



March 21, 2017

Office of the General Counsel  
U.S. Department of Homeland Security  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, DC 20528-0485

U.S Customs & Border Protection  
Office of the Chief Counsel  
1300 Pennsylvania Ave., N.W.  
Washington, D.C. 20229

Re: Notification of Incident and Claim for Damages in the Matter of [REDACTED]

To Whom It May Concern:

I represent Claimant [REDACTED] and am authorized as her counsel to make claims against the United States Customs and Border Protection on her behalf. Pursuant to 28 U.S.C. § 2675(a) and 28 C.F.R. § 14.2(a), I hereby provide notification of incidents that occasion liability under the Federal Tort Claims Act and present claims for money damages for personal injury.

Please find enclosed the following documents submitted on behalf of Claimant, [REDACTED] in her administrative complaint:

1. Standard Form SF 95, along with Attachment A, "Supplement to Claim Form 95"
2. Grant of Authority to file claim on behalf of [REDACTED]

I look forward to your prompt response to this demand. I may be reached at (559) 554-2994 ext. 204 or [asalceda@aclunc.org](mailto:asalceda@aclunc.org). Thank you very much for your attention to this matter.

Sincerely,

Angélica Salceda  
Staff Attorney

Encl.

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:  Office of General Counsel U.S. Department of Homeland Security Washington, DC 20528			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.  Claimant: [REDACTED]  Counsel: Angélica Salceda, ACLU of Northern California, 2014 Tulare St. Suite 717, Fresno, CA 93707		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH [REDACTED]	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT See Attachment A A	7. TIME (A.M. OR P.M.) See Attachment A	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).  See Attachment A, "Supplemental to Claim Form 95" for the remainder of the form.					
<b>9. PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).  See Attachment A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
<b>10. PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.  See Attachment A					
<b>11. WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
See Attachment A					
12. (See instructions on reverse). <b>AMOUNT OF CLAIM</b> (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY 750,000.00	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights). 750,000.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM (559) 554-2994 x 204	14. DATE OF SIGNATURE 03/21/2017	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

**INSURANCE COVERAGE**

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance?  Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number.  No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible?  Yes  No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance?  Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code).  No

**INSTRUCTIONS**

**Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.**

**Complete all items - Insert the word NONE where applicable.**

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

The amount claimed should be substantiated by competent evidence as follows:

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

**PRIVACY ACT NOTICE**

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- B. *Principal Purpose:* The information requested is to be used in evaluating claims.
- C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

**PAPERWORK REDUCTION ACT NOTICE**

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

**GRANT OF AUTHORITY FOR ANGÉLICA SALCEDA  
TO FILE CLAIM ON MY BEHALF**

I, [REDACTED] authorize Angélica Salceda to present a federal tort claim to U.S. Customs and Border Protection as my legal representative.

Dated: March 20, 2017

[REDACTED]  
\_\_\_\_\_  
[REDACTED]

[REDACTED]  
\_\_\_\_\_  
(Guardian)

## ATTACHMENT A

### Supplemental to Claim Form 95

[REDACTED]

#### 6-7. Date and Time of Injury:

The claimant, [REDACTED] was assaulted, battered and falsely imprisoned at approximately 11:30 p.m. on Monday, July 11, 2016 in Presidio, Texas. Claimant was 17 years old at the time when a U.S. Customs and Border Protection (“CBP”) officer or employee forced her into a closet-like room, forced her to remove her clothing, and offensively touched her most intimate body parts. The claimant remained in CBP custody until she was released on an Order of Supervision on Thursday, July 14, 2016.

