

December 14, 2023

Ryan O’Quinn
President and Chief Legal Officer
Loyal Source
12612 Challenger Pkwy #365
Orlando, FL 32826

Dear Mr. O’Quinn:

I am deeply concerned by reports of a pattern of poor medical care provided to migrants in U.S. Customs and Border Protection (CBP) custody, culminating in the death of Anadith Danay Reyes Álvarez, an eight-year-old girl with sickle cell and congenital heart diseases, in CBP custody in Harlingen, Texas.¹ Because Loyal Source is contracted to provide medical care to such migrants, I write to request information about the corrective steps that Loyal Source is taking to improve the quality of medical care provided in CBP custody.

An independent report found that Anadith’s death was a “preventable tragedy.”² Anadith was transferred to the Harlingen facility following CBP protocols, after confirmation of her infection with influenza, including a fever, as that facility “has been designated for cases requiring medical isolation for individuals diagnosed with or closely exposed to communicable diseases.”³ However, medical personnel in Harlingen failed to transfer Anadith to a facility equipped to provide the necessary higher-level care, despite Anadith’s deteriorating health over several days, her medical history,⁴ and her mother’s repeated pleas for her to be transported to a hospital.⁵ Medical personnel also refused to review Anadith’s medical records.⁶ Only after Anadith

¹ See, e.g., Nick Miroff, *Before child died in custody, CBP tried to replace medical contractor*, The Washington Post, (August 25, 2023), <https://www.washingtonpost.com/immigration/2023/08/25/border-medical-migrants-loyal-source/>; Government Accountability Office (GAO), *Southwest Border CBP Needs to Increase Oversight of Funds, Medical Care, and Reporting of Deaths* (July 2020), <https://www.gao.gov/assets/gao-20-536.pdf>, and Robert Moore and Susan Schmidt, *Inside the Cell Where a Sick 16-Year-Old Boy Died in Border Patrol Care*, Pro Publica (Dec. 5, 2019), <https://www.propublica.org/article/inside-the-cell-where-a-sick-16-year-old-boy-died-in-border-patrol-care>.

² Dr. Paul H. Wise, Juvenile Care Monitor Report, *Flores v. Garland*, No. 85-05544, ECF No. 1352 (C.D. Cal. July 18, 2023), https://youthlaw.org/sites/default/files/2023-07/2023.07.18_Flores%20Juvenile%20Care%20Monitor%20Report.pdf (hereinafter “Flores Monitor Report”) at 38.

³ CBP, Update: Death in Custody of 8-Year-Old in Harlingen, Texas (May 21, 2023), <https://www.cbp.gov/newsroom/speeches-and-statements/update-death-custody-8-year-old-harlingen-texas> (“CBP May 21 Statement”).

⁴ *Id.* The statement notes, “CBP records indicate the eight-year-old was medically assessed at this time [on May 10, 2023], did not complain of any acute illnesses or injuries, but the family did report a medical history including the chronic conditions of sickle cell anemia and heart disease” and that video footage shows the mother handing papers to the medical provider.

⁵ CBP, Update: Death in Custody of 8-Year-Old in Harlingen, Texas (June 1, 2023), <https://www.cbp.gov/newsroom/speeches-and-statements/june-1-2023-update-death-custody-8-year-old-harlingen-texas> (“CBP June 1 Statement”).

⁶ *Id.*

suffered a seizure and became unresponsive did medical personnel call for an ambulance, but at that point it was too late to save her life.⁷

The independent report stated:

The admission of a young child with [sickle cell disease] and a fever to the Harlingen Station should have triggered a close consultation with an on-call pediatrician or an evaluation at a local hospital with expertise in pediatric specialty care. It is not clear what ongoing monitoring procedures were utilized to ensure that any worsening of [Anadith's] condition would be recognized.⁸

The report concluded that if the multiple, systemic failures in care are not remedied, “they are likely to result in future harm to children in CBP custody.”⁹

