S. Hrg. 117–537

MEDICAL MISTREATMENT OF WOMEN IN ICE DETENTION

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

NOVEMBER 15, 2022

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MEDICAL MISTREATMENT OF WOMEN IN ICE DETENTION

TUESDAY, NOVEMBER 15, 2022

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:30 p.m., via Webex and in room 342, Dirksen Senate Office Building, Hon. Jon Ossoff, Chairman of the Subcommittee, presiding.

Present: Senators Ossoff, Hassan, and Padilla.

OPENING STATEMENT OF SENATOR OSSOFF[1]

Senator OSSOFF. The Permanent Subcommittee on Investigations (PSI) will come to order.

Before we begin this hearing, guests and viewers should be advised that this hearing will discuss the medical abuse of women in the custody of the U.S. Government and that the subject matter is deeply distressing and highly sensitive.

Eighteen months ago, I launched a PSI investigation focused on the medical treatment of women detained by the Department of Homeland Security (DHS). This investigation has been bipartisan from start to finish, and I would like to thank Ranking Member Johnson and his staff for their contributions.

Our findings are deeply disturbing.

It is the bipartisan finding of the Subcommittee that female detainees in Georgia were subjected by a DHS-contracted doctor to excessive, invasive, and often unnecessary gynecological surgeries and procedures, with repeated failures to obtain informed medical consent.

This is an extraordinarily disturbing finding, and in my view represents a catastrophic failure by the Federal Government to respect basic human rights.

Among the serious abuses this Subcommittee has investigated during the last 2 years, subjecting female detainees to non-consensual and unnecessary gynecological surgeries is one of the most nightmarish and disgraceful.

The Subcommittee has been thorough, interviewing more than 70 witnesses and reviewing more than 540,000 pages of records, and I want to thank and commend the staff who have worked on this for the last year and a half.

[1] The prepared statement of Senator Ossoff appears in the Appendix on page 33.

The Subcommittee engaged medical experts, including Dr. Peter Cherouny, Obstetrician and Gynecologist (OB/GYN), who previously conducted medical reviews of other matters for the U.S. Department of Health and Human Services (HHS) inspector general (IG), and who independently reviewed more than 16,000 pages of medical records obtained by the Subcommittee.

The Subcommittee also consulted Dr. Margaret Mueller, OB/GYN, who has also reviewed extensive medical records related to the investigation. Both Dr. Cherouny and Dr. Mueller will testify today, and I thank you both for your service to the Subcommittee and to the U.S. Senate.

These medical experts reviewed the clinical conduct of Dr. Mahendra Amin, an OB/GYN doctor contracted by the Department of Homeland Security, who has subjected female detainees to aggressive and unethical gynecological care, quickly scheduled surgeries when non-surgical options were available, performed unnecessary injections and treatments, and often proceeded without informed consent.

In addition to this expert review of medical records, the Subcommittee analyzed relevant data secured from U.S. Immigration and Customs Enforcement (ICE), and the results of our analysis were shocking. For example, from 2017 to 2020, Dr. Amin accounted for just 6.5 percent of all offsite OB/GYN visits for all ICE detainees nationwide. Yet during the same period, this single doctor, according to ICE statistics, performed 82 percent of all dilation and curettage (D&C) surgeries, 93 percent of all contraceptive injections, and 94 percent of all laparoscopic surgeries to remove lesions performed on the entire ICE detainee population nationwide.

Let me reiterate those statistics: one doctor, 6.5 percent of OB/GYN visits; 82 percent of D&C surgeries, 93 percent of contraceptive injections, 94 percent of laparoscopic surgeries to remove lesions, performed on the entire nationwide ICE detainee population.

The Subcommittee sought an interview with Dr. Amin during this investigation, and when he declined, we issued a subpoena. Dr. Amin invoked his Fifth Amendment right not to testify and has not spoken with the Subcommittee.

We will also be joined today by an extraordinarily courageous woman, Karina Cisneros Preciado. Karina was born in Mexico and brought to the United States as an 8-year-old child. She began working at 15, and by 18 was married to a spouse who physically abused her.

After she called the police to her home during an incident of domestic abuse, Karina was arrested, and although all charges against her were dropped, she wound up detained at Irwin County Detention Center (ICDC) in Ocilla, Georgia, because of her immigration status. Just 4 months earlier, Karina had given birth to her 4-month-old daughter, who was still breastfeeding at the time. Now forcibly separated from her infant daughter, Karina had not yet received her postpartum exam, and sought care while in detention. Karina was sent to Dr. Amin.

As we will hear, her encounter with Dr. Amin left her deeply disturbed, and it may only be because some allegations of medical

abuse became public at this time that Karina was spared further abuse.

On behalf of the U.S. Senate, Karina, I thank you for your decision to join us today and your service to the country.

Today we will also question Dr. Stewart Smith, who leads the ICE Health Service Corps (IHSC) and is responsible for all medical care provided to all ICE detainees; Dr. Joseph Cuffari, the DHS Inspector General; and Dr. Pamela Hearn, Medical Director for LaSalle Corrections.

Among the essential questions we will ask today, why are doctors who treat detainees not properly vetted by the Department of Homeland Security, when such a vet would have revealed in this case that the doctor in question had been previously sued by the Department of Justice (DOJ) and the State of Georgia for performing excessive and unnecessary procedures, had been dropped by a major insurer for excessive malpractice claims, and was not board certified?

What due diligence did the Department of Homeland Security perform in signing off on each of these procedures, because indeed they did sign off on these procedures? Why was the inexplicably high number of surgeries performed by a single physician not a red flag that attracted greater scrutiny?

What responsibility is borne by the private detention center operator for mistreatment of detainees housed in their facilities when that mistreatment occurs at an offsite medical facility?

All of these, and more, will be the subject of vigorous questioning today.

Senator Johnson will be joining us later in the hearing, and at this time I ask unanimous consent (UC) to enter his opening statement into the record.[1]

Senator OSSOFF. We will now call our first panel of witnesses for this afternoon's hearing.

Ms. Karina Cisneros Preciado was formerly detained at the Irwin County Detention Center in Ocilla, Georgia.

Dr. Peter Cherouny is a medical expert the Subcommittee engaged to conduct a review of medical records of patients treated by Dr. Amin, who were detained at Irwin County Detention Center in Ocilla, Georgia. He will be testifying remotely.

Dr. Margaret Mueller is a medical expert and physician who was part of an independent medical review team that conducted a review of medical records for detainees treated by Dr. Amin.

I appreciate all of you for being with us today and look forward to your testimony.

The rules and customs of the Subcommittee require all witnesses to be sworn in, so at this time I would ask you to please stand and raise your right hand.

Do you swear that the testimony you are about to give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. CISNEROS PRECIADO. I do.

Dr. MUELLER. I do.

Dr. CHEROUNY. I do.

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[1] The prepared statement of Senator Johnson appears in the Appendix on page 36.

Senator OSSOFF. Let the record reflect the witnesses answered in the affirmative. You may take your seats.

We will be using a timing system today. We ask that you try to limit your opening statements to around 5 minutes, but if you need a bit more time it is not a problem. Just let me know.

Ms. Cisneros Preciado, thank you again for joining us, and if you are ready we will hear from you first.

TESTIMONY OF KARINA CISNEROS PRECIADO,[1] FORMER DETAINEE AT IRWIN COUNTY DETENTION CENTER

Ms. CISNEROS PRECIADO. Good afternoon and thank you for the opportunity to share my story with you today. My name is Karina Cisneros Preciado. I was brought to the United States when I was 8 years old. I am now a 23-year-old mother of two. I have a 1-year-old and a 2-year-old.

When my daughter was 4 months old I called the police to stop ongoing abuse from her father. This led to me being arrested, and even though the charges were dropped I still ended up at ICDC for almost 7 months, away from my daughter, away from my family.

At ICDC I became 72176 instead of Karina. At ICDC, I went through hell. This place was extremely filthy. The showers were moldy. The water cooler where we drank water from, there was mold in the spout. We were given dirty and used underwear to wear.

At ICDC I sought help, medical help, because I had not had my postpartum checkup from my daughter. After several requests I finally got an appointment to see a doctor. The nurse told me I was going to get a Pap smear. When the day came they handcuffed me and put a chain around my waist, all the way down to my ankles.

When we arrived at the clinic we were taken in one by one by an escort and the rest stayed in the car with another officer. In the clinic, they took my blood pressure, my temperature, my weight with my handcuffs still on. Once in the room they took my handcuffs off so I could get undressed.

When Dr. Amin came in he did not acknowledge me. He did not say a word. He just sat in front of me and started prepping for the procedure, which he did not explain. Then he said, "Open your legs," and continued with, "It is going to be cold," and inserted a white tube inside of me. He wiggled it around, roughly. It was extremely uncomfortable.

As I was about to look at the monitor that was next to me he immediately pulled it out and he told me that I had a cyst on my left ovary and that I was going to get a Depo shot for it, and if the cyst did not dissolve in 4 weeks I was going to have to come back for surgery. Then he asked the nurse how many more, and he just walked off.

I got dressed and they put the handcuffs back on, and another nurse came in and she gave me the shot on my arm and made me sign a paper, which I did not have a chance to read it or hold it. I was wearing handcuffs. I just signed it.

Back in the van the other woman asked me if I had gotten the shots and I have babies as well. I did not know what it was. It was

[1] The prepared statement of Ms. Cisneros Preciado appears in the Appendix on page 38.

not explained to me. That is when I learned it was birth control, and if I would have known I would have said something, as the women in my family had very bad experiences from birth control.

When we came back to ICDC I learned the story of many other women that Dr. Amin had told the same thing. They all had cysts on their ovaries, we all got shots, and some of them even got surgeries. I thank God that the news came out, because he did not get to do anything else to me.

The reason I am telling this story is because this should not happen to anyone anymore. We are not animals. We are human. We are not just a number.

Thank you for your time.

Senator OSSOFF. Thank you, Ms. Cisneros Preciado.

Dr. Mueller, we will hear from you now, please.

TESTIMONY OF MARGARET G. MUELLER, MD,[1] ASSOCIATE PROFESSOR, OBSTETRICS AND GYNECOLOGY, NORTHWESTERN MEDICINE

Dr. MUELLER. Good afternoon, Chairman Ossoff, Senators, and staff as well as guests.

The first thing I want to do is take this opportunity to praise Karina for her courage and bravery for coming today. Although difficult to hear and heartbreaking, it certainly gives voice to the medical records that I reviewed and my colleagues reviewed as well.

My name is Margaret Mueller. I am a physician and I hold specialty board certification in OB/GYN and subspecialty board certification in Female Pelvic Medicine and Reconstructive Surgery. I have a faculty appointment at Northwestern University Feinberg School of Medicine where I serve as the Program Director for the Female Pelvic Medicine and Reconstructive Surgery Fellowship.

As mentioned, I was part of an independent medical review team made up of nine other board-OB/GYNs and two nurse practitioners. In 2020, we reviewed the medical records of 19 women who alleged medical abuse and mistreatment while in detention at Irwin County Detention Center. Since that summary was prepared and published, I have reviewed additional medical records that make it clear that this pattern of mistreatment and abuse was not limited to those 19 women.

Our findings identified a disturbing pattern of overly aggressive gynecologic care, many times involving unnecessary diagnostic procedures, and in some cases, unnecessary or inappropriate surgical procedures. Often, significant steps in the appropriate evaluation and management of common gynecologic conditions were completely omitted, leading to these unindicated and unnecessary procedures. Our review, more concerningly, identified a serious failure by the facility-assigned gynecologist, Dr. Amin, to obtain meaningful informed consent from the women who he was treating.

The unindicated and under-consented procedures included transvaginal ultrasounds, which is a procedure in which a woman is undressed from the waist down and a medical professional inserts a wand or probe into the vagina to image the reproductive fe-

[1] The prepared statement of Dr. Mueller appears in the appendix on page 39.

male organs—the uterus, cervix, the fallopian tubes, and ovaries; Pap smears, again a procedure in which a women is undressed from the waist down and a medical professional inserts a speculum into the vagina, and a brush is used to exfoliate the cervical cells to send to the pathologist; a LEAP procedure, a procedure which typically is performed in the office, however under Dr. Amin's care this was performed in the operating room under anesthesia, where again a speculum is inserted into the vagina and electric cautery is used to burn or remove or cauterize a significant portion of a woman's cervix.

Dilation and curettage, which you have heard about, a surgical procedure which is performed again in an operating room, under anesthesia, where a speculum is inserted into the vagina, and instruments are used to sequentially dilate or open a woman's cervix, obtaining access to the endometrial cavity or inside of the uterus. Once that is done, a separate instrument is used to scrape the inside or lining of the endometrial cavity to provide a pathologic specimen.