#### 8. Basis of claim:

The incident upon which this claim is based began on July 11, 2016 at approximately 11:00 p.m., when [REDACTED] a minor and Guatemalan citizen, handed herself over to U.S. Customs and Border Protection (“CBP”) while lost on the Presidio, Texas-Ojinaga, Chihuahua border. While she was in CBP custody, a CBP officer assaulted, battered, and falsely imprisoned [REDACTED] intentionally inflicting emotional distress upon her. The factual basis for this claim is as follows:

On July 11, 2016, [REDACTED] was traveling with her 19-year-old sister and another minor companion. All three were lost on the Presidio, Texas-Ojinaga, Chihuahua border. The three lost travelers spotted two CBP officers and waved them down out of desperation. The two CBP officers approached [REDACTED] and the two other travelers and asked a series of questions including their ages, whether they were immigrants, and whether they were carrying any weapons. [REDACTED] responded to the questions, indicating that she was not carrying any weapons, and disclosed that she was 17 years old. The two officers asked [REDACTED] to raise her hands and then shake out her clothing to make sure she did not have anything on her person. The officers also confiscated her backpack before placing her and the two other travelers in a vehicle and transporting them to the Presidio field office. There, the two officers asked [REDACTED] to remove her shoes and placed her and her 19-year-old sister in a holding cell under the supervision of a third officer, believed to be known as Officer [REDACTED] and then left the field office. With the two officers out of the field office, [REDACTED] witnessed Officer [REDACTED] remove her sister from the holding cell and take her into a separate room. Approximately 5 to 7 minutes later, [REDACTED] observed her sister return to the holding cell in tears.

Officer [REDACTED] then removed [REDACTED] from the holding cell, forced her into a closet-like room without her consent or authority of law, and willfully blocked the door to the room, falsely imprisoning her.<sup>1</sup> Once in the closet-like room, Officer [REDACTED] asked [REDACTED] to remove her button-down blouse and a black shirt she was wearing underneath. [REDACTED]

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<sup>1</sup> [REDACTED] recalls that the room seemed to be a closet or pantry area. There were no windows or furniture, and the room was being used to store packaged foods.

hesitantly complied with the order, asking first whether she could just remove the button-down blouse. Officer [REDACTED] ordered that she remove both shirts. [REDACTED] removed both the blouse and shirt and stood in front of the officer only wearing her brassiere. Officer [REDACTED] then ran his hands over her bra, lifted the bra to place his hands inside, and touched her bare breasts. After Officer [REDACTED] fondled her breasts, he allowed [REDACTED] to put on her blouse and shirt. [REDACTED] stood in shock but was then ordered by Officer [REDACTED] to remove her two layers of pants. Again, [REDACTED] hesitantly complied with the order. Once in her underwear, Officer [REDACTED] ordered that she also pull down her underwear. Officer [REDACTED] then touched [REDACTED] vaginal area, running his hand over her vagina and in between her legs. Officer [REDACTED] ordered [REDACTED] to turn around, with her back facing him, and he asked her to bend over. [REDACTED] complied. Officer [REDACTED] then placed his hands on [REDACTED] waist before allowing her to dress herself. All of Officer [REDACTED] contacts with [REDACTED] were offensive and insulting, and committed with the knowledge that she was a minor and that such actions would cause her injury. Once dressed, Officer [REDACTED] removed [REDACTED] from the closet-like room and walked her back to the holding cell.

Because of the outrageous conduct of Officer [REDACTED] [REDACTED] began to cry in her holding cell. Her sister was also crying. Officer [REDACTED] walked over to the holding cell and asked them to stop crying. The officer also asked [REDACTED] if she had already disclosed her age to the two arresting officers. [REDACTED] responded in the affirmative and restated her age, 17 years old, to the officer. Officer [REDACTED] tried to get them to stop crying by offering chocolates, potato chips, and an aluminum sheet, but [REDACTED] and her sister continued to cry. Officer [REDACTED] asked that [REDACTED] and her sister not tell anyone about what had happened. In exchange for not saying anything, Officer [REDACTED] offered to allow the adult sister to pass as a minor. [REDACTED] and her sister did not respond to his offer.

Officer [REDACTED] removed [REDACTED] and her sister from the holding cell and walked them over to his computer to take down their information. After a few minutes, Officer [REDACTED] took the girls back into the holding cell.

