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March 25, 2024

U.S. Department of Homeland Security
Office of Civil Rights and Civil Liberties
Compliance Branch, Mail Stop #0190
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528-0190

Via Email: CRCLCompliance@hq.dhs.gov

RE: CBP One Disability Rights Violations of Section 508 of the Rehabilitation Act

I. INTRODUCTION

The Texas Civil Rights Project (“TCRP”)¹ and the Civil Rights Education and Enforcement Center (“CREEC”)² submit this complaint to the Department of Homeland Security (“DHS”) Office of Civil Rights and Civil Liberties (“CRCL”), documenting violations of Section 508 of the Rehabilitation Act (“Section 508”) caused by the CBP One application (“CBP One”).³ CBP One is a mobile application that migrants may use to schedule an appointment prior to presenting at a port of entry (“POE”) along the U.S.-Mexico border. In practice, this CBP One appointment is a requirement for individuals to access the U.S. asylum system. Without an appointment or meeting narrow exceptions, current regulations subject individuals to a rebuttable presumption against eligibility for asylum if they transited through another country and failed to seek asylum in that country.

¹ TCRP is a 501(c)(3) legal advocacy organization with offices across Texas. TCRP is dedicated to defending the rights and dignity of all those in Texas in the courtroom, in partnership with our communities, and with meaningful policy changes. Since our founding in 1990, TCRP has fought for the rights of immigrants. We are lawyers and advocates for Texas communities, boldly serving the movement for equality and justice. *See About TCRP*, TEXASCIVILRIGHTS.ORG, <https://txcivilrights.org/about-us/> (last accessed Mar. 25, 2024).

² CREEC is a 501(c)(3) legal organization that fights for liberation and equity through the lens of intersectional disability justice. Our work is informed by grassroots movements for systemic change and centers the concerns and goals of people with disabilities who are confronting barriers to access to programs and services and resisting oppressive legal systems in the United States. *See What We Do*, CREEC.LAW.ORG, <https://creeclaw.org/what-we-do/> (last accessed Mar. 25, 2024).

³ CBP One’s inaccessibility to people with disabilities, documented below, likely violates international law. For instance, the Convention and Protocol Relating to the Status of Refugees guarantees non-discrimination, and the Convention on the Rights of Persons with Disabilities requires the application to be accessible when DHS uses it to process asylum seekers. Convention and Protocol Relating to the Status of Refugees, Preamble (1951) (“human beings shall enjoy fundamental rights and freedoms without discrimination”); *see generally* U.N. Convention on the Rights of Persons with Disabilities, art. 9 (Dec. 12, 2006), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>.



This complaint is submitted on behalf of Al Otro Lado (“AOL”)⁴ and the Sidewalk School (“SWS”)⁵—humanitarian non-profit organizations that provide services to migrants and asylum seekers. CBP One inaccessibility has forced these organizations to divert limited resources to assist clients with either obtaining a CBP One exception (AOL) or navigating the CBP One app (SWS).

In the following pages, this complaint demonstrates that CBP One is inaccessible for individuals with disabilities. These individuals therefore do not have access to the U.S. asylum system in the same way as individuals without disabilities, which is a violation of Section 508. Accordingly, Al Otro Lado and the Sidewalk School request that CRCL promptly investigate Section 508 violations of CBP One to ensure that the application is accessible to people with disabilities and that DHS makes reasonable accommodations as required by federal law. CRCL must ensure that migrants with disabilities have meaningful access to the asylum system across the U.S.-Mexico border.

A. The Circumvention of Lawful Pathways Rule and CBP One

On May 11, 2023, the Biden Administration promulgated the “Circumvention of Lawful Pathways” rule (the “Rule”). The purported aim of the Rule is to “incentivize[] migrants to use lawful, safe, and orderly means for noncitizens to enter the United States to seek asylum and other forms of protection.”⁶ To accomplish this goal, the Rule creates a rebuttable presumption of ineligibility for asylum for individuals who enter without documents sufficient for lawful admission.⁷ The Rule also subjects individuals to a rebuttable presumption against eligibility for asylum if they transited through another country and failed to seek asylum in that country.⁸ Generally, Mexican nationals are exempt from this rule because they do not transit through another country before coming to the U.S.

The Rule then encourages individuals to use CBP One by exempting them from the rebuttable presumption against eligibility for asylum if they “presented at a port of entry, pursuant to a pre-scheduled time and place.”⁹ Using CBP One is currently the only official method for pre-scheduling an appointment to present at the border and avoiding that rebuttable presumption.

The Rule purports to create an exception for people who cannot use the CBP One app “due to language barrier, illiteracy, significant technical failure, or other ongoing and serious

⁴ AOL is a 501(c)(3) nonprofit organization based in Los Angeles, California, with offices in San Diego, California and Tijuana, Mexico. AOL provides holistic legal and humanitarian support to refugees, deportees, and other migrants in the U.S. and Tijuana, Mexico, through a multidisciplinary, client-centered, harm-reduction practice.

⁵ The SWS is a 501(c)(3) nonprofit organization that provides humanitarian aid to migrant children and their families temporarily residing in Reynosa and Matamoros, Tamaulipas, Mexico.

⁶ Circumvention of Lawful Pathways, 88 Fed. Reg. 31314, 31316 (May 16, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-05-16/pdf/2023-10146.pdf>.

⁷ 8 C.F.R. § 208.33(a) (2024).

⁸ *Id.* § 208.33(a)(2)(ii)(C).

⁹ *Id.* § 208.33(a)(2)(ii)(B).



obstacle.”¹⁰ The Rule states that the rebuttable presumption will not apply to individuals if they are able to demonstrate “by a preponderance of evidence” that it was not possible for them to use the app for one of these reasons.¹¹

However, in practice, this exception provides no relief for people with disabilities and urgent medical conditions because the determination of the Rule’s applicability is made only *after* an individual has presented at the border and been processed by CBP. It is only after processing that “[t]he rebuttable presumption . . . would be evaluated by an asylum office as part of the credible fear interview, subject to review by an immigration judge.”¹²

While the Rule, in theory, allows for individuals to present at ports of entry (“POEs”) for processing without a CBP One appointment, this is not the reality on the ground. Organizations have documented that CBP has a consistent practice of turning individuals away from POEs if they do not have appointments.¹³ There is no mechanism for an individual who cannot use the CBP One app due to language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle, such as a disability, to convey that they are unable to use CBP One. They are turned away. *See* Decl. of Nicole Ramos, ¶ 14.