Finally, laparoscopy, a surgical procedure in the operating room, under general anesthesia, where one or more small incisions is made in the abdomen, a camera is introduced, and different instruments are used to either remove or repair tissue or organs.

Additionally, in several cases, women actually had incorrect procedures performed by Dr. Amin. These incorrect procedures resulted in (1) a woman being inadequately treated for a cervical cancer, and (2) a reproductive-age woman undergoing unnecessary removal of a significant portion of her cervix, as examples. Due to these incorrect procedures, both women can expect to require further and future procedures and monitoring, none of which would have been necessary had the appropriate procedures been done in the first place.

All of these procedures involve risks. Those risks are those that are directly attributed to the procedure, for example, an injury to a bowel or a portion of the intestines at the time of a laparoscopic procedure, and those that are downstream consequences—preterm birth or preterm labor following a LEAP procedure, or infertility and fertility implications following a dilation and curettage.

These unnecessary medical procedures were performed without an adequate consent, which means more than just placing a signed consent form in a chart, but a documentation of an appropriate discussion of less-invasive options that might be appropriate for the management for a patient, thus signifying a meaningful shared decisionmaking discussion between a patient and her physician. This lack of adequate informed consent was apparent from the medical records, but corroborated further by the stories like you heard from Karina, where really it was identified that there was a total absence of shared decisionmaking in the process between the patient and the physician.

An informed consent discussion should explore (1) the patient's symptoms and degree of bother from those symptoms; (2) the full range of treatment options available for a specific condition, ranging from least invasive, for example, observation if appropriate, to most invasive, as an example, surgery; and then finally, the risks,

the benefits, and the alternative of all of those proposed management strategies.

Importantly, if a patient has no symptoms or has no bother by her symptoms, or if a particular surgery is unindicated, then the intervention exposes the patient to unwarranted risks without any medical benefit.

Finally, many of these concerns are magnified by the vulnerable nature of these women. As you have heard, many of these women identify as trauma survivors. Several report a history of either rape, sexual abuse, or sexual assault. All were incarcerated and unable to choose a medical professional with whom they felt comfortable.

In that setting, these women were forced to relinquish their autonomy and their decision to participate in their own medical care. Autonomy is one of the four pillars of medical ethics and represents a patient's right to make decisions regarding her health care, without the medical provider trying to unduly influence her decision.

More simply stated, it is the right to refuse or choose medical care without the fear of retaliation. By nature of their incarceration, these women did not have a choice in what providers they saw. Some were retaliated against when they asked for a second opinion or refused surgery with Dr. Amin. This further compounds the concerning pattern of care that we identified.

The manner in which these women were treated as they were subject to aggressive, unnecessary, unindicated, and incorrect procedures and surgeries, often without any benefit, and usually without informed consent, is unacceptable by any standard. This cannot be allowed to happen again.

Thank you very much for your investigation and your time today. I look forward to your questions.

Senator OSSOFF. Thank you, Dr. Mueller, for your testimony.

Dr. Cherouny, we will hear from you now, and Dr. Cherouny will be joining us remotely.

TESTIMONY OF PETER H. CHEROUNY, MD,[1] PROFESSOR EMERITUS OF OBSTETRICS, GYNECOLOGY, AND REPRODUCTIVE SCIENCES, UNIVERSITY OF VERMONT COLLEGE OF MEDICINE

Dr. CHEROUNY. Chairman Ossoff, Members of the Permanent Subcommittee on Investigations, all other interested parties and staff, good afternoon.

My name is Peter Cherouny, as you heard. I am currently Professor Emeritus at the University of Vermont in the Department of Obstetrics, Gynecology, and Reproductive Sciences. I did send in a CV, and you have heard some about that.

Particularly, I have extensive experience in quality assessment and improvement in medical care, and I have previously been involved with reviews within the United States government, as you have heard, as well as internationally, including the obstetric care review that was mentioned within the Indian Health Care Service a few years ago.

[1] The prepared statement of Dr. Cherouny appears in the Appendix on page 43.

I will try not to be repetitive, as most of what, if not everything Dr. Mueller said, was accurate in my review, but I am coming from the quality side. I was asked to review the obstetric and gynecologic care of the immigrants within the United States Immigration and Customs Enforcement custody at the Irwin County Detention Center. The medical records included those from the detention center, from Irwin County Hospital, and the provider of record, Dr. Amin.

Of note, I will mention that I was not involved in the selection of the patients' records for review and I do not have knowledge of the provider's accessibility to the patients from the detention center.

As time is limited I will move on to the summary of my findings. The main point of concern, as you have already heard, in the provided care is the use of in-hospital surgical procedures for assessment of patient complaints regarding things such as irregular menstrual bleeding, also known as menorrhagia, metrorrhagia, dysmenorrhea, or pain; in-hospital dilatation of the cervix and curettage of the uterus, commonly called D&C; and exploratory laparoscopic procedures of the pelvis and abdomen, as you have heard, placing a lighted camera into the abdomen to look at the pelvis and evaluate what is going on. These have largely been replaced by advancing imaging techniques and outpatient medical treatment options in order to establish diagnoses and proceed with definitive patient care.

The provider does use some of these diagnostic tools but often incorrectly and without adequate documentation to be useful.

Two examples of these would be the use of Depo Provera shots, as you have heard, progesterone hormonal shots for the management of regular menstrual bleeding without allowing sufficient time for a therapeutic effect of this intervention. Also vaginal ultrasound, for which the provider does not follow guidelines for either performance or documentation, proposed by our professional organizations such as the American Institute of Ultrasound in Medicine.

During the surgeries, the provider often performs resection or removal of benign lesions, such as ovarian cysts and fibroids of the uterus, which have not been shown to be contributory to the patient's complaints. On a few occasions he aspirates ovarian cysts, which is not a recommended treatment.

Of additional concern, the provider's Pap smear management is outside of guidelines, and provider's colposcopic skills and documentation, as well as cervical conization skills, as you heard from Dr. Mueller, appear limited for several patients. These are essential steps within the abnormal Pap smear care flow. Colposcopy is essentially using a magnifying glass to better visualize abnormalities which have previously been reported on a Pap smear, and cervical conization, again as you have heard, is surgical removal of a cone-shaped piece of tissue from the cervix to get pathologic evaluation of the abnormality suspected from the Pap smear and colposcopic impression.

Of importance, there are patients within this review where no follow-up is documented, where the treatment resulted in no answer. That is, the way the surgery on the cervix was performed re-

sulted in no useful tissue for a pathologic evaluation or diagnosis that could guide further care, and that is the whole point of the procedure within the diagnostic and care algorithm of Pap smears.

Other concerns I can expand on if you like during questioning, regarding treatment of vaginal infections, intrauterine device management, treatment of condyloma acuminata, also known as venereal warts, diagnosis of endometriosis and adenomyosis, and documentation of both options for care and consent are noted.

Thank you for the opportunity to help in the quality assessment and improvement of care for this population

Senator OSSOFF. Thank you, Dr. Cherouny, for your testimony, and thanks again to both Dr. Cherouny and Dr. Mueller for the many hours of work that you invested in helping the Subcommittee understand the records that we secured.

We will now turn to a first round of questions for our first panel of witnesses, and I will be asking the first questions. Ms. Cisneros Preciado, we will begin with you. I want to begin by again thanking you for your testimony and your presence here. It is deeply appreciated. It took courage, and I am grateful that you are here and sharing what you have been through with the American people and the U.S. Congress.

Ms. CISNEROS PRECIADO. Thank you for having me.

Senator OSSOFF. I want to review a little bit about your story and how you came to be detained at Irwin County Detention Center in Ocilla, Georgia. It is my understanding that you were brought to the United States when you were a child. Is that right?

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. How old were you?

Ms. CISNEROS PRECIADO. I was 8 years old.

Senator OSSOFF. Eight years old.

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. Have you ever known a home other than the United States?

Ms. CISNEROS PRECIADO. No.

Senator OSSOFF. You currently live in Florida. Is that correct?

Ms. CISNEROS PRECIADO. Yes, sir.

Senator OSSOFF. You are the mother of two children?

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. How old are they?

Ms. CISNEROS PRECIADO. I have a boy, he is one, and my daughter, she is two.

Senator OSSOFF. Before you were detained at ICDC had you ever had any kind of trouble with the law?

Ms. CISNEROS PRECIADO. No. Never.

Senator OSSOFF. You were in an abusive spousal relationship. Correct?

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. You called the police during an incident?

Ms. CISNEROS PRECIADO. I did.

Senator OSSOFF. But rather than arresting your partner you were arrested. Is that right?

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. The charges were dropped.

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. But you wound up at Irwin County Detention Center.

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. Tell us a little bit more about your experience there, please.

Ms. CISNEROS PRECIADO. Irwin is the worst place I have ever been in my life. Like I said, I went from being Karina, a mother, to being 72176. They did not care about what we felt. They did not care about our names. They did not care about any of that.

Senator OSSOFF. You had just given birth to your daughter. Is that right?

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. That was about 3 months beforehand?

Ms. CISNEROS PRECIADO. Yes. My daughter was 4 months.

Senator OSSOFF. I think you mentioned in a statement you had submitted that you were still breastfeeding your infant daughter.

Ms. CISNEROS PRECIADO. Yes. I was trying to breastfeed her.

Senator OSSOFF. You were taken from her.

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. How long were you detained at Irwin County Detention Center?

Ms. CISNEROS PRECIADO. Almost 7 months.

Senator OSSOFF. Seven months away from your newborn daughter.

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. What was it like when you were reunited with your daughter after you were released?

Ms. CISNEROS PRECIADO. It was a mixture of feelings because when I left her she was just a baby. When I came to see her she was already walking. She did not know who I was. She knew my mother as her mother. She was scared of me. She would not come to me. It was hard, but it was the best moment because I got to see her again after so long, after crying for her every night. After wishing a lot of times that I just did not wake up anymore if I was not going to wake up next to her, I finally got to see her. It is extremely hard for me to be here because I left her. I left her again. Although it is for the better for the both of us, she is away from me right now and it is really hard for me.

Senator OSSOFF. Take your time.

Ms. CISNEROS PRECIADO. Sorry.

Senator OSSOFF. No problem.

Now when you arrived at Irwin County Detention Center you had not yet had your postpartum exam. Is that correct?

Ms. CISNEROS PRECIADO. Correct.

Senator OSSOFF. You requested medical attention.

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. After some difficulty you wound up, as you said, in Dr. Amin's office.

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. How did that experience make you feel?

Ms. CISNEROS PRECIADO. It made me feel like I had no control over my body. Before this experience I had suffered from sexual assault before, as a child, so this experience with Dr. Amin made me feel the same thing I felt. It made me feel like I had no control over

my body. I had no say, no vote, no nothing. When he did not explain the procedure and he was doing a vaginal ultrasound—because I knew it was a vaginal ultrasound because I had that done before—I did not think I could ask any questions, as the nurse had told me I was getting a Pap smear. I did not ask any questions. I thought I could not. He made me feel miserable.

Senator OSSOFF. During that appointment, Ms. Cisneros Preciado, did Dr. Amin address any of your concerns, allow you to ask any questions, or explain what he was doing?

Ms. CISNEROS PRECIADO. No.

Senator OSSOFF. He prescribed an injection in addition to conducting a transvaginal ultrasound. Is that correct?

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF. Do you know what the injection was?

Ms. CISNEROS PRECIADO. I did not know. He did not explain what it was. I learned after, in the car, when one of the other women told me what it was.

Senator OSSOFF. As you mentioned in your opening statement you heard from other women that other women had experienced a similar pattern of treatment——

Ms. CISNEROS PRECIADO. Yes.

Senator OSSOFF [continuing]. From Dr. Amin.

Did anyone ask for your consent to receive that shot? Did you sign any documents?

Ms. CISNEROS PRECIADO. They did not ask anything, and I signed a paper but I did not know what it was. They told me, "Sign here," and like I said, I did not have a voice, so I just signed.

Senator OSSOFF. Thank you, Ms. Cisneros Preciado.

Dr. Mueller, you reviewed extensive medical records, as has the Subcommittee. One of the things I think is important to make clear is that the experience that Ms. Cisneros Preciado just related to us is by no means unique. In fact, it is consistent with a pattern that we see in the care that was provided by this physician to women who were incarcerated, to women who were powerless.