Approximately one hour later, Officer [REDACTED] again removed [REDACTED] and her sister from the holding cell to ask them more questions. While Officer [REDACTED] was taking down the information, the two officers who had transported her to the field office returned to the field office. The adult sister approached the two officers and revealed that both she and [REDACTED] at different times, had been forced into the closet-like room and ordered to remove their clothing. The two officers asked the adult sister to point to the person who had done this. The adult sister pointed towards Officer [REDACTED]. Immediately, the adult sister was placed in a holding cell and [REDACTED] was asked to sit on a bench. The two officers, without Officer [REDACTED] present, asked [REDACTED] to recount her experience. One of the officers, only known as Officer [REDACTED] apologized to [REDACTED] for Officer [REDACTED] actions. He also reassured [REDACTED] and her sister that an investigator would arrive shortly to investigate the incident. Both [REDACTED] and her sister were removed from the holding cell and allowed to sleep on a mattress next to Officer [REDACTED] desk during the remainder of their detention at the field office.

The Department of Homeland Security (“DHS”) Office of Inspector General (“OIG”) in Alpine, Texas took over the investigation of the incident, with OIG Special Agent [REDACTED]

and Special Agent [REDACTED] (full name presently unknown) leading the investigation. [REDACTED] and her sister provided written, sworn statements of the incident and a map detailing the location and interior of the closet-like room. After three full days, [REDACTED] and her sister were finally released on July 14, 2016 on Orders of Supervision and arrived in Fresno, California on July 16, 2016.

[REDACTED] has been attending weekly counseling sessions with a counselor due to the emotional distress she suffered as a direct and proximate result of the actions of CBP and its officers or employees.

**9. Property damage:** No property was damaged

**10. Nature and extent of injury:**

[REDACTED] has suffered injuries as a direct and proximate result of the assault, battery, and false imprisonment by CBP's officers or employees. Knowing that she was a minor, Officer [REDACTED] falsely imprisoned [REDACTED] by taking her into the closet-like room without her consent and without the ability for her to leave the room. He also forced her to remove all layers of her top and bottom clothing, only allowing her to keep her brassiere, despite her many pleadings. On multiple occasions, Officer [REDACTED] touched [REDACTED] most intimate body parts without her consent. Such bodily conduct was both offensive and insulting because [REDACTED] was a minor and did not consent to the touching, and because the touching was committed at the expense of [REDACTED] personal dignity.

[REDACTED] has also suffered emotional distress as a direct and proximate result of the tortious actions of CBP and its officers or employees. To the present day, she suffers anxiety and stress from not knowing if she will run into Officer [REDACTED] again and fear that her high school classmates may find out about her abusive and humiliating experience. Every time she undresses herself, she recalls the offensive conduct and experiences emotional distress at the memory. [REDACTED] emotional distress goes far beyond worry, anxiety, vexation, embarrassment or anger. As a minor, she is fearful that a future partner will think of her as "impure" because of the atrocious touching of her body by Officer [REDACTED] whose conduct was beyond all possible bounds of decency. Since December 2016, [REDACTED] has been having regular counseling sessions with a family counselor.

CBP's officers or employees are investigative or law enforcement officers under the Federal Torts Claim Act. As such, CBP is not immune from money damages based on the negligent or wrongful acts or omission of its federal employees.

**11. Witnesses:**

On information and belief, witnesses as to the injury [REDACTED] suffered while she was detained by CBP in Presidio, Texas include:

(a) [REDACTED]

- (b) [REDACTED]
- (c) [REDACTED]
- (d) [REDACTED]
- (e) [REDACTED]
- (f) [REDACTED]
- (g) [REDACTED]
- (h) [REDACTED]

**12. Amount of Claim:**

- (a) **Property damage:** None
- (b) **Personal injury:** \$750,000.00
- (c) **Wrongful death:** None
- (d) **Total:** \$750,000.00