

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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Majority (202) 225-2927
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October 1, 2020

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, DC 20016

Dear Acting Secretary Wolf:

Pursuant to Rules X and XI of the U.S. House of Representatives, we write with concern regarding the recent whistleblower complaint filed with the U.S. Department of Homeland Security (DHS) Office of the Inspector General (OIG) alleging widespread disregard for public health and lack of quality medical care for immigrants detained in the Irwin County Detention Center (ICDC) in Ocilla, Georgia.¹ According to the complaint, ICDC repeatedly violated Centers for Disease Control and Prevention (CDC) coronavirus disease of 2019 (COVID-19) guidance, failed to provide general medical care to those detained, and facilitated a high rate of hysterectomies on women under questionable conditions.

If this complaint is true, it is absolutely unacceptable and horrific treatment of individuals in DHS detention. Furthermore, the complaint details conditions that threaten the public's health in the midst of a pandemic.² In light of these allegations, as the Committee of jurisdiction over public health and health care in the United States, we seek information as to what steps DHS has taken to investigate the conditions at ICDC and elsewhere, and what actions are being implemented to address and prevent such circumstances in other detention facilities.

The complaint to OIG details alarming disregard for and direct violation of CDC *Interim Guidance on Management of Coronavirus Disease in Correctional and Detention Facilities* for both employees and those detained in the Ocilla facility.³ These include reports from detained immigrants that they are not able to be socially distant and have to wait days for new face masks

¹ Letter from Project South, et al. to Inspector General Joseph V. Cuffari, Office of Inspector General, Department of Homeland Security, et al. (Sept. 14, 2020).

² *Id.*

³ *Id.*

and cleaning supplies to sanitize their surroundings. One immigrant stated that, “There is no social distancing...we breathe the same air, we sneeze, we cough next to each other.”⁴ In addition, contrary to CDC guidance,⁵ ICDC has allowed the transfer of detainees in and out of the facility. The complaint states that the ICDC Warden persisted in transferring detainees over the objections of the facility’s medical director. This reportedly includes transferring detainees who were known to have COVID-19 and failing to properly quarantine individuals as they arrived at the facility.

The complaint further claims that there is a lack of COVID-19 testing, even for individuals who are more vulnerable to the virus or are exhibiting symptoms, and underreporting of confirmed cases within the facility.⁶ In addition, ICDC employees are allegedly instructed to work even if they are exhibiting COVID-19 symptoms or obtain a positive test result. Such actions, if true, put ICDC employees and detained immigrants at risk of spreading or succumbing to the novel virus that has now claimed more than 205,000 lives in the United States.⁷

The complaint also includes numerous reports of a general lack of medical care and delayed, or poor, care when it is provided.⁸ For example, detainees’ medical request forms were allegedly shredded, medical records for patients never examined have been allegedly fabricated, and medical symptoms displayed or conveyed by patients were reportedly routinely ignored. Unsanitary conditions in the medical and quarantine units, including dirty exam tables and watered-down disinfectant, were also reported. According to the complaint, care was also delayed, and in some instances when detained immigrants did receive medical care it was “poor treatment by certain medical staff.” This included showing disrespect to the patients, particularly Hispanic patients, for not speaking English and refusal to believe the patient when they reported pain.⁹

Most alarmingly, the complaint claims that a high rate of hysterectomies were performed on women detained at ICDC.¹⁰ According to the complaint, some of the women expressed that they did not understand why the procedure had been performed. Reportedly, one such woman was given three different answers by three different people as to why she needed to undergo a

⁴ *Id.*

⁵ Centers for Disease Control and Prevention, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (accessed Sept. 23, 2020).

⁶ *See* note 1.

⁷ Centers for Disease Control and Prevention, CDC COVID Data Tracker (covid.cdc.gov/covid-data-tracker/#cases_casesinlast7days) (accessed Sept. 30, 2020).

⁸ *See* note 1.