Can you talk a little bit about how what Ms. Cisneros Preciado just described conforms with the broader pattern that you saw in the medical records, and then reflect for a moment, as a practitioner, on the particular sensitivity required when treating people who are incarcerated. At that point I will yield to my colleague, Senator Hassan, for her questions.

Dr. MUELLER. Absolutely. After Karina spoke I mentioned that really she does give voice to the medical records. As you mentioned, this was repeated over and over and over again. Almost all of the women who came to see him for either a gynecologic concern or something unrelated received a Depo shot for unclear indications, received Pap smears when they did not need a Pap smear, were managed incorrectly or inappropriately following that.

Again, I am a medical expert. My role is to review the medical records. But it was such a concerning pattern that it gave you pause, and I am starting to understand perhaps why this was happening.

Karina also mentioned, and gave further insight, now that you can all experience this, that this is a very vulnerable population. This is not like your mother or your sister you gets to go on Yelp

and look to see who has the best reviews or see a provider for the first time and see if she feels comfortable in the hands of that provider who is going to be taking care and guiding her through choices and medical management, et cetera. This is not a provider that many of these women would have ever wanted to go back to.

Clearly he did not take this seriously. He was not operating from a standpoint of providing trauma-informed care, realizing that this is a vulnerable population, taking a history that would indicate that a woman has been a survivor or victim of a sexual assault. This is basic, standard medical school equivalent to just performing a basic history and physical, which without that you actually, again, to the point of informed consent, cannot have a meaningful informed consent because you have no understanding of the risks that you might be exposing a patient to and their medical history.

Senator OSSOFF. Thank you, Dr. Mueller. Senator Hassan.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thank you, Chair Ossoff, and I want to thank you and Ranking Member Johnson for holding this hearing and for the investigation.

To Ms. Cisneros Preciado, thank you for coming forward. It is extraordinarily difficult to do what you are doing and to share such personal information. I hope you will take some solace in knowing that it is by sharing information in the way you are sharing it that we are able to move forward and change. Your courage is really remarkable, and you are making a difference for others. I hope that gives you a little bit more solace today. This is difficult, I know.

It was very disturbing to hear and to read your testimony, on a number of levels obviously. But I was very concerned that you did not have a chance to ask any questions when you were seen by Dr. Amin, and that you did not feel that you could say no to what he planned to do.

I want to follow up on Senator Ossoff's questions. Just to be clear, did Dr. Amin ever ask questions about your medical history or whether you had any previous cysts?

Ms. CISNEROS PRECIADO. No.

Senator HASSAN. Did he explain or provide any other treatment options for the cyst he reported, or did he provide any chance for you to discuss your treatment options?

Ms. CISNEROS PRECIADO. No, he did not.

Senator HASSAN. OK. Thank you.

I have a question for both Dr. Mueller and Dr. Cherouny. Dr. Mueller's testimony says, and this is a quote, "If a patient has no symptoms, is not bothered by her symptoms, or if a particular surgery or intervention is not indicated, then that intervention exposes the patient to unwarranted risk without any benefit."

The Subcommittee found that the ICDC doctor performed an unexpectedly large number of invasive procedures on women from its facility. Ninety percent of four types of invasive procedures performed on all ICE detainees were performed by Dr. Amin, despite the fact that ICDC housed just 4 percent of the national female detainee population.

Starting with you, Dr. Mueller, what is your best assessment for why a doctor would perform such an extreme number of invasive procedures on these women?

Dr. MUELLER. Thank you, Senator, for that question. Of course, as a medical expert I can review the medical records and tell you if this was beneath the standard of care, what is typically done, et cetera. It is difficult for me to be able to comment on the motivation behind that type of medical care, but I do think that you shed light onto potential motivation. I think that potential motivations could include billing, et cetera.

Again, my role as a medical expert is to comment on the medical records, but just as a person I would surmise that.

Senator HASSAN. Yes, and I understand your role, but it is also generally true, in my experience, that reimbursements are more clear and sometimes better for actual procedures as opposed to consultations. Is that an assessment or a statement you generally agree with?

Dr. MUELLER. Typically, depending on the contract set up. Certainly if this is something that if there is some reimbursement incentive for the amount of procedures then yes, that would be motivation.

Senator HASSAN. Thank you. Dr. Cherouny, the same question to you. Do you have an assessment of why a doctor would perform such an extreme number of invasive procedures on these women?

Dr. CHEROUNY. Senator, thank you for the question as well. Coming from the quality aspect it is important that I outline that when we look at quality improvement and assessment we do not include punishment, if you will, associated with that, and that is very important, so that you get good quality information you need to get adequate quality assessment and improvement.

Anywhere from just simply lack of knowledge or an ease of a way to move forward are reasons. Certainly using what would have been a somewhat standard medicine 30 years ago perhaps with what we have today and the dramatic improvement in both medical care—in other words, not surgical care—as well as the advancement of medical imaging, medical imaging has really helped to draw a better assessment of surgical necessity, which really I cannot say was used in this case because the physician's skill around vaginal ultrasound, which was predominantly what he used, sometimes at the hospital, but most times in his office, showed a lack of documentation that was hard to say it was successful and it helped with the care of the patient other than finding benign lesions for which he used those as indications for surgery, which I would also say is outside the current quality demands of gynecologic care.

Senator HASSAN. Thank you.

I have one additional question and it is to Dr. Mueller. Your testimony stated, Doctor, that you and the medical review team found a disturbing pattern of overly aggressive medical care, sometimes involving unnecessary procedures. Your testimony also noted that some women presented with symptoms that were not appropriately evaluated, diagnosed, or managed, despite the patient undergoing invasive surgical procedures. Your testimony further explains the general requirements for informed consent.

Could you elaborate on what information should be shared with the patient? What requirement or expectation is there regarding possible language barriers as well?

Dr. MUELLER. Yes, thank you, Senator. You bring up a great point. Yes, in order to have a meaningful informed consent discussion to adequately reflect shared decisionmaking between a patient and her physician you would need to take away any barriers, language being one of them. In any of those informed consent discussions there should have been an interpreter present or utilized.

It is very important to understand that consent is not a signed piece of paper. Consent is a discussion between the physician and the patient. Again, you would need to know the patient's background, medical history, allergies, et cetera, prior to having informed consent, the symptoms or the bother, and then explain to the patient and document the range of treatment options, and explicitly what those risks are in that setting.

Senator HASSAN. Based on that testimony it seems to me, and based on the report, that the women detained at the ICDC have received a far lower level of care than they should have received. Based on your testimony, the work of the medical review team, and this Subcommittee's investigation, it appears as though many, if not most patients seen by Dr. Amin have little to no discussion of their conditions or alternative treatment options.

Were not these women entitled to a higher level of care than they received, including at least a reasonable discussion of their conditions and possible treatment options?

Dr. MUELLER. Absolutely. I find this to be a grave miscarriage of justice that these women were exposed to this type of treatment.

Senator HASSAN. I appreciate that. I regret the circumstances that bring us here today but I am very grateful for your testimony and all of the witnesses. Thank you, and thank you, Mr. Chair.

Senator OSSOFF. Thank you, Senator Hassan.

Dr. Cherouny, I would like to turn to you to discuss the potential long-term consequences of surgery and other gynecological procedures that are not medically indicated on these women. I want to remind everybody again, who have tuned in here, we are talking about dozens of cases that the experts here have reviewed in which incarcerated women were subjected to unnecessary, often non-consensual, and extremely invasive gynecological procedures and surgeries. This is one of the most outrageous things that this Subcommittee has investigated in the last 2 years.

Dr. Cherouny, I think that it would be helpful if you could discuss for a moment what the long-term risks, the long-term impacts on health, physical and mental health, can be from that kind of mistreatment.

Dr. CHEROUNY. Thank you again. Let us take a small step back and say again, since a large number of these procedures have been changed to the point where we can do outpatient evaluation to find the appropriate diagnostic issues with a given patient, what was used here was the D&C, as we heard, the dilatation of the cervix and the curettage of the uterus, and endoscopic, laparoscopic evaluation in the abdomen as an invasive procedure, and in the vast majority of times identified benign issues which did not require

intervention or were certainly not evaluated closely enough to find out of that was the cause of the patient's complaint.

When that happens, there are a number of things that occur, and Dr. Mueller has already touched on some of them. Consequences related to any surgery would include short-term infection, bleeding, et cetera, as well as longer-term scarring formation. Scarring around the female reproductive organs can result in things such as infertility, adhesions, which are internal scarring which can cause persistent, long-term pain. These are all consequences that are not insignificant, and which is why medicine has tried to minimize the necessity for these procedures over the course of decades, to get to the point where we can identify the individuals who require the surgery and where the risk-benefit ratio is optimized for them. Then their potential benefits were not the potential risks associated with the procedure.

Again, the vast majority of these patients, risk-benefit, No. 1, it is hard to even evaluate much less come to a conclusion that the patient is going to overall benefit from one of these procedures.

Senator OSSOFF. Thank you, Dr. Cherouny, and thank you again for your service.

Ms. Cisneros Preciado, I would like to offer you the opportunity, if you have anything you would like to add, anything you would like the Senate and the American people to hear. The floor is yours.

Ms. CISNEROS PRECIADO. Yes. I would like to add that because of this incident with what happened with Dr. Amin, to this day I am extremely scared to go to any doctor, for myself and for my kids. It was extremely traumatic, and I do not know if I could ever get over it. I am scared to take my kids to the doctor. I scared to take them out. It was horrible.

The reason I am sharing my story is because I do not want this to happen to any other women or any other person. They should not have to be separated from their family. They should not have to be scared to go to the doctor when we are supposed to be able to trust them. Thank you.

Senator OSSOFF. Thank you, Ms. Cisneros Preciado.

That concludes the first witness panel at today's hearing. We will now take a brief recess and welcome the second panel to the witness table. Thank you all, Dr. Mueller, Ms. Cisneros Preciado, and Dr. Cherouny, for your attendance today.

[Recess.]

We will now call our second panel of witnesses for this afternoon's hearing.

Dr. Stewart Smith serves as the Assistant Director of the U.S. Immigration and Customs Enforcement Health Service Corps.

Dr. Pamela Hearn serves as the Medical Director for LaSalle Corrections.

The Honorable Joseph Cuffari serves as the Inspector General for the Department of Homeland Security Office of Inspector General.

It is the custom of this Subcommittee to swear in all witnesses, so at this time I would ask you please stand and raise your right hands.

Do you swear that the testimony you are about to give before this Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. SMITH. I do.

Dr. HEARN. I do.

Mr. CUFFARI. I do.

Senator OSSOFF. You may take your seats. Let the record note all witnesses answered in the affirmative.

We will be using a timing system today. Your written testimonies will be printed in the record in their entireties, and we ask that you limit your oral testimonies to approximately 5 minutes for your openers.

Dr. Smith, we will hear from you first, and you may begin.

TESTIMONY OF STEWART D. SMITH, DHSC,[1] ASSISTANT DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT HEALTH SERVICE CORPS, U.S. DEPARTMENT OF HOMELAND SECURITY

Dr. SMITH. Chairman Ossoff, Ranking Member Johnson, and distinguished Members of the Subcommittee, thank you for the opportunity to appear before you today.

IHSC is committed to providing quality health care services in accordance with nationally recognized detention standards. The IHSC workforce consists of approximately 1,700 health care provider positions, comprised of Federal civil servants, U.S. Public Health Service (PHS) Commissioned Corps officers, and contractors. These positions represent a wide array of health care professionals throughout the United States, including physicians, advanced practice providers, registered nurses, psychiatrists, psychologists, social workers, pharmacists, dentists, and health care administrators.

IHSC provides direct medical care or oversight of offsite medical care to a diverse and fluid population. Each facility housing ICE detainees is staffed by medical care professionals 24 hours a day, 7 days a week for direct patient access.

In fiscal year (FY) 2022, IHSC provided direct care to over 118,000 detained non-citizens housed at 19 IHSC staff facilities throughout the Nation. In addition, IHSC oversaw compliance with detention standards for health care for over 120,000 detained non-citizens housed in 163 non-IHSC staff facilities.

ICE's detained population presents unique health care challenges, and IHSC staff work diligently to improve health care and resiliency through prevention and evidence-based disease treatment. In many instances, the care detainees receive while in ICE custody is the first professional medical care they have ever received. Consequently, it is common for initial health care screenings to identify chronic and serious health conditions which were previously undiagnosed.

To fulfill our mission of delivering high-quality health care to all those in our custody, detainees receive a comprehensive medical, dental, and mental health intake screening within 12 hours upon arrival at the facility. Furthermore, they receive a comprehensive

[1] The prepared statement of Dr. Smith appears in the Appendix on page 47.

health assessment, including physical examination and mental health screening by a qualified, licensed health care professional within 14 days. Detained non-citizens identified as high risk during the intake process are triaged for a higher level of care immediately.