CBP's Office of Professional Responsibility (OPR) also investigated the circumstances leading to Anadith's death and found that “none of the CBP contracted medical personnel...at Harlingen Station...acknowledged being aware” that Anadith suffered from sickle cell and congenital heart diseases. Yet CBP records demonstrate that the family shared Anadith's medical history with the agency and provided related documentation during her medical assessment, which occurred only hours after her apprehension.¹⁰

Anadith's death underscores the critical need for a thorough evaluation of the provision of medical care in CBP custody. Moreover, recently a CBP employee whistleblower alleged Loyal Source failed to meet its obligations under its medical care contract.¹¹ We seek to ensure that, at a minimum, adequate medical care is provided to those in CBP custody and that any lapses or negligence are addressed promptly and effectively. To that end, please provide copies of records and answers responsive to the following, no later than January 18, 2024:

1. The number of CBP facilities Loyal Source currently serves, as well as the number served in FY2021 and FY2022, and the staffing requirements for each CBP facility serviced by Loyal Source and the percentage of positions currently unfilled.
2. Communications between CBP and Loyal Source personnel from January 1, 2020 to May 31, 2023 regarding the provision of care to children in CBP custody, including communications regarding concerns with Loyal Source capacity to provide adequate medical care to children and families.

⁷ *Id.*

⁸ Flores Monitor Report at 40.

⁹ *Id.* at 38.

¹⁰ CBP May 21 Statement (describing how Anadith and her family were taken into custody on May 9, 2023, at approximately 9:34 pm, transported by bus to the Donna Processing Facility ((DPF) where they arrived at approximately 7:50 AM on May 10, 2023. At 12:20 pm on May 10, 2023, the family entered the medical screening area where a video captured the mother handing papers to the medical provider).

¹¹ Nick Miroff, *Whistleblower alleges failures in medical care at U.S. border facilities*, The Washington Post, (Nov. 30, 2023), <https://www.washingtonpost.com/immigration/2023/11/30/border-whistleblower-loyal-source-medical-migrants/>.

3. Any protocols issued since FY2021 that govern medical assessments of children in CBP custody.
4. Guidance provided to Loyal Source employees on the use of the Electronic Medical Record (EMR) software platform, and any communications between CBP and Loyal Source or to or between Loyal Source contractors, regarding concerns with the software, decisions to stop using the software, or opportunities to provide feedback about the use of the software.
5. Communications, including guidance provided by CBP or Loyal Source to medical personnel, related to individuals who require referrals to a local medical treatment facility for further assessment and care between January 1, 2020 and May 31, 2023.¹²
6. Protocols and guidance governing Anadith Álvarez’s treatment and communication relating to her treatment between CBP and Loyal Source personnel.
7. In light of CBP Acting Commissioner Troy Miller’s statement that “[s]everal medical providers involved in this incident have now been prohibited from working in CBP facilities,”¹³ please provide a statement explaining how many Loyal Source employees were barred from CBP facilities and indicating whether these employees are now prohibited by Loyal Source from working under contract for other U.S. government agencies. If that has not occurred, please explain why, how many staff are barred by CBP but still working under contract for other federal agencies, what positions they hold, and a list of facilities or agencies where they are employed.

I look forward to your prompt response.

Sincerely,



Richard J. Durbin
Chair

cc: The Honorable Lindsey O. Graham
Ranking Member, Senate Committee on the Judiciary

¹² See Department of Homeland Security, Office of the Inspector General, *CBP Needs to Strengthen Its Oversight and Policy to Better Care for Migrants Needing Medical Attention* 3, n. 4 (July 20, 2021), <https://www.oig.dhs.gov/sites/default/files/assets/2021-07/OIG-21-48-Jul21.pdf>.

¹³ CBP, *Statement from CBP Acting Commissioner Troy Miller on the Investigation of the in-custody death of a child*, (June 1, 2023), <https://www.cbp.gov/newsroom/speeches-and-statements/statement-cbp-acting-commissioner-troy-miller-investigation>.