

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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May 10, 2024

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Comptroller General Dodaro:

We write to request that the Government Accountability Office (GAO) conduct a review of emergency medical procedures and major surgeries performed on people held in Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) custody. Specifically, we request that GAO review the process for detainees receiving approval for major surgery and emergency medical care, including how major medical care is authorized and approved, whether people can access surgery and emergency services when experiencing an acute medical issue, and whether people give informed consent before undergoing major medical procedures, including emergency surgeries.

The United States is experiencing a significant migration surge, especially along the southwest border with Mexico.¹ Many people who are detained by U.S. Border Patrol are ultimately held in facilities managed by ICE and CBP while awaiting adjudication of their immigration cases. During their time in detention, many require emergency medical care or major surgery.² During fiscal year 2023, the ICE Health Service Corps provided medical, mental, and dental care to more than 131,000 noncitizen detainees.³ People in ICE detention have reported incidents of poor or improper medical care while in ICE custody and difficulties obtaining authorization and referrals for appropriate medical care, especially in urgent situations. For example, a pregnant detainee in El Paso was not offered an ultrasound or adequate pain management after she suffered extensive bleeding.⁴ In another instance, a patient was not

¹ Pew Research Center, *Migrant Encounters at the U.S.-Mexico border Hit a Record High at the End of 2023* (2023) (online at www.pewresearch.org/short-reads/2024/02/15/migrant-encounters-at-the-us-mexico-border-hit-a-record-high-at-the-end-of-2023/).

² U.S. Immigration and Customs Enforcement, *Annual Report Fiscal Year 2023* (2023) (online at www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf).

³ *Id.*; *Before Child Died in Custody, CBP Tried to Replace Medical Contractor*, Washington Post (Aug. 25, 2023) (online at www.washingtonpost.com/immigration/2023/08/25/border-medical-migrants-loyal-source/).

⁴ *Government's Own Experts Found 'Barbaric' and 'Negligent' Conditions in ICE Detention*, National Public Radio (Aug. 16, 2023) (online at www.npr.org/2023/08/16/1190767610/ice-detention-immigration-

offered basic care for an open wound and sat in a general holding area with other detainees post-surgery without appropriate wound care.⁵ Unfortunately, these issues are not new. In 2020, a Senate Permanent Subcommittee on Investigations report found that female ICE detainees at Irwin County Detention Center, “appear to have been subjected to excessive, invasive, and often unnecessary gynecological procedures” and “there appears to have been repeated failures to secure informed consent for off-site medical procedures performed on [ICE] detainees.”⁶ Former Rep. Carolyn B. Maloney, then-Chairwoman of the Committee on Oversight and Reform, and Rep. Bennie Thompson, then-Chairman of the Committee on Homeland Security, launched their own investigation into conditions within the Irwin County Detention Center in 2020.⁷ Like the findings in the Senate report, a whistleblower alleged that women detained in the facility were sent to an outside medical provider to undergo gynecological procedures, including but not limited to hysterectomies, without appropriate informed consent.⁸

Detainees also receive medical care while in the custody of CBP. CBP contracts with third parties to provide medical care to noncitizen detainees.⁹ In August 2023, an 8-year-old child died while in CBP custody. Loyal Source Government Services operated the medical ward at the facility in which the child was detained. Loyal Source Government Services has obtained over \$630 million in CBP contracts since 2015, and their medical care has been under scrutiny since before the child’s death.¹⁰ In this particular case, the child was denied emergency medical services despite policies in place requiring an on-call physician be alerted as the child’s symptoms got worse. Files show that the child had sickle cell disease that may have been mishandled.¹¹

Earlier this year, the Department of Homeland Security Office of Inspector General issued a report entitled “ICE Major Surgeries Were Not Always Properly Reviewed and Approved for Medical Necessity.”¹² Despite the title of the report, the Office of the Inspector

government-inspectors-barbaric-negligent-conditions).