ICE embraces national detention standards that are recognized for detention and health care delivery, and ICE's integrated health care delivery program undergoes extraordinary scrutiny. ICE conducts regular reviews, internal audits, and onsite assessments, and when needed, implements corrective action plans.

ICE detention facilities are also subject to multiple levels of independent oversight inspections by the DHS Office of Inspector General, the ICE Office of Detention Oversight, the DHS Office for Civil Rights and Civil Liberties, and the DHS Office of the Immigration Detention Ombudsman.

In September 2020, ICE learned of allegations of forced medical procedures performed by an offsite provider serving the Irwin County Detention Center through a whistleblower complaint. ICE and IHSC take these allegations and all allegations of medical mistreatment seriously.

In October 2020, following the whistleblower complaint, ICE took immediate steps to discontinue sending patients in our custody to this offsite provider and to pursue alternate providers to serve the women in custody at ICDC.

On November 25, 2020, ICE ceased intake of female detained non-citizens at ICDC, and on September 17, 2021, ICE ceased operations at ICDC altogether.

While offsite community-based providers are not contracted to provide services with ICE or the detention facility, they are licensed medical professionals vetted by State and county licensing boards. IHSC is improving its oversight of offsite providers by establishing national care guidelines and instituting the utilization review process, an initiative started well before the allegations came to light.

ICE is firmly committed to ensuring all those in its custody receive appropriate medical care and are treated with respect and dignity. ICE is also committed to fully cooperating and complying with all requests for information about these allegations from oversight bodies, including Congress.

ICE and IHSC continue to fully participate in all investigations of the allegations of medical mistreatment at ICDC.

Thank you again for the opportunity to speak with you today, and I look forward to your questions.

Senator OSSOFF. Thank you, Dr. Smith.

Dr. Hearn, you may offer your opening statement.

TESTIMONY OF PAMELA HEARN, MD,[1] MEDICAL DIRECTOR, LaSALLE CORRECTIONS

Dr. HEARN. Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee, thank you for arranging this hearing and for the opportunity to provide testimony concerning allegations of detainee mistreatment.

My name is Dr. Pamela Hearn. I serve as the Medical Director for LaSalle Corrections, and have overseen medical care at the Irwin County Detention Center in Georgia since January 2020. I am responsible for the medical operations and deployment of health resources to support a number of medical facilities, including the Irwin County Detention Center's medical department.

Also, I am actively involved in performance improvement initiatives for the patients we serve. I communicate with ICE to establish clinical policy, procedures, and protocols, and analyze audit results to ensure patient care meets the expected standards.

Today I seek to clarify who LaSalle is and its limited role in the provision of outside medical services.

LaSalle was founded in 1997, to address overcrowding and underfunding in State-run detention facilities. LaSalle currently manages 15 facilities in 4 States. LaSalle partners with local municipalities to provide facility management and operational services, while also providing employment opportunities and economic stability to these areas.

LaSalle is led by a corporate management team. Each member has extensive professional experience in detention administration, criminal justice, and public service. Guided by this leadership, LaSalle demonstrates a deep understanding and ongoing commitment to the health and well-being of those entrusted to our care.

LaSalle is committed to operating its facilities and programs with the highest levels of decency and humanity, while providing safe, secure, and humane surroundings for our staff and those in our custody. LaSalle does this in all the communities we serve, including Irwin County, Georgia.

It is LaSalle's policy to ensure that all detainees have access to appropriate medical care by onsite, qualified personnel who are licensed, registered, or certified, with applicable State and Federal requirements.

LaSalle provided onsite health care services to patients in accordance with the stringent standards set forth by ICE, known as the 2011 Performance-Based National Detention Standards 2008 (PBNDS). Frequent independent audits verified Irwin County Detention Center met or exceeded these standards. In addition, IHSC provided consistent guidance in the form of interim reference sheets and the pandemic response requirements. Again, independent reviews substantiate the fact that LaSalle and Irwin County met or exceeded standards.

At no point was LaSalle involved in the vetting or monitoring of outside providers or the provision of translation services on behalf of patients, nor could we have done so under the regulations governing our involvement at Irwin County Detention Center. Rather, the IHSC credentialing department was responsible for vetting and

[1] The prepared statement of Dr. Hearn appears in the Appendix on page 56.

approving all outside medical providers, and ICE was to monitor and pay for the same.

LaSalle's limited role respecting outside medical care was to ensure that outside medical providers were available and to provide transportation of the patient to and from those providers. At all times, LaSalle partners with the Federal Government and their agencies to provide excellent medical care and exceed the relevant ICE standards.

Senator OSSOFF. Thank you, Dr. Hearn.

Inspector General Cuffari, you may now offer your opening statement.

TESTIMONY OF THE HONORABLE JOSEPH V. CUFFARI, PHD,[1] INSPECTOR GENERAL, U.S. DEPARTMENT OF HOMELAND SECURITY OFFICE OF INSPECTOR GENERAL

Mr. CUFFARI. Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee, thank you for the opportunity to discuss the oversight work of DHS IG. Our mission is to provide independent and objective oversight of DHS. This is a responsibility that I and the dedicated career professionals on my team take seriously.

It is an honor to appear before you today to discuss our oversight of medical care in ICE detention facilities. I am profoundly grateful for the continued bipartisan support we have received from Congress. This support has included year-over-year increases in our appropriations during my tenure.

As I promised the Homeland Security and Governmental Affairs Committee (HSGAC) in my confirmation hearing, I have used the expanded investment in our work to augment our detention oversight with contract medical professionals. Between fiscal years 2020 and 2022, our office conducted 12 inspections of ICE detention facilities. In 9 of those inspections, a team of medical professionals, typically a nurse and a doctor, reviewed detainee medical files, medical staffing levels, training curriculum, and medical protocols to determine whether the medical care provided to detainees complied with Federal detention standards and with Coronavirus Disease 2019 (COVID–19) protocols.

In 7 of the 11 reports we issued from fiscal year 2020 to 2022, we found deficiencies in detainee medical care. In total, we made 69 recommendations, 20 of which are aimed at improving detainee medical care.

In September 2020, we received a complaint about the Irwin County Detention Center. We referred the criminal allegations of forced medical procedures to our Office of Investigations and the whistleblower retaliation complaint to our Whistleblower Protection Unit.

We also initiated an inspection of the Irwin County Detention Center in October 2020. I personally visited that facility in June 2021.

Following our established protocol, we interviewed ICE personnel, Irwin officials, and detainees. We also reviewed video surveillance of housing and common areas. Our medical experts con-

[1] The prepared statement of Mr. Cuffari appears in the Appendix on page 63.

ducted a virtual tour of the medical unit and reviewed medical records.

Our inspection determined that Irwin generally met ICE detention standards. However, our medical team found the facility's chronic care, continuity of care, and medical policies and procedures to be inadequate. Our medical team found the quality of women's health care to be adequate based on records reviewed, but noted that offsite providers did not consistently share information with the facility.

The facility generally complied with COVID–19 guidelines but faced challenges implementing those protocols. We also found that detainees' communication with and access to ICE deportation officers was limited.

We published our report in January 2022, and made five recommendations to improve the facility's medical care and operations. ICE concurred with one recommendation and implemented corrective actions. ICE did not concur with the other four recommendations since, in May 2021, Secretary Mayorkas announced DHS's plans to discontinue the use of the facility. By September 2021, ICE no longer housed detainees at Irwin.

In addition to our inspections of individual detention facilities, at my direction DHS IG has undertaken systemic reviews of longstanding issues in detention. For example, in October 2021, we issued for the first time ever a 5-year review of the use of administrative and disciplinary segregation in detention. This is the practice of holding individuals in isolation.

In a separate review on medical vacancies across all detention facilities, we determined that ICE faces challenges recruiting, hiring, and retaining medical staff. Earlier this year we launched a separate system-wide audit across all DHS detention facilities to ascertain the vigor of the approval process for invasive surgical procedures.

Whether it is through individual inspections or broad systemic reviews, our recommendations continue to demonstrate to the Department, Congress, and the public our commitment to quality oversight.

Mr. Chairman, this concludes my testimony. I am happy to answer any questions you or the other Members of the Subcommittee may have.

Senator OSSOFF. Thank you, Inspector General Cuffari. Thank you to all of our panel two witnesses, for your opening statements. We will now proceed to questions.

Dr. Smith, I would like to begin with you. You lead the ICE Health Service Corps. Its fiscal year 2020 annual report states, "The IHSC assistant director is responsible for all administrative and operational elements of the IHSC health care system and consequently all activities related to the health care of individuals in ICE custody." This is you, correct?

Mr. SMITH. That is correct, sir.

Senator OSSOFF. You are responsible for overseeing the whole IHSC system and any activities related to the health care of individuals in ICE custody. Correct? That is from your 2020 annual report.

Mr. SMITH. That is correct.

Senator OSSOFF. In addition to your job description, ICE and IHSC are legally required, and your own manual and guidelines require, that individuals under your custody must be provided with adequate medical care. Correct?

Mr. SMITH. That is correct.

Senator OSSOFF. IHSC is responsible for ensuring the adequacy of this care for all detainees in ICE custody, not merely those at ICE-administered facilities. Correct?

Mr. SMITH. We do not monitor the direct patient care activities on an ongoing daily basis——

Senator OSSOFF. That is not my question. My question is that you are responsible—this is the quote from the annual report—you are responsible personally for all administrative and operational elements of the IHSC health care system, and that includes the provision of health care to detainees at privately administered facilities. Correct?

Mr. SMITH. Correct.

Senator OSSOFF. Now it is my understanding that IHSC employees, who are called field medical coordinators, and regional clinical directors, approve referrals to offsite providers, and the regional clinical directors approve the performance of surgical procedures by those offsite providers, such as Dr. Amin in Georgia. Is that correct?

Mr. SMITH. That is correct.

Senator OSSOFF. Those regional clinical directors report up the chain, at which you are at the top. Correct?

Mr. SMITH. Correct.

Senator OSSOFF. They approve every surgical procedure that is referred to an offsite provider. Is that correct?

Mr. SMITH. That is correct.

Senator OSSOFF. I want to give you an opportunity to respond to some of the specifics, some of the facts of this matter, Dr. Smith. Your opening statement was quite broad. These are bipartisan findings of the U.S. Senate's preeminent investigative subcommittee that women ICE detainees were subject consistently to unnecessary, invasive, and often non-consensual gynecological surgical procedures. What is your response?

Mr. SMITH. Thank you for that question, Senator. Receiving the documented informed consent is a core principle of medical care, given throughout the country. It is a core tenet of what is to occur. Documenting informed consent ensures that people understand the procedures they are going to go through and that they sign off on those and agree that they will go through those.

IHSC relies on those offsite providers to obtain informed consent as they would do for any patient that receives care in the U.S. health system.

Senator OSSOFF. Hold on a second. If I might, are you saying you rely on those offsite providers. But you personally, as we have established, and it is from IHSC documents, are responsible for all administrative and operational elements of the IHSC health care system, and consequently all activities related to the health care of individuals in ICE custody. That is from your agency.

What I am trying to understand, Dr. Smith, is this has been a bipartisan, 18-month, U.S. Senate investigation, and the bipartisan

conclusions of our investigation are that women whose care you are responsible for were subjected to unnecessary, invasive gynecological procedures, including in at least dozens of cases, gynecological surgeries that were not clinically indicated that carried substantial risks to the long-term health of those women who were incarcerated at the time.

You are not shocked that this happened under your watch?

Mr. SMITH. It is very troubling to hear the testimony given earlier. Obviously, we take the care of all detainees in ICE custody very seriously. I want to be clear that we do not have our own IHSC staff at these contracted facilities. They are contracted to provide that care. Our role is to provide that oversight through different audits so that we are assured that they comply with the detention standards of care.

Our field medical coordinators, when they conduct their audits, they look for those different standards of care to make sure they are complying with them, and they do a quality assurance audit to make sure that the types of care that is being provided is in concert with those standards.

Senator OSSOFF. Let us talk about that oversight, Dr. Smith. Were you aware, was IHSC aware, for example, that Dr. Amin, whom you contracted to provide care to detainees for whom you were responsible, had previously been sued by the Department of Justice and the State of Georgia for performing unnecessary and excessive medical procedures?

Mr. SMITH. When we became aware——

Senator OSSOFF. When did you become aware?

Mr. SMITH. We became aware through the whistleblower allegation process.