AOL reports, based on their border observation practice, that these turnbacks continue as of the date of this complaint. *See id.*¹⁴ The AOL team regularly observes how CBP responds to walk-ups at the Tijuana POE. In every single case AOL has witnessed, CBP turned away all individuals who did not have a CBP One appointment. *Id.* CBP and Mexican officials did not allow individuals to wait at the POE for processing. If the individuals tried to wait, Mexican officials moved them or threatened them with detention or arrest. *Id.* CBP officers have also misled asylum seekers about the asylum process. AOL reports that CBP told one client “that they needed to go to the Tijuana consulate to apply for asylum, and CBP told others that they needed to speak with Mexican immigration officials about their potential asylum case.” *Id.* Neither statement is accurate.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Fact Sheet: Circumvention of Lawful Pathways Final Rule*, U.S. DEP’T OF HOMELAND SEC. (May 11, 2023), <https://www.dhs.gov/news/2023/05/11/fact-sheet-circumvention-lawful-pathways-final-rule>.

¹³ *See also* Class Action Complaint for Vacatur, Declaratory Relief, and Injunctive Relief, *Al Otro Lado, Inc., et. al. v. Mayorkas et. al.*, No. 3:32-cv-01367-AGS-BLM, 2 (S.D. Ca. July 27, 2023) (“Under the CBP One Turnback Policy, when asylum seekers approach a POE, they are typically met at or near the “limit line,” the physical demarcation point between U.S. and Mexican territory, by CBP officers or Mexican authorities who, upon information and belief, are acting at the behest of CBP. If the asylum seekers do not have a CBP One appointment confirmation or present at a date or time different from the designated appointment slot, they are turned back to Mexico.”); *see DHS OIG and CRCL Complaint Regarding “Digital Metering,”* HUMAN RIGHTS WATCH (Jan. 22, 2024), https://www.hrw.org/news/2024/01/22/dhs-oig-and-crcl-complaint-regarding-digital-metering?gad_source=1&gclid=CjwKCAiA8YyuBhBSEiwA5R3-E2CTEn6naXScU2JYU1pAAxP38rCLCS9eBO-nfsM1bodGzN9zkGMhRoCqQcQAvD_BwE.

¹⁴ Turnback reports vary by POEs, but the issue remains consistent in Tijuana, Mexico.



B. CBP One and the Circumvention of Lawful Pathways Rule in Practice

To be eligible for asylum, most migrants must use the CBP One app. The implementation of CBP One “has been riddled with problems from the very beginning.” Decl. of Felicia Rangel-Samponaro, ¶ 9. Before individuals can even reach the point of establishing an exception based on the Rule, they must first be able to obtain a CBP One appointment, which can take months. *Id.* at ¶ 17. Many people with disabilities do not have the ability to use it. CRCL should, thus, investigate CBP One for violations of Section 508 to ensure that these individuals can access the asylum system in a prompt and safe manner.

1. CBP One is riddled with technological issues and is inaccessible to individuals with disabilities.

It is impossible for many migrants to use CBP One. To start, downloading CBP One requires access to and the ability to use a reliable internet connection, a personal smartphone, an email address, as well as the ability to follow a multi-step process that requires interacting with three separate and additional applications. Many migrants struggle to obtain a phone or secure internet. *Id.* For instance, migrants have “even climbed onto the shelter roofs to pick up an adequate internet signal to use CBP One.” *Id.* Ms. Rangel-Samponaro at the SWS has explained how she has witnessed dozens of migrants try to complete the CBP One process “only to have the app drop connection with their phone and crash.” *Id.* at ¶ 10. Other times, individuals will hit the submit button only to watch the app freeze and report an error message. *Id.* To assist migrants with internet access, “SWS has had to spend thousands of dollars to purchase satellite internet.” *Id.*

Assuming an individual has a reliable connection, the app remains inaccessible for many people with disabilities. *See* Decl. of Rangel-Samponaro, ¶ 11; Decl. of Ramos, ¶ 19. To make an appointment, a person must be able to see, read, and write in English, Spanish, French, or Haitian Creole. A person must also have at least one hand with enough dexterity to navigate the touchscreen on a smartphone. This renders CBP One inaccessible to many individuals with disabilities. The SWS staff has had to assist many clients with CBP One because the app is inaccessible. For instance, the SWS assisted a wheelchair-user with a medical condition that caused his hands to seize up. Decl. of Rangel-Samponaro, ¶ 12. The SWS also assisted a woman with partial facial paralysis. CBP One refused to accept her photograph because of her paralysis. *Id.* at ¶ 13.

Other SWS clients required assistance with CBP One because they were blind and/or deaf. *Id.* at ¶ 14. Because CBP One is inaccessible to many blind people, friends or caretakers would often read the options aloud while assisting the applicant. *Id.* Those without family, companions, or assistance do not have a means of seeking reasonable accommodation or obtaining help.

Even without physical limitations to access the app, a person must have the cognitive capacity to follow a multi-step process for creating an account and registering as a traveler, which



includes taking a picture. CBP’s guide for using the app is forty-seven pages long.¹⁵ AOL worked with a young Indigenous man with intellectual disabilities that made it impossible for him to navigate the app. Decl. of Ramos, ¶ 21. Similarly, AOL worked with a client with paranoid schizophrenia who had difficulty focusing and could not comprehend information in the app, rendering it inaccessible. *Id.* at ¶ 22.

Once registered, a person must be able to return to the app every day to register for the appointment lottery. In March 2024, the SWS confirmed that individuals often wait months for a CBP One appointment. Decl. of Rangel-Samponaro, ¶ 17. AOL had a client with intellectual and developmental disabilities who had been waiting for six months before he was finally able to obtain a CBP One appointment. Decl. of Ramos, ¶ 24. He ultimately relied on his primary caretaker to navigate the app for him and secure an appointment. *Id.* This arduous process is burdensome and inaccessible for many individuals with mental health conditions and intellectual disabilities.

Because CBP One is inaccessible to individuals with disabilities, they do not have access to the U.S. asylum system comparable to that of individuals without disabilities. Oftentimes, they are required to locate and rely upon the help of a caregiver or an organization, such as AOL or the SWS. These individuals would not require assistance if CBP One were compliant with Section 508 or if CBP updated its procedures for promptly processing asylum seekers who have disabilities at POEs.

2. Individuals with disabilities are forced to wait in dangerous conditions in Mexico.

The delay in obtaining a coveted CBP One appointment means that individuals with disabilities face deterioration of their health as they wait to obtain an appointment. Reports show that living conditions in Mexico negatively impact health conditions. Many migrants are forced to live in shelters.¹⁶ These shelters are often at capacity, with limited food and resources to keep up with demands—such is the case in Tijuana, Reynosa, and Matamoros. *See* Decl. of Ramos, ¶ 18; Decl. of Rangel-Samponaro, ¶ 17. A pediatrician evaluating children at a border camp stated that “hav[ing] disabilities means that being in those encampments puts them at high risk of further trauma and further medical conditions.”¹⁷

¹⁵ *CBP One™ Mobile Application Traveler User Guide*, U.S. CUSTOMS AND BORDER PROTECTION (May 2023), <https://www.cbp.gov/sites/default/files/assets/documents/2023-May/CBP%20One%20-%20User%20Guide%20-%20Traveler%20Land%20Submit%20Advance%20Information%20-%20English.pdf>.

