seventy-five declarations of former detainees collected by Plaintiffs’ counsel in *Doe v. Johnson*.

Who is detained in Border Patrol hieleras?

Border Patrol *hieleras* are used to detain men, women, and children, including toddlers and infants, who are suspected of being in the United States without authorization. Individuals arrive traumatized by the difficult journey to the United States. They often are exhausted, thirsty, hungry, and sick, with dehydration, heat stroke, diarrhea, bleeding and blistered feet, and other health conditions requiring medication and medical attention, which Border Patrol routinely fails to provide. In this condition, they are often [coerced](#) by agents into signing documents they do not understand.

Where are hieleras located?

Most Border Patrol Stations are equipped with holding cells. Additionally, other facilities maintained by Customs and Border Protection (CBP)—of which the Border Patrol is a division—have holding cells, including [Ports of Entry](#) and Forward Operating Bases. In the Tucson Sector, where *Doe v. Johnson* was filed, there are eight Border Patrol stations, one sub-station, five Ports of Entry and five Forward Operating Bases, all equipped with holding cells. Tucson Sector detainees are held in brutal conditions in these CBP facilities throughout southern Arizona, prior to transfer to another agency, removal, or release.

Is it really “short-term” detention, as Border Patrol says?

In most cases, no. Although Border Patrol often claims that individuals are detained for brief periods of time and [CBP guidance](#) states that individuals should not be detained in holding cells for more than twelve hours, CBP records indicate that detainees are regularly held for 24 hours or in some cases, much longer.

CBP records provided in response to a Freedom of Information Act (FOIA) request indicate that from January through June 2013, approximately 58,000 Tucson Sector detainees, or 80 percent of the total detainee population, were in Border Patrol custody for 24 hours or longer; 7,839 individuals—just under 11 percent—were detained for more than 72 hours. One individual was detained for 2,544.5 hours, over 15 weeks.

Despite the fact that most detainees are held overnight and many are held for several days, *hieleras* are neither designed nor equipped for extended detention, and certainly not for sleeping, as *hieleras* have no beds.

How do we know about the problem?

Reports by [academics](#) and [human rights organizations](#), based on thousands of interviews with former CBP detainees, as well as numerous civil rights [lawsuits](#), [complaints](#), and [media reports](#) have consistently described harsh conditions in these facilities, including denial of food, water, and medical care; overcrowding; severe temperatures; and physical abuse. As well-documented as these problems are, Border Patrol severely restricts outside access to its facilities, which effectively prevents conditions from being even more widely publicized.

Doesn't Border Patrol already have detention standards in place?

Yes, but Border Patrol's [detention standards](#) are inadequate and are rarely followed in practice. Scores of declarations by individuals held in the *hieleras* make clear that Border Patrol routinely violates its own standards, including those addressing provision of food, water, hygiene products, showers, medical care, and phone access, maximum holding cell occupancy, and duration of detention.

Is the agency aware that detention conditions are this bad?

Yes. Though officials often downplay the extent of these deficiencies, DHS has [acknowledged](#) “recurring problems” in Border Patrol holding cells. In a July 2014 press [interview](#) regarding a [complaint](#) filed on behalf of children abused and neglected in Border Patrol *hieleras*, CBP Commissioner Gil Kerlikowske stated that the children's complaints about facility conditions were “absolutely spot on.”

Why hasn't Border Patrol or DHS addressed these problems?

The agency seems to believe that holding people in harsh and punitive conditions will deter immigration, even though many of those immigrating are asylum seekers fleeing danger and

violence or are individuals seeking to reunite with their families. Many former detainees, including children, describe agents telling them, “If you don’t like it, don’t come back.”

Border Patrol perpetuates a culture of abuse and impunity. CBP classifies all civil rights violations, including detention-related complaints, as low-priority “[non-mission-compromising corruption](#),” which does not have to be reported to Congress. The former head of CBP Internal Affairs [described](#) Border Patrol’s view of itself as a “paramilitary border security force” that operates outside “constitutional constraints” and rejects outside scrutiny. The same official described CBP as an agency “rife with cover-ups and corruption” where officials have “distorted facts to try to hide any missteps,” including abuse of individuals in CBP custody “that should have resulted in discipline,” but did not.

Is Congress aware of the problem?

Yes, many members of Congress are aware of the problem, but Congress has failed to act. In June 2013, Senator Barbara Boxer added an [amendment](#) to a Senate immigration reform bill, S.B. 744, requiring improved CBP detention standards, including holding cell capacity limits, adequate climate control, and access to medical care, among other reforms. In December 2013, Senator Boxer re-introduced the same legislation as the Humane Short Term Custody Act, noting, “CBP has written ‘detention standards’ for short term custody, but there is evidence to suggest that these standards are not consistently followed.” In September 2013, Representative Lucille Roybal-Allard introduced the [Protect Family Values at the Border Act](#), which included similar reforms related to CBP detention conditions. To date, none of these legislative proposals have become law.

The Lawsuit: *Doe v. Johnson*

What kind of lawsuit is this?

On June 8, 2015, Plaintiffs filed a class action lawsuit against DHS officials challenging conditions in Border Patrol holding cells. The complaint alleges that the detention conditions violate the Due Process Clause of the Fifth Amendment. The challenged conditions include overcrowding, extreme cold, unsanitary conditions, denial of sleep, lack of medical screening and care, and deprivation of food and water.

The lawsuit was filed by Plaintiffs on behalf of all persons who are now or will in the future be confined in a Tucson sector CBP detention facility for one or more nights.

What’s at stake?

There is no justification for holding anyone in brutal and unsafe conditions in facilities that are neither designed nor equipped for overnight or prolonged detention. CBP’s short-term detention policies and practices serve no legitimate purpose, violate the U.S. Constitution, and offend American values.

What remedy are the Plaintiffs seeking?

Plaintiffs seek to compel Border Patrol to bring its detention facilities in line with Constitutional standards, including limiting the time a person may be detained in hold cells to a few hours, providing adequate food, water, and medical care, beds and bedding, access to showers and hygiene supplies, and maintaining appropriate capacity limits and temperature controls, among other reforms.

Will this case impact CBP facilities in other states?

Not directly. The lawsuit seeks to vindicate the rights only of individuals held in the Tucson Sector. Tucson Sector accounted for roughly twenty percent of FY 2014 border apprehensions, so the proposed class covers tens of thousands of people. Nonetheless, Border Patrol should acknowledge that the same problems that exist in Tucson Sector are common elsewhere and raise the same safety and liability concerns. It should use this opportunity to ensure that all CBP detention facilities adhere to consistent policies and practices nationwide—policies and practices that do not violate the constitutional rights of detainees.