Senator OSSOFF. Right. My question is were you aware at the time that you engaged his services that he had been sued by the Federal Government and the State of Georgia for doing what it appears he did again working for you?

Mr. SMITH. No, we were not.

Senator OSSOFF. You were not aware. Were you aware, from 2017 to 2020—that is the relevant period here—that despite only seeing 6.5 percent of all OB/GYN patients, he was performing 95 percent of all laparoscopies and dilation and curettage surgeries? These are intrusive gynecological surgeries. Were you aware of that?

Mr. SMITH. We became aware after the allegations were filed.

Senator OSSOFF. You were not aware at the time?

Mr. SMITH. No.

Senator OSSOFF. Do you vet the doctors you hire?

Mr. SMITH. We do not vet them——

Senator OSSOFF. You do not vet them?

Mr. SMITH. Let me finish if I may, sir. These providers are not contracted directly with ICE. They are not an employee of ICE. They are referred offsite. Since these allegations, and actually before, we have been sending out different types of letters of agreement with them that they will abide by the different standards of care, and that they will provide the informed consent. We now have that as part of our process.

But even if these things were to show up in a national practitioner database as a red flag, it does not necessarily mean that they are not going to be licensed, if they are licensed in the State and they have been provided credentialing and privileging in the different facilities, and we have not received any specific complaints on the physicians, we will evaluate it further. In this particular case, in Dr. Amin's case, he was the only provider in the area that was willing to see these patients. However, we were not aware of all the particulars until the whistleblower allegation.

Senator OSSOFF. Did you maintain any process for detecting whether or not providers working for DHS, working for IHSC, were preforming extraordinarily high numbers of certain procedures, which can be a classic signature, for example, of fraudulent billing?

Mr. SMITH. The process we had in place at the time was through the claims process where we can actually see those claims when they come in. If there is an overbilling that is occurring, we can catch that. Oftentimes, because of the way the system was currently set up, we would not see those until well after the fact. These providers have up to a year to submit their claims for processing, and at the time that was the only process we had in place to see if there were these overbilling or de-bundling of services to overcharge, and that sort of thing.

Senator OSSOFF. Let us return to the vetting. What I heard you say, effectively, is that you do not vet, and even if you had vetted it would not catch this kind of thing. Is that your testimony?

Mr. SMITH. I am saying that based on the lack of any derogatory information that was in a national practitioner database, specifically as to the type of care, which we were not performing extensively at that time, we were starting to, we did not have the ability to see that information other than through a claims process.

Senator OSSOFF. We found that information quite swiftly. We found that the relevant provider had been sued by the Federal Government and the State government for excessive and unnecessary billing practices. We found that he had been dropped by a major insurer for excessive malpractice claims. We found that he was not board certified. Those, I think, would have at least been warning signs to watch a little more carefully, and then during the relevant period he is performing, again, 90-plus percent of all of these gynecological surgeries nationwide, despite seeing only 6 percent of OB/GYN patients in the country.

Mr. SMITH. Right, and all of these procedures that were referred offsite were vetted through our regional clinical directors for appropriateness. Again, since then we have expanded our ability——

Senator OSSOFF. Yes. I am sorry but let me ask about that. They were vetted by all of your regional coordinators for appropriateness.

Mr. SMITH. Correct.

Senator OSSOFF. How can that be when we have heard from medical experts who have reviewed thousands and thousands of pages of records, and it is the bipartisan finding of the Subcommittee that they were not appropriate? In fact, it is not only that they were not appropriate, they were dangerous, they were wrong, they were not clinically indicated, and they were poorly executed. Women had parts of the cervixes removed. They underwent

transvaginal ultrasounds with Pap smears with no clinical indication for it. They underwent laparoscopic surgery when there was no need. They had their uterine lining and endometria removed, in part, without clinical indication. You are saying that all of that was vetted and approved by your employees?

Mr. SMITH. What I am suggesting is when these referrals from the clinic came to our regional clinical directors to approve an offsite referral to see an OB/GYN physician or a specialist, they approved that. They had no way of knowing exactly what was going to happen subsequent to that referral.

Now since then we have some Milliman Guidelines that we are then tooling our clinical directors so that when they see that here is the procedure that is going to be performed offsite we have an evidence-based protocol that we can actually take a look at. The clinical director looks at that offsite referral as far as the referral being appropriate and says either yes, we agree that it should be referred offsite to a specialist for further evaluation. What that evaluation may entail, we do know until after the fact.

Senator OSSOFF. We will return in just a moment. I am going to yield now to my colleague, Senator Padilla.

OPENING STATEMENT OF SENATOR PADILLA

Senator PADILLA. Thank you, Mr. Chair. Mr. Smith, I understand you have received a lot of questions so far today, and I have some as well but I will give you a minute to catch your breath, and address my first question to Dr. Cuffari.

In your written testimony you mentioned that following the complaints at Irwin County Detention Center you launched a systemwide audit across all DHS detention facilities. During this audit did you find examples in other ICE detention facilities of women being subjected to invasive medical procedures without their consent?

Mr. CUFFARI. Thank you for that question, Senator. Good to see you, and I look forward to visiting with you. I know our staff is coordinating a visit.

That review is currently ongoing and I would be certainly happy to share it with you as soon as the review has been completed.

Senator PADILLA. Has there been any evidence you have come across thus far, even though the review is not completed?

Mr. CUFFARI. Nothing that would warrant our immediate notification to the Committee.

Senator PADILLA. OK. You also mentioned in your testimony that facilities face challenges in the recruitment, the hiring, and the retention of medical staff.

What ideas do you offer this Committee on how ICE can improve practices so that medical care is more consistent across detention centers?

Mr. CUFFARI. I believe in our review, Senator, we found that recruitment and retention to be a significant problem. We made a number of recommendations already to the Department to shore that up, to strengthen their recruitment and retention efforts, and we look forward to receiving word back from the Department on exactly what their process is and how to strengthen it.

Senator PADILLA. OK. Eventually that comes to a question of budget and resources, in which this Committee and the Senate and

the Congress as a whole needs to be involved, so please keep us posted.

Mr. CUFFARI. Yes, sir.

Senator PADILLA. Mr. Smith, in July of last year, ICE issued a new policy on pregnant, postpartum, and nursing individuals. This policy states that such individuals cannot be detained unless their release is prohibited by law or exceptional circumstances exist. There is also a requirement that ICE Health Services Corps must maintain information on all detainees who are pregnant, postpartum, and nursing, and report this information to the ICE enforcement and removal operations.

Since your office is charged with collecting this information, can you tell us whether the number of pregnant, postpartum, and nursing women in ICE detention has dropped since the policy went into effect a year ago?

Mr. SMITH. Yes, sir, it has.

Senator PADILLA. OK, and we will look forward to the underlying data behind that response.

Follow-up is what procedures are in place for ICE officers to ascertain whether an individual fits this criterion? For example, are they asking individuals to take a pregnancy test or asking if they are nursing at the time of arrest?

Mr. SMITH. Yes, we have a female health services directive that outlines all the different unique care we provide to the female population. They are screened for pregnancy, as part of the intake process, and——

Senator PADILLA. Being more specific, screened as in tested or questioned?

Mr. SMITH. Urine test, OK, so we can have confirmation whether they are or not.

This directive also addresses elective abortions, contraception, emergency contraception, restrictive housing of female, pregnant, postpartum, breastfeeding, and all of those types of things. Unless there is a compelling reason outside of what we would have to detain this person, our recommendation is always to release.

Senator PADILLA. I am glad you bring up the question of care beyond the test. As you know, in July of this year, following the Dobbs decision by the Supreme Court, it was reported that an internal ICE memo was going to be sent from the director to Enforcement and Removal Operations (ERO), reiterating that pregnant women detained in ICE custody have access to full reproductive health care, and that it may be necessary to transfer detainees to another area of responsibility to ensure such access.

ICE's own 2011 standards state that women have the right to access abortion and that ICE will fund the cost if the mother was raped or if carrying the fetus would be detrimental to her health. Women can also request an abortion in other situations if they cover the cost.

What is ICE doing to ensure that individuals in ICE detention are informed about their right to an abortion?

Mr. SMITH. As part of the intake process we do explain this to all the women in our custody if they are found to be pregnant. We explain the termination of pregnancy that, as you mentioned, ICE does pay. We provide counseling, clinical staff schedule and coordi-

nate any transfer for a woman that decides that she wants to take that route. If the particular State that they are in does not allow that, based upon that Dobbs ruling, we recommend transport to a State that would allow that.

We at ICE and IHSC support that, and we make sure that those that would do the transfer are aware of that, and we give our recommendation.

Senator PADILLA. OK. Last question. How many individuals have been transferred to other facilities to ensure they can receive an abortion if they need or choose, and can you tell us which States they have been transferred from or to? Do you keep that level of data?

Mr. SMITH. I will take that as a get-back. I do not have with me today.

Senator PADILLA. OK. Please, at your earliest opportunity.

Thank you, Mr. Chair.

Senator OSSOFF. Thank you, Senator Padilla.

Picking up where we left off, please, Dr. Smith, we have established that you personally are responsible for, and I quote from again your agency's documents, "all activities related to the health care of individuals in ICE custody."

Let me reiterate our bipartisan findings. Excessive, invasive, and often unnecessary gynecological procedures. Repeated failures to secure informed consent. ICE did not conduct thorough oversight of offsite medical providers and procedures.

Do you take responsibility?

Mr. SMITH. Yes, sir. Ultimately, I do. I am the responsible party to make sure that the right processes and procedures are in place to monitor these things, and if we see things not going in the proper direction, to take the proper course of action to fix those.

Senator OSSOFF. Why did your agency fail?

Mr. SMITH. Again, I believe that we provide the policies, the procedures, and we make sure that our clinicians understand what those procedures are, and we do not have direct knowledge at the time of some of these procedures happening. We are working on putting systems in place to do that through the Milliman Care Guidelines, to give our clinical directors and those that approve these procedures a template that they can use, based on evidence-based standards, so they can be more informed on whether to approve an offsite procedure or not, based on those standards.

Senator OSSOFF. I understand you are taking those steps now, Dr. Smith. My question is why did your agency fail? How did you allow this to happen? How did you allow dozens, if not hundreds of women to be subjected to unnecessary gynecological surgery? How did that happen?

Mr. SMITH. We were not aware of these complaints. We were not aware of them until we received the whistleblower complaint. We did not have access to that information.

Senator OSSOFF. Why were you not aware? Why were you not aware that one doctor was performing 9/10th of gynecological procedures but only seeing 6 percent of patients?

Mr. SMITH. We did not have the proper systems in place to detect that information. We started putting that process in place, though,

and those systems in place well in advance of this. We just have not got those completely implemented at this point.

Senator OSSOFF. What would you say to the women who went through this?

Mr. SMITH. It is disheartening.

Senator OSSOFF. It is disheartening.

Mr. SMITH [continuing]. And it is very disturbing. Any responsibility that we have we take very seriously. We want to fix this system so it does not happen again.

Senator OSSOFF. Dr. Smith, you have full responsibility. We have established that. This is worse than disheartening.

Mr. SMITH. Yes, sir.

Senator OSSOFF. It is hard for me to think of anything worse, really, Dr. Smith, than the Federal Government subjecting incarcerated women to needless gynecological surgery. It is one of the most appalling things this Subcommittee has seen in the last 2 years.

Dr. Hearn, I understand that you want to clarify, and you sought to do so in your opening statement, where you believe the lines of responsibility between the Federal Government and LaSalle, the contractor, are. I would like to give you an opportunity to do that, please.

Dr. HEARN. We provide onsite care, primary care, and any care that is deemed more advanced is referred to an outside specialist. This specialist must be approved by IHSC in order for us to schedule an appointment.

Senator OSSOFF. Let me start there, Dr. Hearn. I appreciate that. The specialist must be approved by IHSC. Dr. Smith, how, during the period of 2017 to 2020, did you go about approving those specialists? What was the process?

Mr. SMITH. The process was that these specialists were referred—these patients were referred offsite, and we made sure we had a letter of understanding in place with them that they would accept the proper Medicare rates, would be the first thing, and if they were credentialed or licensed in the facility they would perform in or in the State then they were deemed as competent enough to provide those services.

Senator OSSOFF. The only due diligence was to see if there was a valid medical license in that jurisdiction. That was the extent of your vetting.

Mr. SMITH. If they had any adverse things that were outstanding as far as direct patient care complaints through the national practitioner database, which we began to implement during that time.