⁵ *Id.*

⁶ United States Senate Permanent Subcommittee on Investigations, *Committee on Homeland Security and Government Affairs, Medical Mistreatment of Women in ICE Detention* (Nov. 15, 2022) (online at www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-11-15%20PSI%20Staff%20Report%20-%20Medical%20Mistreatment%20of%20Women%20in%20ICE%20Detention.pdf).

⁷ Committee on Oversight and Reform, *Press Release: Homeland Security and Oversight Committees Commence Investigation into ICE Medical Whistleblower Complaint, Request Documents from ICE, LaSalle, Irwin County Detention Center* (Sept. 21, 2020) (online at <https://oversightdemocrats.house.gov/news/press-releases/homeland-security-and-oversight-committees-commence-investigation-into-ice>).

⁸ *Id.*

⁹ *Before Child Died in Custody, CBP Tried to Replace Medical Contractor*, Washington Post (Aug. 25, 2023) (online at www.washingtonpost.com/immigration/2023/08/25/border-medical-migrants-loyal-source/).

¹⁰ *Id.*

¹¹ *Id.*

¹² U.S. Department of Homeland Security, Office of the Inspector General, *ICE Major Surgeries Were Not Always Properly Reviewed and Approved for Medical Necessity* (Jan. 23, 2024) (online at www.oig.dhs.gov/sites/default/files/assets/2024-01/OIG-24-16-Jan24.pdf).

General's nearly four year review was unable to conclusively determine whether detainees are experiencing medically unnecessary surgeries, including hysterectomies and other procedures that may have minimally invasive alternatives.¹³ The study also did not evaluate whether patients received informed consent prior to surgery or differentiate emergency and non-emergency surgeries.¹⁴ In light of these concerns, we request that GAO do a more fulsome and rigorous review.

For all of the above reasons, we request that GAO conduct a review that responds to the following questions:

1. How do ICE and CBP determine whether detainees require emergency medical care or major surgeries while in custody?
 - a. What process does each agency follow to authorize emergency medical care and major surgeries?
 - b. Are there any deficiencies in the authorization process that prevent people from receiving required medical care?
2. How do ICE, CBP, and contractors ensure that detainees who require emergency medical care or major surgeries receive authorized care, including appropriate follow up care, while in custody?
3. How do ICE and CBP obtain and document detainees' informed consent before undergoing major surgery, including determining that detainees are able to make competent and voluntary decisions about whether to undergo major surgery?
 - a. Under what circumstances are detainees more likely to undergo major surgeries without appropriate informed consent or appropriate authorization?
4. How does CBP and ICE provide detainees access to translators or healthcare providers who speak their language?
5. How do ICE and CBP monitor or audit contractors providing medical care to people in detention to determine that the care is authorized and appropriate?
6. What policies and procedures does ICE and CBP require of contractors to ensure that a detainee receives appropriate medical care in emergencies?
7. Do medical professionals that ICE and CBP contract with provide major surgeries that are deemed medically necessary?

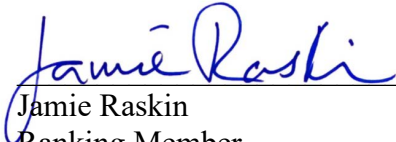
¹³ *Id.*

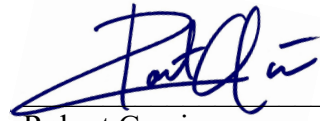
¹⁴ *Id.*

- a. Do ICE and CBP have adequate safeguards in place to ensure that detainees are undergoing medically necessary surgeries and less invasive alternatives are offered where appropriate?

Thank you for your consideration and attention to this request. If you have any questions regarding this request, please contact the Committee on Oversight and Accountability staff at (202) 225-5051.

Sincerely,



Jamie Raskin
Ranking Member

Robert Garcia
Ranking Member
Subcommittee on National Security,
the Border, and Foreign Affairs

Alexandria Ocasio-Cortez
Member of Congress

cc: The Honorable James Comer, Chairman

The Honorable Glenn Grothman, Chairman
Subcommittee on National Security, the Border, and Foreign Affairs