¹⁶ Megan Diamond, Luke Testa, et al., *A Population in Peril: A Health Crisis Among Asylum Seekers on the Northern Border of Mexico*, HARVARD GLOB. HEALTH INSTITUTE 4 (2020), https://globalhealth.harvard.edu/wp-content/uploads/2020/07/A_Population_in_Peril.pdf.

¹⁷ Reynaldo Leños Jr., *Border Officials Keep Sending Asylum Seekers With Disabilities, Illnesses Back To Mexico*, TEXAS PUBLIC RADIO (Feb. 21, 2020) <https://www.tpr.org/border-immigration/2020-02-21/border-officials-keep-sending-asylum-seekers-with-disabilities-illnesses-back-to-mexico>.



AOL has explained that Tijuana shelters suffer from poor conditions that put people with disabilities at risk of injury and disease. Decl. of Ramos, ¶ 18. For instance, one shelter is alongside open sewage water, and potable water must be hauled in down a dirt road that floods. *Id.* Another shelter is overrun with “bed bugs, vermin, [and] fleas” and is located “alongside a cemetery on one side, which is the frequent site of shootouts.” *Id.* Disease outbreaks are also common in these shelters. *Id.*

When shelters are at capacity, migrants settle in makeshift tent encampments in areas along the border. The encampments further expose migrants to unsanitary conditions and extreme weather.¹⁸ Many encampments do not even have basic plumbing or running water, resulting in dehydration and heat stroke.¹⁹ Also, migrant housing areas—particularly near the border—are often subject to unsafe conditions, such as cartel violence.²⁰ For example, in 2019 CBP rescued a double amputee and a paraplegic man who were thrown into the Rio Grande by smugglers.²¹

Organizations have also reported that when individuals with disabilities are denied access to protection at the U.S.-Mexico border, their health declines. For instance, Human Rights First reported that after a teenage girl waited two months for a CBP One appointment, and her mental health had deteriorated to the point of increasing self-harm.²² The SWS staff have also witnessed migrants get sicker and die from lack of medical care. *See* Decl. of Rangel-Samponaro, ¶ 17. The Rule and CBP One have, in effect, denied people with disabilities access to the U.S. asylum process, bringing disproportionate harm to these vulnerable individuals.

C. CBP One violates Section 508 of the Rehabilitation Act.

Under Section 508 of the Rehabilitation Act, federal departments and agencies must ensure that technology is accessible to people with disabilities. 29 U.S.C. § 794d(a). CBP One underwent a Section 508 compliance review in May 2023, but there has been no public report released to date.²³ The facts detailed in this complaint make clear that DHS has failed to comply with Section 508.

¹⁸ *Supra* note 17.

¹⁹ *Id.* at 5.

²⁰ *See* Adam Isacson and Ana Lucia Verduzco, *Tijuana’s migrant shelters under increased attack, as the U.S. sends hundreds of migrants per day*, WASHINGTON OFFICE ON LATIN AMERICA (Jan. 31, 2023), <https://www.wola.org/analysis/tijuanas-migrant-shelters-under-increased-attack-as-the-u-s-sends-hundreds-of-migrants-per-day/>.

²¹ *Border Patrol Agents Rescue Two Men with Special Needs*, U.S. CUSTOMS AND BORDER PROTECTION, (May 31, 2019), <https://www.cbp.gov/newsroom/local-media-release/border-patrol-agents-rescue-two-men-special-needs>.

²² *Refugee Protection Travesty*, HUMAN RIGHTS FIRST 36 (July 2023), https://humanrightsfirst.org/wp-content/uploads/2023/07/Refugee-Protection-Travesty-Asylum-Ban-Report_July-2023-1.pdf.

²³ *See* Circumvention of Lawful Pathways, 88 Fed. Reg. at 31403.



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While TCRP and many other organizations have repeatedly raised accessibility issues with CBP One in conversations with local Brownsville DHS, DHS headquarters, and the DHS Office of CRCL, the app remains inaccessible to people with certain disabilities. To date, no update to CBP One has provided the equal access required under the Rehabilitation Act.

AOL and the SWS thus request that CRCL investigate and recommend that DHS make CBP One compliant with Section 508 of the Rehabilitation Act and provide the relief specified in this complaint. Because of the broad nature of the inaccessibility, AOL and the SWS also request that CRCL recommend that DHS not rely on CBP One as the sole means of processing individuals at ports of entries (without risking a rebuttable presumption against eligibility for asylum), as doing so under the present iteration of the app excludes individuals with disabilities from equal access to the asylum process.

CBP One violates Section 508 because it is inaccessible to individuals with disabilities. Under Section 508, qualified individuals with disabilities are persons with a physical or mental impairment that substantially limits one or more major life activities. 42 U.S.C. § 12102(1)(A). CBP One prevents individuals with disabilities from accessing the U.S. asylum system like individuals without disabilities. 29 U.S.C. § 794d(a)(1)(A)(ii).

Under Section 508:

“ . . . each Federal department or agency . . . shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology . . . individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.”

Id. § 794d(a)(1)(A).

The requirements of Section 508 are outlined on the Department of Homeland Security’s Accessibility page. The page states:

“Section 508 requires agencies, during the procurement, development, maintenance, or use of ICT, to make sure that individuals with disabilities have access to and use of ICT information and data comparable to the access and use afforded to individuals without disabilities. The Section 508 standards are the technical requirements and criteria that are used to measure conformance with the law and incorporate the W3C Web Content Accessibility Guidelines (WCAG) 2.0.”



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Accessibility, U.S. DEP'T OF HOMELAND SEC., <https://www.dhs.gov/accessibility> (last visited Mar. 25, 2024); *see also Disability Access*, U.S. DEP'T OF HOMELAND SEC., <https://www.cbp.gov/about/eeo-diversity/disability-access> (last visited Mar. 25, 2024) (“U.S. Customs and Border Protection (CBP) is committed to strengthening and supporting full inclusion and equal opportunity for persons with disabilities in its services, programs, and activities in accordance with relevant Department of Homeland Security (DHS) and CBP policy, Section 504 of the Rehabilitation Act of 1973, as amended, and related laws.”).

Even if it is determined that the development or maintenance of compliant technology would pose an undue burden, “the Federal department or agency shall [still] provide individuals with disabilities . . . the information and data involved by an alternative means of access that allows the individual to use the information and data.” 29 U.S.C. § 794d(a)(1)(B). Such an alternative means of access may include a process for requesting a reasonable accommodation at the POE in lieu of a CBP One appointment.

A Section 508 violation occurs even if an individual is ultimately able to access the technology through the assistance of another person. The standard is whether the disabled person’s access is “comparable” to that of “members of the public who are not individuals with disabilities.” *Id.* § 794d(a)(1)(A)(ii). Being forced to locate and rely on another person to access technology means the federal agency’s technology does not provide “comparable” access to individuals with disabilities.