Senator OSSOFF. For this provider, in 2005, a major medical insurer drops him because of excessive malpractice claims. In 2013, the Federal Government initiates an investigation of alleged billing fraud. One year later, you hire him. DOJ, the State of Georgia, and the doctor settle in 2015, and then for 5 years, with apparently no vetting and no oversight, he is treating the patients for whom you have responsibility, agency-level responsibility, and as we have established, personal responsibility.

Did you have a chance Dr. Smith, to hear the first panel? Did you listen to the testimony from our first panel of witnesses?

Mr. SMITH. Yes, I did.

Senator OSSOFF. Dr. Cherouny stated to the Subcommittee that it appeared this doctor was operating with no oversight at all. Is that accurate?

Mr. SMITH. Again, the only type of oversight that we had in place for an offsite provider at the time was going to be through the medical claims process. We did not have any utilization management, utilization review. Part of our modernization program is to put those things in place so we can detect those types of things before they happen, and we are in the process of doing that.

Senator OSSOFF. Thank you, Dr. Smith.

Dr. Hearn, forgive my interruption, but you had begun to explain how responsibility is shared between LaSalle and the Federal Government. You noted that IHSC makes determinations with respect to who the offsite providers are and approves the referrals. Is that correct?

Dr. HEARN. That is correct.

Senator OSSOFF. OK. Please tell me more about the balance of responsibilities between LaSalle and the Federal Government.

Dr. HEARN. Once a provider onsite determined a specialty appointment was indicated, the request was presented through a MedPAR authorization to IHSC, and once the MedPAR was approved through IHSC then the mechanism existed where the approval was transmitted to the unit and the unit then scheduled the appointment with the approved outside provider.

Senator OSSOFF. Thank you, Dr. Hearn. Again turning to you, Dr. Smith, describe the approval process whereby your agency approves the surgeries and other procedures requested through the referral from the private operator?

Mr. SMITH. All those referrals, surgical referrals, are referred to our regional clinical director, and they review those.

Senator OSSOFF. What does that review consist of?

Mr. SMITH. That review consists of taking a look at what that patient is being referred for. At the time we did not have the specific evidence-based guidelines in place so they were using their best judgment on those things, as a clinician.

Since that time we have——

Senator OSSOFF. These are doctors who are making these determinations?

Mr. SMITH. Yes, they are.

Senator OSSOFF. So they are using their best judgment. What does that mean? What criteria are they accountable to? What guidance did you give them? What is the policy?

Mr. SMITH. The guidance is, if they were being referred offsite because the clinic did not have the expertise to provide that, obviously the right thing to do is not to keep them at the clinic and try to provide care for them there. We needed to get them offsite. They would make sure that yes, they are going offsite to a provider that has those types of qualifications. Dr. Amin was that provider that was willing to see our female patient population.

Senator OSSOFF. Are these individuals, these physicians making these determinations as part of your agency, are they specialists in a relevant field or are they generalists? What are their specialties, typically?

Mr. SMITH. They have specialty—internal medicine, family medicine, those types of things, which have a certain degree of OB specialty, I might say, knowledge, enough knowledge to know that when they are being referred to an OB physician that that is the right place for them to go to be seen for their offsite care.

Senator OSSOFF. Do these physicians look at the nature of the complaint and assess whether or not the treatment that is being requested is clinical indicated?

Mr. SMITH. To the best of their knowledge, with the information they have at the time, yes, but——

Senator OSSOFF. So how did it happen that repeatedly, as you heard from the medical experts, the underlying condition was treated with a course of treatment that was not appropriate for the underlying condition?

Mr. SMITH. I have no way of specifically knowing what they knew at that time when they referred them.

Senator OSSOFF. Have you asked them?

Mr. SMITH. We have asked them.

Senator OSSOFF. What did they say?

Mr. SMITH. They said based upon the information they had through the referral process that they thought it was the appropriate thing to refer them offsite to a higher level of specialty care.

Senator OSSOFF. Dr. Hearn, I believe, in your testimony, you stated that when these allegations became public that you undertook a review. Is that correct?

Dr. HEARN. That is correct.

Senator OSSOFF. Why did you do that?

Dr. HEARN. The allegations were extremely concerning to LaSalle and to myself, so we immediately began an internal review at that time.

Senator OSSOFF. You began the review because they were concerning. They certainly were concerning. Were you advised by corporate leadership to undertake that review? What was the decision-making process to launch that review?

Dr. HEARN. The discussion between myself and the Chief Executive Officer (CEO) concerning the allegations led us to launch a review.

Senator OSSOFF. How long did that review take?

Dr. HEARN. That review started the day after my discussion with the CEO, and it has continued throughout until this very day.

Senator OSSOFF. That is a little bit different from what we heard from the company previously. We understood, and we can refer to the relevant part of the interview, there was a 3-day review. What does that 3-day review refer to?

Dr. HEARN. The three-day review was an onsite review of documents at the facility, discussions with the medical leadership, and discussions with the unit leadership.

Senator OSSOFF. What did you find?

Dr. HEARN. I reviewed medical charts, and I had a discussion with the leadership, and at that——

Senator OSSOFF. OK. Forgive me. You reviewed medical charts and had a discussion with leadership. Here is what I am trying to understand. It took a team of professional investigators from both political parties here in the Senate 18 months and consultation

with a significant number of outside medical experts to go through tens of thousands of pages of medical records in order for us to arrive at these conclusions. How could a 3-day review have possibly been sufficient for LaSalle to draw any firm conclusions about what happened here?

Dr. HEARN. My review involved the process of referral, the process of referral at the unit, the appropriateness of the referral, and the approval process in which the referrals were approved.

Senator OSSOFF. OK. Let us talk about that referral process. As we have heard from our medical experts, there was a consistent pattern, a course of treatment that this provider consistently undertook, and generally speaking, it began with imaging or examination procedures that were not clinically indicated by the underlying complaint. Then a statement by the physician that the first intervention would be a Depo Provera shot, a contraceptive injection.

Then on the basis of, for example, imaging, a transvaginal ultrasound that may have been performed, a determination that there were cysts present, and a statement by the physician that if it did not resolve in a number of weeks they might proceed to some surgical intervention, and in many cases the doctor did cut these patients, laparoscopically, dilation and curettage, a range of other procedures.

You said that when you make that referral are you assessing? Are your medical professionals assessing whether the course of treatment that is proposed by the offsite provider is clinically appropriate, given the underlying complaint?

Dr. HEARN. The medical provider is reliant on the expertise of the specialist.

Senator OSSOFF. I need you to be a little more specific. The medical provider meaning your employee onsite.

Dr. HEARN. The onsite medical provider is dependent upon the expertise of the outside medical provider.

Senator OSSOFF. Do they accept the outside provider's recommendation without any review, without any question?

Dr. HEARN. There is a review of the medical documents received from the outside provider, but the documents are very limited oftentimes.

Senator OSSOFF. Why do LaSalle personnel undertake that review? Why do the clinicians onsite at your facilities review the underlying documentation submitted by the specialist to determine whether or not the procedure is appropriate? Why do you do that?

Dr. HEARN. The onsite providers do not have the clinical expertise or the knowledge of the specialist referral, but the onsite provider is reviewing the records regarding the treatment that has been recommended by the outside clinician in order to request IHSC approval for the requested treatment.

Senator OSSOFF. Say that last part again. You are looking to see what?

Dr. HEARN. You are looking to review the treatment that was recommended by the outside provider, and then the request for treatment is submitted to an approval process with IHSC. Any follow-up appointments are approved by IHSC.

Senator OSSOFF. Right. I am not getting clarity on whether or not your personnel onsite, the clinicians onsite at LaSalle facilities,

are making a determination about the propriety of the proposed course of treatment. Are they just rubber-stamping it or are they looking at the record, looking at the complaint that has been diagnosed, and making an assessment as to whether it is the appropriate course of treatment?

Dr. HEARN. Onsite are not making an assessment.

Senator OSSOFF. What are they doing? They are just referring it to IHSC.

Dr. HEARN. Yes.

Senator OSSOFF. They do not exercise any discretion and they approve or refer 100 percent.

Dr. HEARN. They are referring all recommendations to IHSC.

Senator OSSOFF. Your testimony is that it is entirely the responsibility of IHSC to assess the propriety of the proposed intervention.

Dr. HEARN. Any referral, follow-up appointment, or procedure is approved by IHSC.

Senator OSSOFF. You said that your review was ongoing to this day. What steps have you taken subsequent to those initial 3 days, and why have you taken them?

Dr. HEARN. With the subpoenas that were issued, I personally reviewed page after page of medical records that were on paper, until September 2017. Afterwards LaSalle utilized electronic health records, and we pulled electronic health records to comply with the request from the subpoenas.

Senator OSSOFF. For clarity, Dr. Hearn, what you mean when you say the review has continued to this day is that you have complied with this Subcommittee's and perhaps other agencies' processes for securing information, but you have not undertaken any additional review yourself of the underlying records or the propriety of the treatment provided by Dr. Amin. Is that correct?

Dr. HEARN. During my document production there was some review that goes along with document production as well.

Senator OSSOFF. I see. In the course of providing us and other potential agencies with those documents you looked at them, is what you are saying.

Dr. HEARN. Yes.

Senator OSSOFF. OK.

Dr. HEARN. Not every document, but some were reviewed.

Senator OSSOFF. I hear you.

Inspector General Cuffari, I know that the Office of the Inspector General is currently engaged in its own review of this matter. When can we expect you to complete that?

Mr. CUFFARI. Senator, in an open setting I would be remiss because we are touching on other agencies within the Executive Branch that have equities in the matter you are asking about, and I do not have a timeline to give you in an open setting.

Senator OSSOFF. What steps can the Office of the Inspector General take to ensure that these grotesque failures and abuses never happen again?

Mr. CUFFARI. To continue our vigorous and objective oversight of the Department of Homeland Security and ICE detention, to include U.S. Customs and Border Protection (CBP) detention as well.

Senator OSSOFF. Thank you, Inspector General Cuffari.

Mr. CUFFARI. Yes, sir.

Senator OSSOFF. This will conclude the questioning for today's hearing. The record will remain open for 15 days for submissions.

I just have to say, this is such an appalling case. I am repeating myself, but as I said earlier, I cannot think of much of anything worse than this, unnecessary surgeries performed on prisoners. Give me a break. It is an abject failure, Dr. Smith. It is a disgrace to the Federal Government.

What we have heard today is that there was no real vetting. Your assessment appears to be that if you had undertaken vetting you would not have found anything. That suggests that you are not thinking creatively enough about how to vet these providers, because there were red flags that should have at least provided the basis for more careful monitoring of this physician. That basically there were no processes in place, no due diligence, no review, and no way to monitor for red flags. The data was warning you, but you were not looking at it, and a lot of people got hurt.

We will have follow-up questions, Dr. Smith and Dr. Hearn, and Inspector General Cuffari, I look forward to the conclusion of your ongoing work related to this matter.

Mr. CUFFARI. Yes, sir.

Senator OSSOFF. I thank you all for your presence today. I, without objection, will introduce this full report into the record[1] and adjourn the hearing.

[Whereupon, at 4:34 p.m., the Subcommittee was adjourned.]

[1] The Staff report appears in the Appendix on page 74.

APPENDIX

Opening Statement of Chair Jon Ossoff
"Medical Mistreatment of Women in ICE Detention"
U.S. Senate Permanent Subcommittee on Investigations
Homeland Security and Governmental Affairs Committee
November 15, 2022

Before we begin this hearing, guests and viewers should be advised that this hearing will discuss the medical abuse of women in the custody of the U.S. government and that the subject matter is deeply distressing and highly sensitive.

18 months ago, I launched a PSI investigation focused on the medical treatment of women detained by the Department of Homeland Security.

This investigation has been bipartisan from start to finish, and I'd like to thank Ranking Member Johnson and his staff for their contributions.

Our findings are deeply disturbing.

It is the bipartisan finding of the Subcommittee that female detainees in Georgia were subjected by a DHS-contracted doctor to excessive, invasive, and often unnecessary gynecological surgeries and procedures, with repeated failures to obtain informed medical consent.

This is an extraordinarily disturbing finding, and in my view for represents a catastrophic failure by the Federal government to respect basic human rights.

Among the serious abuses this Subcommittee has investigated during the last two years, subjecting female detainees to nonconsensual and unnecessary gynecological surgeries is one of the most nightmarish and disgraceful.

The Subcommittee has been thorough, interviewing more than 70 witnesses and reviewing more than 540,000 pages of records, and I want to thank and commend the staff who have worked on this for the last year and a half.

The Subcommittee engaged medical experts, including Dr. Peter Cherouny, OB/GYN, who previously conducted medical reviews of other matters for the HHS Inspector General, and who independently reviewed more than 16,000 pages of medical records obtained by the Subcommittee.

