

Congress of the United States

Washington, DC 20515

August 17, 2022

Commissioner Chris Magnus
U.S. Customs and Border Protection
U.S. Department of Homeland Security
1300 Pennsylvania Avenue NW
Washington, D.C. 20229

Dear Commissioner Magnus,

We are writing today to express our grave concerns regarding reports of U.S. Customs and Border Protection (CBP) agents in the Yuma and Tucson Sectors, and quite possibly other sectors as well, confiscating and discarding Sikh asylum-seekers' religious items, including Sikh turbans.¹ As noted by the American Civil Liberties Union of Arizona, "In the last two months alone, [ACLU] organizational partners in Arizona have documented nearly 50 cases of asylees arriving from Yuma who reported that their religious headwear had been taken by CBP and never returned or replaced."² Subsequent reporting on the issue revealed additional cases arising in the Tucson Sector.³ Such actions constitute a violation of multiple Department of Homeland Security (DHS) policies and federal laws that protect religious freedom and an individual's personal property while under custody. Therefore, CBP must immediately stop confiscating religious articles of faith, it must properly implement its policies as detailed under the 2015 CBP National Standards on Transport, Escort, Detention and Search (TEDS) and it must investigate any potential violations by agents of DHS' policies or federal laws in all CBP facilities.

Confiscating and discarding religious items, including Sikh turbans, is an egregious violation of an individual's religious freedom and goes against the values of our nation. As you may be aware, many of the Sikh individuals making their way to the United States border are seeking asylum on the basis of religious persecution.⁴ According to the Sikh Coalition, "Sikhs are required to wear external articles of faith, such as a steel bracelet (kara), uncut hair and beards (kesh), and a turban (dastar) to cover their hair. These articles of faith distinguish a Sikh, have deep spiritual significance, and are mandated by Sikhs' religious traditions and should not be forcibly removed or discarded."⁵

Unfortunately, the confiscation or forced disposal of individuals' personal property, including religious items, is a long-standing issue that has become more prevalent over the past year. We are greatly alarmed by continuing reports that people are being indiscriminately forced to give up their religious items and other possession--which are then trashed in many cases. According to multiple entities working directly with Sikh migrants, communication and cooperation with CBP officials specific to this issue has been difficult, making it even more urgent to address this situation as soon as possible.

¹ <https://azluminaria.org/2022/08/02/border-patrol-agents-are-trashing-sikh-asylum-seekers-turbans/>

² <https://www.aclu.org/letter/aclu-letter-cbp-commissioner-magnus-yuma-border-patrol-sectors-practice-confiscating-sikh>

³ [Whistleblowers say Arizona Border Patrol practice of trashing Sikh turbans is widespread - AZ Luminaria](https://www.aclu.org/letter/aclu-letter-cbp-commissioner-magnus-yuma-border-patrol-sectors-practice-confiscating-sikh)

⁴ The Sikh Coalition, The Stanford Law School Religious Liberty Clinic, and the Harvard Law School Religious Freedom Clinic, *Well-Founded Fear, Understanding Legal Challenges and Best Practices for Sikh Asylum Applicants and Their Attorneys* (Nov. 1, 2021), available at <https://www.sikhcoalition.org/wp-content/uploads/2021/10/2021.11.01-asylum-report.pdf>.

⁵ <https://www.sikhcoalition.org/blog/2022/sikh-coalition-responds-to-abuse-of-sikh-asylum-seekers-dastars-by-border-control/>

As detailed under the 2015 CBP (TEDS) section §7.1, “operational offices are responsible for creating policies and procedures relating to the handling, retention, retrieval, and return of detainee personal property.” The policy further states that “all detainees’ personal property discovered during apprehension or processing and not deemed to be contraband will be safeguarded, itemized according to the operational office’s policies and procedures, and documented in the appropriate electronic system(s) of record.”⁶

In addition, TEDS policy states that, “Without compromising officer/agent safety, officers/ agents should remain cognizant of an individual’s religious beliefs while accomplishing an enforcement action in a dignified and respectful manner.”⁷ Therefore, CBP agents are not abiding by the agency’s own written policy.

To that end, we request answers to the following questions:

1. What actions has CBP taken to ensure agents are not confiscating and/or discarding religious items, including turbans, at all border entries?
2. If any recent guidance has been issued relevant to these issues, will those be immediately published in accordance with CBP’s transparency directive?⁸
3. What measures are in place to hold agents who violate CBP policy in relation to the issues outlined above accountable?
4. What policies have been put in place to ensure that data related to the confiscation and discarding of religious items, including Sikh turbans, is tracked for further transparency and accountability? If no policies have been implemented, please provide an explanation as to why.
5. What steps have been taken to investigate Border Patrol stations’ compliance with agency policies around seizure and/or forced disposal of migrants’ property more generally, including concerns raised by Members of Congress in a previous letter?⁹

We urge you to take these steps to remedy this situation as expeditiously as possible and to provide answers to our inquiries by September 6, 2022.

Sincerely,

Raúl M. Grijalva
Member of Congress

Joaquin Castro
Member of Congress

Judy Chu
Member of Congress

⁶ <https://www.cbp.gov/document/directives/cbp-national-standards-transport-escort-detention-and-search>

⁷ <https://www.cbp.gov/document/directives/cbp-national-standards-transport-escort-detention-and-search>

⁸ <https://www.cbp.gov/document/directives/cbp-directive-5430-001-public-release-cbp-directives-and-policy-directorate>

⁹ <https://grijalva.house.gov/rep-grijalva-leads-22-members-of-congress-demanding-answers-from-cbp-and-ice-on-migrants-missing-documents-and-possessions-including-religious-items-rep-grijalva-lidera-a-22-mie/>

CC: Chris T. Clem, Yuma Sector Chief Patrol Agent
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