In response to alleged violations of Section 508, CRCL “shall apply the complaint procedures established to implement [Section 504] for resolving allegations of discrimination in a federally conducted program or activity.” 6 C.F.R. § 15.70(b). Federal regulations require CRCL to “accept and investigate” complaints, *Id.* § 15.70(d)(2), and “notify the complainant of the results of the investigation in a letter” no “later than 180 days” after receiving the complaint. *Id.* § 15.70(g)(1).

II. COMPLAINANTS HAVE DEMONSTRATED THAT CBP ONE VIOLATES SECTION 508 BECAUSE IT IS NOT ACCESSIBLE FOR PEOPLE WITH DISABILITIES.

AOL’s and the SWS’s experiences show that CBP One is not accessible for people with disabilities. The app is therefore not compliant with Section 508. AOL and the SWS serve individuals who are entitled to the protections of Section 508. AOL has worked with deaf, mute, and blind individuals, as well as individuals with schizophrenia, depression, anxiety, cerebral palsy, and intellectual and developmental disabilities. Decl. of Ramos, ¶ 19. The SWS has also worked with clients who are blind and/or deaf, as well as a client with partial facial paralysis, women with brain tumors, and a client who was physically unable to hold a phone. Decl. of Rangel-Samponaro, ¶¶ 12–16. These individuals are entitled to Section 508 protection because they have a physical or mental impairment that substantially limits one or more major life activities. *See* 42 U.S.C. § 12102(1)(A).



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The SWS and AOL have worked with individuals whose disabilities rendered them completely unable to use the CBP One application in its current inaccessible iteration. For instance, AOL worked with a blind woman who could not open her eyes, rendering multiple aspects of the app inaccessible, including the requisite photo. The app would not read her as a “live” person, so “she was unable to click through additional steps to make an appointment.” Decl. of Ramos, ¶ 29. To ensure that the app eventually accepted this woman’s photo, an employee at a migrant shelter and another migrant helped her take the photo, “with one of them physically holding her eyes open long enough to take the photo.” *Id.* The SWS also had a client who struggled with the photograph requirement of the app because of partial facial paralysis. Decl. of Rangel-Samponaro, ¶ 13.

AOL worked with a deaf-mute individual with intellectual disabilities for whom the written format of the app was inaccessible. AOL ultimately referred her to another organization for holistic assistance. Decl. of Ramos, ¶ 23. The SWS has similarly worked with blind and deaf clients for whom CBP One is inaccessible. These individuals required the assistance of a caretaker or friend, and oftentimes, the options in the app needed to be read aloud to them. Decl. of Rangel-Samponaro, ¶ 14.

AOL worked with a client with intellectual and developmental disabilities for nearly six months as they attempted to obtain an appointment through the app with the assistance of a caregiver. Without this assistance, the individual would not have been able to download or utilize the app at all. Decl. of Ramos at ¶ 24.

The SWS worked with a wheelchair user who had a medical condition causing his hands to seize up. It was impossible for him to physically hold a phone, and he needed a caretaker to assist him. Decl. of Rangel-Samponaro, ¶ 12.

Individuals presenting with acute medical crises that require urgent medical care are not faring any better than those with long-term disabilities. For instance, AOL assisted an individual who had an epileptic seizure at a POE. Despite the urgent medical situation, CBP refused to process him and AOL assisted with obtaining an informal exception several days later. Decl. of Ramos, ¶ 25.

“To date, the app does not have a place to indicate if an applicant has a disability or other medical condition for which they require a reasonable accommodation or that would make them a humanitarian priority for crossing.” *Id.* at ¶ 30; *see also* Decl. of Rangel-Samponaro, ¶ 16. Without any changes to make the CBP One application compliant with Section 508, or to make other accommodations readily available, the app is “yet another barrier that asylum seekers must overcome to access safety in the U.S.” Decl. of Ramos, ¶ 30. Without the much-needed updates to make CBP One accessible and without taking steps to actually process people at POEs, organizations like AOL and the SWS will be forced to continue diverting their resources to assist individuals with disabilities and urgent medical needs.



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As a result of the CBP One requirements and the app's inaccessibility, AOL has established a separate procedure for obtaining CBP One exceptions in the most urgent vulnerable cases. *Id.* at ¶¶ 15–18. This entire informal process was developed because of CBP One's inaccessibility. Without AOL's system, individuals with disabilities have no other options. Individuals who do not know about AOL have no way of knowing how to navigate around the inaccessibility of the CBP One system, as DHS has not provided information about any alternatives available. As previously discussed, they simply cannot walk up to a POE for processing in Tijuana. Instead, they must either make a CBP One appointment—which is impossible for many—or risk entering without inspection. This is unacceptable. CRCL should investigate to ensure the application and alternative processing is accessible to people with disabilities.

III. DHS MUST MAKE CBP ONE COMPLIANT WITH SECTION 508 AND ACCESSIBLE FOR PEOPLE WITH DISABILITIES.

The facts presented in this complaint show that CBP One discriminates against people with disabilities and impedes their ability to access the U.S. asylum system. AOL and the SWS request that the DHS Office of CRCL open an investigation into CBP One. Recommendations that result from that investigation should include but not be limited to:

- *CBP One Information:* DHS must provide information about CBP One in multiple forms to ensure all asylum seekers, including those with disabilities, have meaningful access to information on how to use the app. This information should be up-to-date and accessible to people with disabilities.
- *Photo Functionality:* DHS should ensure that the CBP One app system accepts photographs from all living people, regardless of the condition of their eyes. People who are missing eyes, cannot open their eyes, or have other conditions should have meaningful access to CBP One.
- *Vulnerability Carveout Policy:* DHS should implement a vulnerability carveout and fast-track measure for those with disabilities and urgent medical needs that prevent them from using CBP One. To ensure this, DHS should update CBP One to include a way for individuals to indicate if they have disabilities or an urgent medical need. This will not open any floodgates. Rather, the U.S. government can require that the disability/urgent medical need be readily apparent and/or that the individual submit medical documentation. Furthermore, the U.S. government must account for the risk of fraud and extortion when instituting a medical documentation requirement for migrants and should institute some oversight of this process. CBP should provide clear standards for whatever policy CBP implements for evaluating medical vulnerability and disability cases, it should outline clear standards. Decisions to grant CBP One exceptions should not vary by POE or on a case-by-case basis. CBP must publish any policy or guidelines for evaluating urgent cases at



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POEs so migrants and advocates can know what to expect and plan accordingly and to be certain that CBP decisions are not arbitrary and capricious.