The Subcommittee also consulted Dr. Margaret Mueller, OB/GYN, who has also reviewed extensive medical records related to the investigation. Both Dr. Cherouny and Dr. Mueller will testify today, and I thank you both for your service to the Subcommittee and to the U.S. Senate.

These medical experts reviewed the clinical conduct of Dr. Mahendra Amin, a OB/GYN doctor contracted by the Department of Homeland Security, who has subjected female detainees to aggressive and unethical gynecological care, quickly scheduled surgeries when non-surgical

options were available, performed unnecessary injections and treatments, and often proceeded without informed consent.

In addition to this expert review of medical records, the Subcommittee analyzed relevant data secured from ICE, and the results of our analysis were shocking.

For example: from 2017 to 2020, Dr. Amin accounted for just 6.5% of all off-site OB/GYN visits for all ICE detainees nationwide.

Yet, during the same period, this single doctor, according to ICE statistics, performed 82% of all dilation and curettage surgeries, 93% of all contraceptive injections, and 94% of all laparoscopic surgeries to remove lesions performed on the entire ICE detainee population nationwide.

Let me reiterate those statistics: one doctor, 6.5% of OGBYN visits; 82% of D&C surgeries, 93% of contraceptive injections, 94% of all laparoscopic surgeries to remove lesions, performed on the entire nationwide ICE detainee population.

The Subcommittee sought an interview with Dr. Amin during this investigation, and when he declined, we issued a subpoena.

Dr. Amin invoked his Fifth Amendment right not to testify and has not spoken with the Subcommittee.

We will also be joined today by an extraordinarily courageous woman, Karina Cisneros Preciado.

Karina was born in Mexico and brought to the United States as an eight-year-old child.

She began working at 15, and by 18 was married to a spouse who physically abused her.

After she called the police to her home during an incident of domestic abuse, Karina was arrested, and although all charges against her were dropped, she wound up detained at Irwin County Detention Center in Ocilla, Georgia, because of her immigration status.

Just four months earlier, Karina had given birth to her four-month-old daughter, who was still breastfeeding at the time.

Now forcibly separated from her infant daughter, Karina had not yet received her post-partum exam, and sought care while in detention. Karina was sent to Dr. Amin.

As we will hear, her encounter with Dr. Amin left her deeply disturbed.

And it may only be because some allegations of medical abuse became public at this time that Karina was spared further abuse.

On behalf of the U.S. Senate, Karina, I thank you for your decision to join us today and your service to the country.

Today we will also question Dr. Stewart Smith, who leads the ICE Health Service Corps and is responsible for medical care provided to ICE detainees; Dr. Joseph Cuffari, the DHS Inspector General; and Dr. Pamela Hearn, Medical Director for LaSalle Corrections.

Among the essential questions we will ask today:

Why are doctors who treat detainees not vetted by the Department of Homeland Security, when such a vet would have revealed in this case that the doctor in question had been previously sued by the Department of Justice and the State of Georgia for performing excessive and unnecessary procedures; had been dropped by a major insurer for excessive malpractice claims; and was not board certified?

What due diligence did the Department of Homeland Security perform in signing off on each of these procedures, because indeed they did sign off on these procedures? Why was the inexplicably high number of surgeries performed by a single physician not a red flag that attracted greater scrutiny?

What responsibility is borne by the private detention center operator for mistreatment of detainees housed in their facilities when that mistreatment occurs at an off-site medical procedure?

All of these, and more, will be the subject of vigorous questioning today

Senator Johnson will be joining us later in the hearing, and I ask unanimous consent to enter his opening statement into the record.

Opening Statement of Ranking Member Ron Johnson
"Medical Mistreatment of Women in ICE Detention"
November 15, 2022

As submitted to the record:

This hearing is a culmination of the Permanent Subcommittee on Investigations' ("PSI") 18-month bipartisan investigation of allegations of medical abuse against immigration detainees held at the Irwin County Detention Center ("ICDC"). I want to first thank the Chairman and his staff for his leadership on this important investigation.

PSI's investigation stemmed from a September 2020 whistleblower complaint alleging that an off-site OB-GYN conducted mass, unauthorized, hysterectomies on immigration detainees housed at ICDC. Thankfully, PSI's investigation found that allegation was not true. The doctor in question, Dr. Mahendra Amin, performed two hysterectomies on ICDC detainees between 2017 and 2020 and both were medically necessary.

The Subcommittee did find, however, that Dr. Amin performed a significantly higher number of invasive OB-GYN procedures on female detainees compared to other physicians that treated immigrant detainees across the country. PSI attempted to speak directly to Dr. Amin but he asserted his Fifth Amendment right. Due to this, PSI sought advice from a medical expert who reviewed the files of detainees housed at ICDC. PSI's expert found that many of the procedures were unnecessary, and that Dr. Amin frequently rushed to surgeries when non-surgical

options were more appropriate. I thank Dr. Cherouny for his assistance with this investigation and his testimony today.

I want to be clear: The findings and recommendations of this investigation are only about Dr. Amin's care of detainees at ICDC. Nothing in the subcommittee's investigation should be interpreted to advocate for or support the end of immigration detention. Federal law requires the detention of aliens in certain removal proceedings. Secretary Mayorkas cancelled the contract with ICDC in May of 2021. All immigrant detainees were removed from the facility as of September 2021. The Biden Administration's widespread failures to enforce immigration laws have been a driving force behind the record nearly 2.4 million apprehensions at the Southwest border last fiscal year. In order to stop the unsustainable flow of illegal migration, the federal government should use all of the tools at its disposal to enforce immigration laws, including detention.

PSI's investigation identified concerning practices of an off-site provider at this facility and made a series of recommendations for Immigrations and Customs Enforcement to implement to improve the provision of health care of immigrant detainees. I thank the witnesses for their testimony and look forward to discussing these issues at today's hearing.

KARINA CISNEROS PRECIADO OPENING STATEMENT

U.S. SENATE PERMANENT COMMITTEE ON INVESTIGATIONS

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

November 15, 2022

Good morning and thank you for the opportunity to share my experiences today. My name is Karina Cisneros Preciado. I was brought to the United States when I was eight years old. I am now 23 and live in Florida with my two children, both of whom are U.S. citizens. My daughter is two years old, and my son is one year old. I also have several other family members who are U.S. citizens.

I was detained at the Irwin County Detention Center in Ocilla, Georgia, for six months, from July 3, 2020, to January 12, 2021. My detention was triggered by an arrest, even though I was the victim in that incident. My daughter's father abused me so badly. One day, in June 2020, I needed to put a stop to his abuse and called the police on him. The police saw that I had a black eye and bruises on my body, but they still arrested me instead of him. The charges against me were dropped, but I ended up at Irwin. Before that, I had never been arrested, never had problems with the police, never traveled in the back of a police car.

My daughter was only four months old when the police took me from her. I was still nursing her at the time. Our separation was really traumatic for both of us. Being torn away from my baby, my mother, my family, for no fair reason, is overwhelming for me to think about.

Irwin was really dirty. The showers and bathrooms were covered in mold, and so were some of the cells. We would try to use our sanitary pads and soap from the commissary to scrub away the mold. Even the water cooler had mold in the spout. The mold smelled. Sewage from an upper bathroom would leak into a lower bathroom.

During my detention, I was taken to one appointment with Dr. Mahendra Amin. I was chained up at the wrist, ankles, and waist for the appointment, like a criminal. At his office, a nurse told me to get undressed, and I had to do so in front of a transport officer. I expected to get a Pap smear, but instead Dr. Amin told me to open my legs and he did a vaginal ultrasound. He told me I had a cyst on my ovary. He said he was going to give me a shot to try to dissolve the cyst, and if the cyst did not dissolve in a few weeks, I would need surgery. I did not have a chance to ask questions or say no. I had to get dressed and was handcuffed again. The nurse then gave me the shot, without anyone explaining what it was, and I had to sign a paper.

Dr. Amin's abuse has caused ongoing damage to my physical and mental health. Because of the shot, I gained a lot of weight and my hormones were out of control. I was only saved from the surgery because news about Dr. Amin's abuse came out. Why was he allowed to harm me and so many other women? Along with other women who were detained at Irwin and subjected to procedures by Dr. Amin, I filed a lawsuit, *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224). That case is still pending. I am testifying today because I want to make sure that this type of abuse never happens again.

Statement of

MARGARET MUELLER, MD, FACS, FACOG

ASSOCIATE PROFESSOR IN OBSTETRICS & GYNECOLOGY
DIVISION OF FEMALE PELVIC MEDICINE & RECONSTRUCTIVE SURGERY
NORTHWESTERN UNIVERSITY FEINBERG SCHOOL OF MEDICINE

Before the

UNITED STATES SENATE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE SENATE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

At a Hearing Entitled

"MEDICAL MISTREATMENT OF WOMEN IN ICE DETENTION"

November 15, 2022

Mr. Chairman and Members of the Subcommittee:

My name is Margaret Mueller. I hold specialty board-certification in Obstetrics and Gynecology as well as subspecialty board certification in Female Pelvic Medicine and Reconstructive Surgery, Urogynecology. I maintain a faculty appointment as an Associate Professor of Obstetrics/Gynecology at Northwestern University Feinberg School of Medicine and I am the Program Director of the Female Pelvic Medicine and Reconstructive Surgery Fellowship. I am also a member of the Society of Gynecologic Surgeons (2015 – present), American College of Obstetricians and Gynecologists (ACOG), American College of Surgeons (2018 – present) and the American Urogynecologic Society (AUGS). Currently, I am the principal investigator for a novel multi-center research network, with federal funding supported by AUGS. I was also recently elected to the AUGS Board of Directors as a member-at-large. I treat a variety of pelvic floor disorders both surgically and non-surgically. I am not being compensated for any activities that are the subject of my testimony.

I was part of a medical review team comprising nine board-certified gynecologists (including myself) and two advanced practice nurses who, in September and October of 2020, reviewed the medical records of nineteen women alleging medical abuse and maltreatment while in detention at Irwin County Detention Center (ICDC). An Executive Summary of our team's findings was published on October 21, 2020.[1] Since that summary was prepared, I have reviewed additional medical records that make it clear that this pattern of mistreatment and abuse was not limited to those nineteen women.

Our findings identified a disturbing pattern of overly aggressive care, sometimes involving unnecessary diagnostic procedures and, in some cases, unnecessary surgical procedures. Often, significant steps in the appropriate evaluation and management of common gynecologic conditions were completely omitted, leading to unindicated surgical procedures with serious risks, including potential effects on future fertility. We also found evidence that formal "outside" radiologic procedures were reported as normal, when Dr. Mahendra Amin reported the findings of the same imaging procedures as abnormal. These unnecessary medical procedures were performed without adequate informed consent, which would require not just a signed standard consent form, but also documentation of any discussion of less invasive options that might be appropriate for the patient. This lack of adequate informed consent was apparent from our review of medical records, which indicated that less invasive treatments were frequently not pursued, and it was further supported by the statements of the women themselves, which demonstrated a total absence of shared decision-making between doctor and patient. The lack of informed consent and meaningful discussion with patients is especially disturbing in the context of patients in detention with limited options for medical care, who represent a vulnerable population.

Based on my training, experience, and review of the medical records and declarations for multiple women who have received gynecologic care while in detention at ICDC, I have concluded the following:

First, many of the women who were treated by Dr. Amin while at ICDC do not know what happened to their bodies or why. Many are not aware, for example, of what medications they were given or why, what surgical procedures were performed on them, or whether they are still able to have children.

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[1] Executive Summary of Findings by the Independent Medical Review Team Regarding Medical Abuse Allegations at the Irwin County Detention (October 21, 2020). The medical review team was organized and supported by women's health lawyers and by the ALLGOOD Foundation in Chicago.

For example, women were routinely given Depo Provera, a hormonal birth control medication which is given by injection every three months. A known side effect of Depo Provera is irregular bleeding and/or lack of a period (amenorrhea), and Depo Provera is sometimes prescribed with the intent of inducing that side effect. Here, women were given Depo Provera without an appropriate workup for abnormal uterine bleeding (which is a contraindication to giving Depo Provera), without a pregnancy test, and, in many cases, without being informed that they were being prescribed hormonal birth control.

Second and relatedly, many of the women who saw Dr. Amin while at ICDC did not receive appropriate treatment for the conditions for which they sought treatment, and many of them have the same symptoms with which they originally presented. For example, several women reported non-gynecologic conditions, such as an umbilical hernia or rib pain, and were never treated for those complaints but instead referred to Dr. Amin, who then performed unnecessary and unindicated procedures that did not address those women's reported symptoms. Others presented with gynecologic symptoms, but were not appropriately evaluated, diagnosed or managed, despite undergoing invasive surgical procedures.

