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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

February 15, 2008

W. Ralph Basham
Commissioner
U.S. Customs and Border Protection
Department of Homeland Security
1300 Pennsylvania Avenue, NW, Room 5.4A
Washington, DC 20229

Dear Mr. Basham:

I am writing to express deep concern and request information about the death of newborn baby Michael Futi on February 8, 2008. As you likely know, Michael's mother Luaipou Futi, and his nurse, Arizona Veavea, flew with Michael from American Samoa to obtain medical treatment for Michael's heart condition in Honolulu. According to press reports, all three travelers were detained by Customs and Border Protection (CBP) because of concerns about entry documents presented by Ms. Futi, a native of Western Samoa. While in CBP custody, Michael reportedly experienced respiratory failure, and he died soon thereafter.

The death of a small child always is a tragic occurrence, and I am saddened by the possibility that Michael's death might have been unnecessary. In particular, I am concerned with CBP's decision to detain a mother and newborn baby with a serious medical condition. CBP's actions are especially troubling in light of reports that Michael and his nurse were U.S. nationals and Ms. Futi had arranged permission to enter the United States in advance of their trip.

I ask you to provide responses to the following no later than March 7, 2008:

1. Please state when Ms. Futi or Ms. Veavea informed CBP officers of Michael's serious medical condition and whether Michael was traveling with an oxygen tank, intravenous feeding or medical equipment, or any other medical devices visible to CBP officers.
2. Please provide the basis of CBP's concern, if any, about Ms. Futi's travel documents.
3. Please confirm whether Michael and Ms. Veavea were U.S. citizens or nationals; whether they presented documentation of that status; and explain the basis for detaining them. Additionally, please state whether Ms. Futi and Ms. Veavea requested that Ms. Veavea be permitted to proceed with Michael to the hospital even if Ms. Futi was detained.
4. Please explain what efforts, if any, were made to resolve CBP's concerns in the secondary inspection area using standard secondary inspection processes.

5. Please describe any policies or procedures that CBP has with respect to travelers who cannot be cleared quickly in secondary inspection and provide any documents addressing these policies or procedures. Please state why Ms. Futi, Michael, and Ms. Veavea were placed in a hold room or office.
6. Please describe any policies and procedures with respect to supervision of detained travelers and provide any documents addressing these policies or procedures. Please state whether any such policies or procedures were followed in this instance.
7. Please describe any policies or procedures for advanced notification to CBP of travelers with serious medical or other conditions that might justify expedited processing, as well as any policies or procedures for providing expedited processing if warranted. Please provide any documents addressing these policies or procedures. If CBP does have policies or procedures for advanced notification and/or expedited processes, please state whether they were followed in this instance.
8. Please describe any specific standards of care and conditions of confinement that CBP uses for processing travelers with serious medical conditions. Please provide any documents addressing the processing of travelers with medical conditions. Additionally, please describe what training, if any, CBP officers receive on treatment of travelers with serious medical conditions.
9. Does CBP have any plans to review its policies and procedures for processing travelers with serious medical conditions?

Please direct any questions you may have to Lisa Powell on the staff of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia at 202-224-4551. Thank you for your cooperation.

Aloha pumehana,



Daniel K. Akaka
Chairman
Subcommittee on Oversight of
Government Management, the
Federal Workforce, and the
District of Columbia

cc: Lamar Witmer, Port Director, Honolulu Sector, Customs and Border Protection