- *Formal Accommodations Process:* DHS should implement a formal accommodations process for people with disabilities. This formal exception process would be utilized by trusted organizations to assist people with urgent medical needs and disabilities. The process should allow submission of a request for exception both at the POE and through other channels. There should also be a process to report any potential abuses of the formal exception procedures. CBP should be required to promptly respond to urgent exception requests. The U.S. government should document the exception requests to allow for oversight of the accommodations process. CBP should make any guidelines or policy of the formal accommodations process available to the public.
- *Individuals Presenting at POEs:* DHS must have a protocol that allows all individuals, including those with disabilities to present for processing at POEs without an appointment on the app. CBP’s November 1, 2021, guidance states that “asylum seekers or others seeking humanitarian protection cannot be required to submit advance information in order to be processed a Southwest Border land POE. The submission (or lack thereof) of advance information should not influence the outcome of any inspection.”²⁴ DHS should implement protocols to ensure this guidance is being followed at all POEs.
- *CBP One POE Accessibility and Processing:* All POEs should be available for individuals to present with a CBP One appointment. If an individual with an urgent medical condition or disabilities presents for their CBP One appointment, they should not be forced to wait hours for processing in unsafe conditions. Processing should occur efficiently and not risk exacerbating any health conditions.
- *Training and Notice of Updated Procedures:* DHS must provide effective notice to the public of alternatives to the CBP One process—including notice in the CBP One app itself—and provide training to all POE staff that directs them to adhere to the revised policies. Requests for an accommodation or Vulnerability Carveout must be documented and any denials of those requests explained. DHS should audit high volume POE’s to ensure compliance with the policies.

²⁴ *Guidance for Management and Processing of Undocumented Noncitizens at Southwest Border Land Ports of Entry*, U.S. CUSTOMS AND BORDER PROTECTION, 2 (Nov. 1, 2021), <https://www.cbp.gov/sites/default/files/assets/documents/2021-Nov/CBP-mgmt-processing-non-citizens-swb-lpoes-signed-Memo-11.1.2021-508.pdf>.



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IV. CONCLUSION

The U.S. should welcome all people with dignity. In haphazardly implementing the CBP One application, DHS has left individuals with disabilities and urgent medical needs with limited or no options. For the health and well-being of these migrants, and to ensure that migrants with disabilities have meaningful access to the U.S. asylum system across the border, it is imperative that CRCL investigate violations of Section 508 and require that DHS immediately comply with the Rehabilitation Act.

Sincerely,

/s/ *Kassandra Gonzalez*

Kassandra Gonzalez

Staff Attorney

kassandra@texascivilrightsproject.org

/s/ *Katherine M. Thorstad*

Katherine M. Thorstad

Staff Attorney

kthorstad@creeclaw.org

/s/ *Daniel Woodward*

Daniel Woodward

Legal Fellow

danny@texascivilrightsproject.org

/s/ *Cynthia L. Rice*

Cynthia L. Rice

Legal Director

crice@creeclaw.org

/s/ *Daniel Hatoum*

Daniel Hatoum

Senior Supervising Attorney

daniel@texascivilrightsproject.org

**CIVIL RIGHTS EDUCATION AND
ENFORCEMENT CENTER**

1245 E. Colfax Avenue, Suite 400

Denver, CO 80218

(303) 757-7901

/s/ *Tamara F. Goodlette*

Tamara F. Goodlette

Legal Director, Beyond Borders

tami@texascivilrightsproject.org

TEXAS CIVIL RIGHTS PROJECT

P.O. Box 219

Alamo, TX 78516

(956) 787-8171

DECLARATION OF NICOLE ELIZABETH RAMOS

Pursuant to 28 U.S.C. §1746, I, Nicole Elizabeth Ramos, hereby declare, certify, verify, and state on this day, under penalty of perjury, that the following is true and correct, and that I have personal knowledge of the following:

1. I am an adult over the age of 18, and a resident of Tijuana, Mexico. I made this declaration based on my personal knowledge.
2. I graduated from Bryn Mawr College and received my law degree from Temple University, James E. Beasley School of Law. I have been an attorney for fifteen years. I am currently an Adjunct Professor at Temple University, Beasley School of Law. I lecture extensively at universities, law schools, and professional conferences throughout the U.S. and Mexico regarding the impact of border enforcement practices and policies on asylum seekers. I also currently serve as a consulting expert for a multi-year community-based study regarding the impact of restrictive border policies on the health outcomes of pregnant migrants and their children.
3. I have lived in Tijuana, Mexico, since September 2014. In 2015, I began volunteering at the migrant shelter, Casa Migrante, where I provided information to deportees and asylum seekers about the U.S. legal system. I later became a volunteer with Al Otro Lado (“AOL”). In December 2016, I joined AOL as the Director of the Border Rights Project.
4. AOL is a 501(c)(3) non-profit organization based in Los Angeles, California, with offices in San Diego, California and Tijuana, Mexico. AOL provides holistic legal and humanitarian support to refugees, deportees, and other migrants in the U.S. and Tijuana through a multidisciplinary, client-centered, harm-reduction practice. The Border Rights Project at AOL works with asylum seekers in Tijuana who wish to present themselves to immigration authorities to seek asylum in the U.S. The Border Rights Project also engages in human rights monitoring and

impact litigation, as well as broader media campaigns and advocacy efforts to challenge systemic human rights violations caused by state actors.

AOL's work with asylum seekers and migrants is extensive.

5. I am based in Tijuana, where I oversee a team of nine advocates, one attorney, and various volunteers, depending on the time of year. At least half of the Border Rights Project team is made up of individuals who have lived experience with the U.S. immigration system, including deportees and former asylum seekers. Team members speak various languages outside of English, including French, Haitian Creole, Tzotzil, Tzeltal, and Spanish.

6. Generally, the focus of our team's work is delivering know your rights ("KYRs") presentations, accompanying unaccompanied minors, conducting human rights monitoring at the ports of entry ("POE") in Tijuana, and monitoring the impact of immigration policies upon the communities we serve. We also work to identify individuals who are members of the LGBTQ+ community, or who are linguistically isolated, to ensure that they are accommodated in a shelter that best suits their needs. At least three times a week, we monitor how U.S. Customs and Border Protection ("CBP"), the Instituto Nacional de Migración ("INM"), and the Guardia Nacional engage with asylum seekers at the San Ysidro POE.

7. In May 2023, after the implementation of Circumvention of Lawful Pathways ("the Rule"), our work shifted to include assisting particularly vulnerable asylum seekers with obtaining CBP One humanitarian exceptions—including asylum seekers with disabilities or urgent medical needs. This became a pressing need after Title 42 was lifted, and our organization responded accordingly, allocating limited resources. Beyond monitoring shelters, POEs, and migrant communities for people who need humanitarian exceptions to CBP One, our new work also requires us to dedicate significant resources to obtaining records documenting medical urgency and disabilities, and in

some cases, submitting requests more than once. Previous humanitarian exception processes, such as those under Title 42, did not require us to help people obtain such extensive medical documentation.

8. Every week, my team does KYR presentations at migrant shelters and in our Tijuana office. These presentations focus on immigration policy and asylum rights. After these presentations, asylum seekers can ask individual fact-specific questions.