⁹ *Id.*

¹⁰ *Id.*

hysterectomy. According to the complaint, rather than using the language line as medical staff were required to do, staff would attempt to communicate and explain the medical procedure merely by “Googling Spanish.”¹¹ In additional reporting since the complaint was made public, other women previously detained at ICDC also shared their experiences of being pressured to undergo the procedure.¹²

Informed consent for all medical care, including reproductive health, is imperative to ensuring quality health care, public health, and patient trust. Particularly given our nation’s troubling history of inflicting nonconsensual or coercive medical practices on people of color and people with disabilities—and practices that resulted in sterilization—informed consent is foundational to sound medical care practices.¹³ In order for a patient to provide informed consent, as the American Medical Association’s Code of Medical Ethics states, clinicians should “present relevant information accurately and sensitively, in keeping with the patient’s preferences.”¹⁴ Further, according to the American College of Obstetricians and Gynecologists, when it comes to procedures that may result in sterilization, “coercive or forcible sterilization practices are unethical and should never be performed.”¹⁵ Especially in settings where patients are detained or incarcerated, the power dynamics presented only reinforce the critical need for unambiguous and fully informed consent.

Given public health guidance and these clear medical guidelines, we are deeply concerned by the reported conditions and events outlined in the complaint to the DHS OIG. For the reasons summarized above and detailed further in the complaint, we request a briefing and a response to the following questions by October 15, 2020.

1. Was DHS aware of any medical care or public health concerns at ICDC prior to the September 14, 2020, complaint to OIG? If so, what concerns were known to DHS? What steps, if any, did DHS take prior September 14, 2020, and after, to address the substandard quality of health care and public health threats, particularly related to COVID-19 and reproductive health care?

¹¹ *Id.*

¹² *More migrant women say they didn’t OK surgery in detention center*, Associated Press (Sept. 18, 2020); *Immigrants Say They Were Pressured Into Unneeded Surgeries*, New York Times (Sept. 29, 2020).

¹³ The American College of Obstetricians and Gynecologists, *Committee Opinion Number 695, Sterilization of Women: Ethical Issues and Considerations* (Apr. 17, 2020) (www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2017/04/sterilization-of-women-ethical-issues-and-considerations.pdf).

¹⁴ American Medical Association, *Code of Medical Ethics, Opinion 2.1.1* (2016) (www.ama-assn.org/system/files/2019-06/code-of-medical-ethics-chapter-2.pdf).

¹⁵ *See* note 13.

2. What steps, if any, has DHS taken, in consultation with the Department of Health and Human Services (HHS), including CDC or other health agencies, to investigate the conditions at ICDC and other facilities under DHS authority?
3. Since COVID-19 was declared a public health emergency in the United States on January 31, 2020, what steps has DHS taken to prevent the spread of COVID-19 in its detention facilities, as well as those operated by contractors? What is DHS's testing strategy for employees working in DHS detention facilities and individuals in DHS custody? Please provide the number of COVID-19 tests that have been performed and specify how these align with the testing strategy's target goals. In addition, please detail the protocols in place should an individual who is detained or a detention facility employee have a positive test for COVID-19.
4. Is DHS aware of any prior complaints or has DHS investigated any complaints related to the lack of informed consent for medical procedures? If so, please list the facilities where these complaints occurred and whether any were related to medical procedures that led to sterilization.
5. Does DHS track the number of medical procedures, including hysterectomies, performed on detainees in DHS custody and the medical indication for each such procedure? If so, please provide the total number of hysterectomies performed and the medical indication for the procedure per month by facility, and the percentage of females detained who received hysterectomies per month as compared to the overall population of females detained per facility in the same period for the past 48 months. Please provide all supporting documentation provided to detainees prior to the procedure.

Thank you for your prompt attention to our request. For any questions, please contact Jacquelyn Bolen and Jesseca Boyer with Majority staff at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.
Chairman



Anna G. Eshoo
Chairwoman
Subcommittee on Health



Diana DeGette
Chair
Subcommittee on Oversight
and Investigations