9. In addition to the KYRs, I work on the ground with the staff, volunteer attorneys, and volunteer law students to identify particularly vulnerable people, including those with disabilities. If we identify an individual with disabilities or medical vulnerabilities, we work with the Refugee Health Alliance, and consulting specialists, including psychiatrists, to triage the urgency of their case.

10. AOL also works to ensure that accurate and up-to-date information is disseminated to migrants. AOL has a community-facing TikTok account with over 102,000 followers that publishes content in nineteen different languages. This account provides information on asylum policy, immigration detention, separation of families, and the Office of Refugee and Resettlement (“ORR”) process, as well as information on scams and rumors that may be circulating in the community.

11. Our team understands the most pressing needs for migrants at any given time because of our observation and information-gathering practices. In 2021, we launched an online risk assessment survey, which helps us to triage the most vulnerable and urgent cases. The survey also helps us collect data on asylum seekers’ experiences with U.S. immigration officials, Mexican immigration officials, and Mexican law enforcement, as well as experiences with organized crime, food security, shelter, and access to medical care in Mexico. Through the risk assessment survey,

we have a well-informed understanding of asylum seekers' experiences at the U.S.-Mexico border and how U.S. immigration policies impact their lives and their ability to access the legal process. At present, we utilize the survey to gather data on asylum seeker vulnerabilities and help us identify potential cases for CBP One exceptions. From June 2022–December 2023, we received over 21,726 responses.

In practice, CBP One creates yet another barrier to accessing our asylum system.

12. Following the end of Title 42, the Biden Administration promulgated the Circumvention of Law Pathways Rule, which aimed to incentivize asylum seekers to use the CBP One mobile application (“CBP One”) to schedule appointments prior to presenting at a POE. The Rule also creates a rebuttable presumption of ineligibility for asylum for noncitizens who enter the U.S. from Mexico without documentation unless certain narrow exceptions apply, which include having a CBP One appointment.

13. Our team has extensive experience assisting clients with humanitarian exemptions under Title 42 and obtaining exceptions for CBP One. In 2023, we assisted about seventy-seven clients with CBP One exceptions and 959 clients with humanitarian exemptions under Title 42; in 2022, we assisted around 11,372 clients with humanitarian exemptions under Title 42; in 2021, we assisted about 6,137 clients with humanitarian exemptions under Title 42.

14. Despite DHS regulations and guidance saying otherwise, it is my experience on the ground in Tijuana that migrants must use CBP One to be processed at a POE. The preamble to the final Rule published in the Federal Register¹ states that noncitizens can still present at a POE for processing without an appointment. Additionally, CBP’s November 1, 2021, guidance states that

¹ *Circumvention of Lawful Pathways*, 88 Fed. Reg. 94, 31314, 31358 (May 16, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-05-16/pdf/2023-10146.pdf> (“the use of the CBP One app is not a prerequisite to approach a POE, nor is it a prerequisite to be inspected and processed under 8 U.S.C. 1225(a)(3). Individuals without appointments will not be turned away.”).

“asylum seekers or others seeking humanitarian protection cannot be required to submit advance information in order to be processed at a Southwest Border land POE.”² However, this has not been the reality. AOL has led community organizing projects to observe how CBP responds to walk-ups at the Tijuana POE. We have specifically worked with Mexican asylum seekers who have walked up to the POE to be processed. In every single case, they have been turned away if they do not have a CBP One appointment. On top of this, CBP gives them inaccurate information. For instance, CBP told one client that they needed to go to the Tijuana consulate to apply for asylum, and CBP told others that they needed to speak with Mexican immigration officials about their potential asylum case. In fact, to apply for asylum in the U.S. a person must speak to a U.S. official. Then, clients are not even allowed to wait at the POE in hopes of eventually being processed. If they try to wait, INM or municipal police will have them moved. Mexican officials also threaten them with detention or arrest.

15. Currently, in the most urgent vulnerable cases, our team will assist with obtaining CBP One exceptions. For instance, if an asylum seeker’s health is deteriorating and their case is extremely pressing, the AOL team submits a request via email to CBP requesting that our client be granted a CBP One appointment exception. In our email, we attach any supporting medical documentation, including medical letters of support or other relevant medical records. Oftentimes, AOL must expend resources to connect the client with a specialist or, in some cases, pay for medical care, and in some cases, emergency housing outside the overcrowded shelter system to keep clients’ health from deteriorating.

² *Guidance for Management and Processing of Undocumented Noncitizens at Southwest Border Land Ports of Entry*, U.S. CUSTOMS AND BORDER PROTECTION, 2 (Nov. 1, 2021), <https://www.cbp.gov/sites/default/files/assets/documents/2021-Nov/CBP-mgmt-processing-non-citizens-swb-lpoes-signed-Memo-11.1.2021-508.pdf>.

16. There are no formal rules, regulations, or procedures that guide the exception process. It can take days or weeks to get an exception, depending on the case. In many cases, CBP does not even respond to our requests. However, if CBP grants the exception, we will receive an email with the date and time that our client can present at the POE for processing. Then, our clients will present for processing. If our clients run into any issues, a staff member or volunteer from AOL will accompany them to the POE.

The CBP One app discriminates against people with disabilities.

17. In my role as the Border Rights Project Director, I regularly work with asylum seekers with disabilities. These asylum seekers are especially vulnerable and are usually unable to access the CBP One application because of physical or mental impairments. In these cases, my team has worked to request CBP One exceptions. This exception process can take days or weeks, depending on the case. Sometimes CBP will not respond to our emails, and other times they respond in a few days. In some cases, it takes several repeated emails to even get a response from CBP. The Department of Homeland Security's Office of Civil Rights and Civil Liberties ("CRCL") is copied on every request.

18. Because wait times vary and requests for CBP One exceptions are informal, entirely discretionary, and can be denied, vulnerable asylum seekers with disabilities are forced to wait in extremely dangerous and unsanitary conditions. There is little to no oversight of the shelters by local or state level government agencies to ensure the health and wellbeing of migrants. One shelter, holding at times as many as 1,000 asylum seekers, sits alongside a ditch of sewage water, and potable water must be hauled in down a dirt road that often floods, making it impassable. At another shelter, the food used to prepare the meals is often past the expiration date, and people frequently suffer gastrointestinal issues. Another shelter is overrun with bed bugs, vermin, fleas,

and floods every time it rains. It is also located alongside a cemetery on one side, which is the frequent site of shootouts. The other side of this shelter is a waste management facility. Disease outbreaks are common to these shelters due to the overcrowded, cold, and often damp conditions.

19. Our team has worked with individuals with physical and mental disabilities, including but not limited to: deafness, muteness, blindness, schizophrenia, intellectual and developmental disabilities, depression, anxiety, and cerebral palsy. It has proven challenging to obtain CBP One exceptions for many of our most urgent cases.

20. CBP has denied a number of urgent medical and/or disability exceptions. For example, in Tijuana, CBP denied a paraplegic man in a wheelchair and a man with bone cancer in his legs, despite clear medical documentation.

21. In the last few months, my team worked with a young adult Indigenous man with intellectual disabilities. He had a history of being abused. He rarely spoke, but when he did, he only spoke his Indigenous language. He was also unable to read or write, and his psychiatrist estimated his mental functioning to be that of a child. His mental disabilities prevented him from understanding how to use or even access the app. We applied for a CBP One exception, but this was denied. In its response, CBP stated that he had to make an appointment via the CBP One application. To date, our client has been evaluated by multiple physicians who have confirmed his limited functioning and mental disabilities. Nonetheless, CBP denied his exception request a second time. He has no caregiver in Tijuana, but he has a parent waiting for him in the U.S. This is one of many frustrating cases where our clients cannot use CBP One, and yet, in practice, CBP says that he must do so to be processed at a POE.

22. My team also worked with a woman with paranoid schizophrenia. She did not know how to use a cell phone, and her mental health made it difficult to focus on and comprehend the

information in the app. Her daughter from the U.S. traveled to Mexico to help her navigate CBP One, and my team also stepped in to assist with the exception process. On March 11, 2024, she obtained a CBP One exception, but this was after waiting for assistance in Mexico for at least three months.

23. Another client was deaf and mute. It was extremely challenging to communicate with her, as she knew limited sign language, and reading and writing was difficult for her. She could not use the CBP One app. My team had to refer her to another organization for assistance with using the app.

24. Another client with intellectual and developmental delays waited for nearly six months to get a CBP One appointment. He had very limited understanding of the app or the process for obtaining an appointment. His aunt, who was his primary caretaker, navigated the app for him and tried to explain to him that he needed an appointment before he could cross. Without a caregiver or additional support, this client would not have been able to even download the app on a phone.

25. In another extreme case, a man had an epileptic seizure at the POE. He did not have a CBP One appointment. His seizure happened in front of CBP officers, and they still refused to process him or let him cross. AOL and the Red Cross assisted this client, and he had to wait for days until he was able to finally cross via an exception.

26. We are also working with a woman who was kidnapped and trafficked into the U.S. and then trafficked back to Mexico in retaliation for her mother's activism. While the young woman was trafficked, she received a brain injury and continues to suffer from the long-lasting effects of her trauma. More specifically, she was diagnosed with a frontal temporal lesion on her brain, psychosis, and borderline personality disorder. She needs around-the-clock care, as she is unable

to perform activities of daily living on her own. She has also been unable to use the CBP One app because of her conditions. She has been waiting in Mexico since around June 2023.

27. Another woman was a victim of kidnapping and torture at the hands of government security forces in her country, and consequently also suffers from severe trauma. Her diagnoses include severe depression with psychotic features, dissociative episodes, obsessive compulsive disorder, and post-traumatic stress disorder. Her health makes it so she cannot consistently use the CBP One application, and AOL is now assisting her with obtaining a CBP One exception.

28. In another case, we worked with a woman that was a victim of severe domestic violence. She suffers from depression, post-traumatic stress disorder, suicidal episodes, and dissociative symptoms. Like many of our other clients, her conditions made it impossible for her to consistently use the CBP One app, and she needed AOL's assistance to request an exception.

29. In Spring 2023, we worked to obtain an exception for a woman who was legally blind. At the time, the app did not work with screen readers, and another asylum seeker had to help her navigate the app. She experienced issues with the photo requirement of the CBP One application because she could not keep her eyes open due to her condition. The app did not read her as a live person, so she was unable to click through additional steps to make an appointment. Eventually, an employee of the migrant shelter where she was staying, and another migrant helped her take the photo, with one of them physically holding her eyes open long enough to take the photo.

30. Our clients with disabilities cannot access the app like our clients without disabilities. The app itself is also flawed and not built to recognize or accommodate people with disabilities. To date, the app does not have a place to indicate if an applicant has a disability or other medical condition for which they require a reasonable accommodation or that would make them a humanitarian priority for crossing. The app does not prioritize the most vulnerable individuals and

discriminates against those with disabilities. In addition, the technology cannot fully accommodate people who are blind, people who cannot read, and people who cannot physically hold a phone to use the application. No update on the app has been able to remedy this lack of access for people with disabilities. Consequently, the app has become yet another barrier that asylum seekers must overcome to access safety in the U.S.

31. AOL will continue to advocate that people are processed upon arrival at the POE. If people with disabilities are presenting at a POE, either with documentation of a disability or a readily apparent disability, these individuals should be prioritized for processing without a CBP One appointment. The failure to process people at POEs is not a capacity issue. For instance, in the spring of 2022, thousands of Ukrainians were waiting in Mexico to seek protection in the U.S.³ CBP capacity accommodated the processing of about 700 Ukrainians per day in April 2022, including individuals allowed into the U.S. on humanitarian parole.⁴

32. AOL's capacity is limited, and we cannot help every single asylum seeker with disabilities in Tijuana. Because of the Rule and CBP One, AOL has been forced to assign advocates to spend limited time and resources building and staffing internal systems that did not previously exist, including implementing a process for assisting with CBP One exception requests to accommodate people with disabilities. This allocation of resources has impacted and reduced our ability to respond to other immigration-related matters on behalf of individuals not affected by the CBP One requirement. For instance, there are over thirty shelters in Tijuana and several more in Mexicali. If we did not have to dedicate time to triaging urgent cases and requesting CBP One exceptions,

³ Kate Morrissey & Alexandra Mendoza, *CBP begins rapid processing of Ukrainians at PedWest border crossing*, THE SAN DIEGO UNION-TRIBUNE (Apr. 6, 2022), <https://www.sandiegouniontribune.com/news/border-baja-california/story/2022-04-06/cbp-ukrainians-pedwest>.

⁴ *Ukrainians at the U.S.-Mexico Border: Seeking Admission at U.S. Ports of Entry by Nationality*, TRAC IMMIGR. (May 17, 2022), <https://trac.syr.edu/immigration/reports/683/>.

we could reach hundreds, if not thousands, more asylum seekers each week by doing KYRs in the community. We could also focus on legal orientations geared toward helping pro se applicants. Instead, we must spend time and resources monitoring the POE, combing through our online survey, and traveling to shelters to identify medically vulnerable asylum seekers so we can assist before something tragic and irreversible may happen. This has affected our ability to fulfill the core mission of our organization to serve as many individuals in need as possible.

33. While our caseload includes that of many people who are medically vulnerable due to illness, and disease, as well as individuals with disabilities, we know that there are many additional asylum seekers we have been unable to assist. Obtaining an exception is hard enough with the assistance of a trained attorney or advocate, and is nearly impossible for those without. As long as a CBP One appointment is the only way to present at a POE, despite what is set out in the Circumvention of Lawful Pathways Rule, asylum seekers, especially those with disabilities, will continue to suffer discrimination.

34. Under 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 21st day of March, 2024.

Nicole Elizabeth Ramos

Nicole Elizabeth Ramos

DECLARATION OF FELICIA RANGEL-SAMPONARO

Pursuant to 28 U.S.C. §1746, I, Felicia Rangel-Samponaro, hereby declare, certify, verify, and state on this day, under penalty of perjury, that the following is true and correct, and that I have personal knowledge of the following:

1. I am an adult over the age of 18 and a resident of Brownsville, Texas. I made this declaration based on my personal knowledge.
2. I am currently employed as a Co-Director of The Sidewalk School, Inc. (“the SWS”), a nonprofit organization that provides humanitarian aid to migrant children and their families while they temporarily reside in the northern Mexican cities of Reynosa and Matamoros, Tamaulipas. In that position, I am chiefly responsible for the day-to-day operations of the SWS, including programmatic and financing decisions. I have also directly delivered these services as a volunteer and as part of my job duties since approximately November 2018.
3. I graduated from the University of Houston with a Bachelors of Psychology in 2009. After that, I became certified as a general educator for pre-kindergarten through eighth grade. I worked as an educator from 2010 to 2011.
4. I am one of the co-founders of the SWS. We founded the organization in August 2019 to address the acute educational delays faced by child asylum seekers who are forced to wait in Northern Mexico for prolonged periods of time while attempting to seek asylum protections in the U.S. In this capacity, I have personally provided or overseen the provision of education to upwards of 2,000 children in the Mexican cities of Matamoros, Reynosa, Juarez, Playa del Carmen, and Tampico. In my role, I have approved education curriculums on a weekly basis for the SWS’s teachers.

5. Given the challenging living situations of our students, the SWS provides extensive wrap-around services to clients and their families, including providing our students with food, clothing, and camping supplies such as blankets and tents when students and their families experience homelessness. I have also connected dozens of students and non-students with medical and legal aid, and I have provided information to migrants regarding the U.S. government's current policies around accessing asylum at the border, which changes frequently and often without much forewarning.

6. In both my current role and previously as a volunteer, I have helped thousands of migrants navigate the U.S. government's various immigration policies, including the metering policy, the Migrant Protection Protocols, and the Title 42 expulsion policy and its various exemption processes.

7. I first began to assist migrants with using CBP One in December 2022. In or around December 2023, CBP officials advised advocates working with migrants in Mexico that receiving an appointment in CBP One would be a requirement for processing at a Port of Entry ("POE"). In the CBP One application, a non-citizen located at or near the U.S.-Mexico border can access and fill out an application that will allow them to schedule a date and time to approach the POE nearest to them to be processed for entry into the United States. There are an extremely limited number of appointments available each day. It is very difficult to get an appointment, and migrants must resubmit their applications each day. Through information sessions, the SWS has assisted approximately thousands of people with navigating the CBP One application.

8. Since Title 42 ended, the CBP One application has been used to facilitate processing at POEs. Without a CBP One appointment, the SWS's clients have found it extremely difficult, if not impossible, to successfully cross the U.S.-Mexico border. I have seen Mexican immigration

officials prevent immigrants from approaching POEs. On the ground, having a CBP One appointment is one of the only ways to ensure that a migrant is able to cross into the U.S.

9. While CBP One has successfully facilitated the processing of many people, the implementation of CBP One, especially post-Title 42, has been riddled with problems from the very beginning. Accessing CBP One requires a cell phone and an internet connection—many migrants struggle to secure both of these at the same time. CBP One runs best on an Apple iPhone, but most migrants, especially the most vulnerable, including Black and Indigenous asylum seekers, cannot afford one. Migrants are then forced to contend with error messages and timeouts that result from trying to use the app on old Android phones. Furthermore, it is so difficult for migrants to access a stable and reliable internet that every day they are forced to travel through dangerous Northern border cities to reach a shelter that might have a stable internet connection. This is all in hopes of securing an appointment. Migrants have even climbed onto the shelter roofs to pick up an adequate internet signal to use CBP One.

10. I have personally witnessed dozens of migrants attempting to complete the lengthy CBP One process for themselves and their families, only to have the app drop connection with their phone and crash. Many of these people successfully complete the application, hit submit, and watch the app freeze up and give them an error message. The SWS has had to spend thousands of dollars to purchase satellite internet for migrants to use because connectivity issues continue to abound.

CBP One is Inaccessible for People with Disabilities.

11. For people with certain disabilities, it is impossible to use the CBP One app because it lacks accessibility features. Because of this lack of accessibility, the SWS has helped numerous people with disabilities access appointments through CBP One. The process is cumbersome and has

required the SWS to devote significant resources to helping people access a tool that a person without a disability has full access to.

12. I have personally observed how difficult attempting to use CBP One can be for people with disabilities. For example, the SWS assisted one man who uses a wheelchair and has a medical condition that causes his hands to seize up. With the severity of his condition, he could not even hold a phone. It was impossible for him to access the app without a caretaker or assistance.

13. Another woman was able to use the app but struggled getting CBP One to accept her photograph because of partial facial paralysis.

14. I have also assisted individuals who are blind and/or deaf with obtaining a CBP One appointment. The individuals who were blind needed a friend or a caretaker to read the options in the app out loud for them and to click through the app according to their responses. Many individuals that were deaf could not read or had written language accessibility issues with CBP One and required extra assistance.

15. To date, the CBP One app remains inaccessible, and this continues to harm vulnerable migrants with disabilities. NGOs, such as the SWS, can help some of these individuals at the cost of additional operational resources, but many others are not so lucky.

16. People with disabilities who cannot use CBP One have no good options to request accommodations. There is no place within the app to indicate if an applicant has a disability or other medical condition that would make them a humanitarian priority for crossing. There is no formal procedure for requesting disability accommodations for the CBP One app.

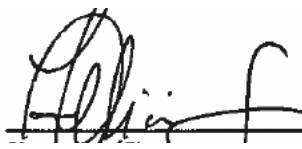
17. While individuals wait to obtain an appointment—sometimes for months—their health may deteriorate. Asylum seekers have died while waiting for CBP One appointments. Last year, I witnessed a young girl die from cancer while she waited for a CBP One appointment. I have

assisted multiple women with brain tumors who languished in Mexico until they were finally able to see a U.S.-trained doctor to confirm a disability that was evident to even a layperson. These women with severe mental disabilities could not process the information needed to navigate a cell phone, much less the CBP One app. I have also seen children with autism, schizophrenia, and suicidal ideation sit in dangerous conditions while they are in desperate need of medical and mental health care. Because there is no way to ask for prioritization, these families endure additional agony and stress waiting for their crossing date. For instance, in November 2023, two young men who did not have a CBP One appointment and were unable to present at a POE died from lack of urgent medical care. Most recently, in December 2023, a Haitian woman died outside a shelter in Mexico. She was extremely sick, and she, like many other asylum seekers, was unable to access medical care.

18. CBP One needs to be made accessible for people with disabilities. Our team will continue to advocate for more humane and efficient CBP procedures.

19. Under 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 8th day of March, 2024.



Felicia Rangel-Samponaro