No surgical procedure is without risk. Dr. Amin routinely performed dilation and curettage, a surgical procedure to either evaluate or manage abnormal bleeding, though it is not the first step in evaluation of bleeding as that can be accomplished with a less invasive in-office method (endometrial biopsy). This surgical procedure is typically performed in the operating room with anesthesia. Instruments are utilized to dilate or sequentially open the cervix, which is the uterine opening, to allow access to the inside of the uterus (endometrial cavity). Once dilation is adequate, another instrument is used to scrape the inside of the uterus. Risks of this procedure include infection, as well as perforation or puncture of the uterus, bladder, bowel, or blood vessels, potentially requiring additional procedures including open surgery to repair the perforation. Long-term risks include inability to achieve pregnancy due to scar tissue formation in the uterus. Dr. Amin also routinely performed diagnostic laparoscopy, a procedure where one or more small incisions are made in the abdomen and a camera is introduced into the body. This itself is an invasive abdominal surgery with risks of bleeding, infection, bowel or bladder perforation, nerve injury, and intra-abdominal scarring potentially requiring additional or future surgery. In the course of these diagnostic laparoscopies, Dr. Amin often performed additional procedures, such as removal of part of an ovary or fallopian tube, which were themselves not medically indicated.

Those additional procedures often use electrocautery, which is a method of burning tissue to remove it from the body and is associated with heightened risks, including delayed bowel or bladder injury, which can have catastrophic consequences.

In addition, the women whose records I reviewed underwent invasive transvaginal procedures, including transvaginal ultrasound and physical examinations, often without explanation of what was being done or why. Some of the women whose records I have reviewed also had previously experienced sexual assault and/or sexual abuse, further compounding these issues. Many may identify as trauma survivors based on the unconsented and invasive gynecology procedures they underwent while in custody, and all should be offered the opportunity for mental health support or services.

Equally concerning is the lack of documentation of a meaningful discussion of risks and benefits, and a lack of shared decision-making between doctor and patient with regards to management. An informed consent discussion should explore (1) the patient's symptoms and degree of bother from those symptoms; (2) the full range of treatment options available, from least invasive (such as observation) to most invasive (such as surgery); and (3) the risks, benefits, and alternatives to the proposed management strategies. If a patient has no symptoms, is not bothered by her symptoms, or if a particular surgery or intervention is not indicated, then that intervention exposes the patient to unwarranted risk without any benefit. Patients were also discouraged from refusing surgery or seeking a second opinion, including unnecessary referrals for mental health evaluation.

Thank you for investigating this concerning pattern of care at Irwin County Detention Center, and for the opportunity to present our team's findings.

I look forward to addressing any questions you might have.

Written Statement of Peter Cherouny, M.D.
Testimony before the Permanent Subcommittee on Investigations, United States Senate
Committee of Homeland Security and Governmental Affairs
Chairman Jon Ossoff, Presiding

November 15, 2022

Thank you for the opportunity to serve your committee with this requested review of the obstetric and gynecologic medical care of immigrants in ICE custody at the Irwin County Detention Center in Georgia. All reviewed care was rendered by Mahendra G. Amin, M. D. Dr. Amin is a physician trained in India and at the University of Medicine and Dentistry of New Jersey. It is unclear what postgraduate training Dr. Amin received in New Jersey. He does not appear to be board certified in Obstetrics and Gynecology, nor boarded in any other medical speciality. My review is limited to this Committee's provided records from Irwin County Hospital (ICH), Irwin County Detention Center (ICDC) and U.S. Immigrations and Customs Enforcement (ICE) records of apparent on-site medical care and review of care.

I was not involved in the selection of patients and charts to be reviewed and I have no knowledge of Dr. Amin's accessibility to patients from the ICDC nor of the specific resources available to him in his office or through the Irwin County Hospital.

Summary

Over the last three decades, several imaging technologies and outpatient clinical strategies have been developed for the management of menstrual irregularities, which represent over half of outpatient visits to gynecologic care and the majority of the reviewed patients' concerns. Guidelines and tools for the evaluation of premenopausal, perimenopausal and postmenopausal bleeding have been developed that allow for outpatient assessment and avoid in hospital, surgical management for benign conditions, as appropriate. The provider appears unaware of these current options or does not have them available in his office or hospital. Due to this lack of knowledge or capability, the provider uses inpatient surgical options as diagnostic tools in order to manage predominantly benign conditions.

Concerns regarding specific therapies

The use of Depo-Provera as initial hormonal management of abnormal uterine bleeding in the premenopausal population. Many cases of abnormal uterine bleeding are responsive to medical management with nonsteroidal antiinflammatory medications (NSAIDs), or hormonal based therapies. The latter options recommended include a levonorgestrol containing IUD, a short course of oral progestins or combination birth control pills. Depo-Provera can be used but adequate time must be given to affect a clinical treatment response, usually considered at least six months. In most reviewed cases, the provider used Depo-Provera injections for initial management of menstrual complaints such as menorrhagia (heavy menstrual flow) and

metrorrhagia (irregular menstrual bleeding) and proceeds to surgical intervention after 2-6 weeks, siting failure of hormonal therapy for abnormal uterine bleeding. An additional issue with Depo-Provera is the side effect of irregular menstrual bleeding, up to 70% of patients within the first year, a common presenting complaint of the reviewed patients and compounding specific diagnoses.

Ovarian cystectomy or aspiration at laparoscopic evaluation of benign, functional cysts. The vast majority of ovarian cysts identified on transvaginal ultrasound and removed or aspirated during laparoscopy in these patients were benign, functional cysts. This is indicated in the surgical pathology reports for the patients. Forty patients underwent removal or aspiration of ovarian cysts. While they were benign in every case, the majority were functional ovarian cysts in normally cycling ovaries. These generally resolve without surgical intervention. Simple ovarian cysts up to 10 cm in diameter can be observed to resolution in most cases. These functional cysts do not require removal unless their appearance is concerning for malignancy or torsion (twisting), among other things. Aspiration is not recommended. Advanced imaging can, additionally, be used prior to surgery in order to identify cysts of concern and apply the appropriate surgery where needed, or follow them over time.

Perimenopausal leiomyomata management. Several perimenopausal patients presenting with irregular and painful menstrual bleeding were identified as likely having leiomyomas of the uterus. As these benign muscle tumors generally recede after menopause, one option of management, once identified and confirmed by imaging, is with observation and symptom management. Twenty to seventy percent of women develop these tumors during their lifetime and the vast majority are benign. A detailed assessment of the patient's symptoms is necessary in order to ascribe specific clinical complaints to fibroids because, as they are so common, other causes for the specific clinical symptoms of the patient need be excluded. This provider appears to use laparoscopy for confirmation of the diagnosis of leiomyomas and often removes them at surgery. These uterine muscle tumors can be evaluated by imaging techniques such as skilled ultrasonography or more advanced imaging like MRI and followed over time for clinically concerning changes.

IUD management. A patient presented with heavy bleeding and cramps with her menstrual cycle and a known IUD did not appear to have an attempt at removing the IUD until a D & C and laparoscopy were performed in the hospital. Of note, the surgical consent did not include removal of the IUD. The clincial note did indicate she received hormones, unsuccessfully, in an attempt to manage her symptoms. There was no attempt to remove the IUD as a possible cause of her symptoms prior to surgery.

Molar pregnancy follow up. A patient with an identified molar pregnancy underwent a uterine evacuation, which is the appropriate therapy. However, while initial management was appropriate with blood tests assessing pregnancy hormone levels (beta-HCG), there was no indication of longer term follow up for this patient who would have an approximate ten-percent chance of developing subsequent choriocarcinoma.

Pap smear management including colposcopy. The provider does not appear to follow the current recommendations regarding Pap smear management through colposcopy and further treatment. Examples include: 1) Pt 24 and 39 had inadequate tissue obtained at LEEP procedure making further diagnosis not possible. 2) Pt 38404 at 20 years old, the recommended followup for her Pap smear result of low-grade squamous intraepithelial lesion (LGSIL) with positive human papilloma virus (HPV) testing is repeat testing in one year. 3) Pt 60301 at 28 years old had a Pap smear result of atypical squamous cells of undetermined significance (ASCUS), the most common abnormal Pap smear finding, with positive HPV and a negative colposcopy. Dr. Amin performed cryosurgery (freezing destruction of cervical tissue) that does not appear to have been indicated. Recommended follow up from the available documentation would be retesting only. 4) Pt 48356 at 27 years old had a Pap smear read as ASCUS negative HPV. Again, recommended follow up is retesting, not colposcopy. Of the nine new patient reviews, only one had adequate documentation to indicate the care performed. Dr. Amin appears to have performed unindicated colposcopy and/or cryosurgery on six of these patients. The records reviewed suggest the provider has limited knowledge and/or skill in Pap smear management. The reviewer is not aware of how many patients the provider may have seen over this time period for a LEEP procedure making it difficult to assess overall skill and knowledge in performance of this procedure.

Condyloma acuminata management. Two patients had condyloma acuminata, or venereal warts, caused by human papilloma virus infection, excised in the hospital. There was no indication of timing of presentation of the warts on the clinical note. While there are several out patient management options for venereal warts, clinical observation alone can lead to resolution as patients clear the virus. It does not appear these options were reviewed or discussed with the patient.

Transvaginal ultrasound by Dr. Amin. Thirty-six patients underwent a transvaginal ultrasound by Dr. Amin. In general, the performance and documentation of these ultrasounds was limited and appeared incomplete. Guidelines regarding performance and documentation of female pelvic ultrasound can be found at the American Institute of Ultrasound in Medicine; (https://onlinelibrary.wiley.com/doi/10.1002/jum.15205).
An additional observation was the frequent ultrasound notation by Dr. Amin of a “thickened endometrium”, with this added to the indication for surgery (example, patients 31 and 44). Thickened endometrium is rarely helpful in the premenopausal population and a thickness less

than 4-5 mm is used in the post menopausal woman *with symptoms* to reliably exclude endometrial cancer.

Surgical observational diagnosis of endometriosis (documented in operative notes as postoperative diagnosis) In no case was there a tissue diagnosis (biopsy) performed to confirm endometriosis, as is recommended when first seen in a patient.

Surgical observational diagnosis of adenomyosis. Adenomyosis is usually a diagnosis by exclusion of other causes of the patient's symptoms. While it can be inferred on imaging, it is only confirmed by histologic evaluation on a hysterectomy specimen. This was not done in any cases where adenomyosis was added to the postoperative diagnoses.

The treatment of vulvovaginal infection by symptoms only. Recommendations for care of patients with vulvovaginal infections and discharges include microscopic evaluation of the discharge and/or culture. Dr. Amin frequently prescribes multiple treatments for a vaginal discharge complaint without an appropriate clinical evaluation. Not using microscopy or cultures for assessment in these patients, as seen frequently in these charts, results in patients receiving multiple treatments for the same complaints without improvement. In addition, one patient, patient 51, had a positive chlamydia test and the treatment prescribed was inadequate. Overall, compliance for the prescribed treatment in many cases of vulvovaginal infection is very poor at ICDC. This appears to be a significant process problem for the system.

Thank you again for allowing me to participate in the quality assessment of clinical care provided to this group of patients. I look forward to being helpful in improving the care as well.

Sincerely,

Peter Cherouny, M.D.

U.S. Immigration and Customs Enforcement

STATEMENT

OF

DR. STEWART D. SMITH
ASSISTANT DIRECTOR
ICE HEALTH SERVICE CORPS
ENFORCEMENT AND REMOVAL OPERATIONS
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

"REPORT ON THE IRWIN COUNTY DETENTION CENTER"

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Tuesday, November 15, 2022
2:30 PM
Senate Dirksen 342

Chairman Ossoff, Ranking Member Johnson, and distinguished members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the U.S. Immigration and Customs Enforcement (ICE) Health Service Corps' (IHSC) commitment to provide quality healthcare services in accordance with nationally recognized detention standards, and support the safe apprehension, enforcement, and removal of detained individuals throughout their immigration proceedings. Our mission is to deliver high quality healthcare to all noncitizens in ICE custody as well as to operate the best detention healthcare system possible.

Introduction

IHSC's workforce consists of approximately 1,700 federal civil servants, U.S. Public Health Service (PHS) Commissioned Corps officers, and contractors. These positions represent a wide array of healthcare professionals throughout the United States, including physicians, advanced practice providers, registered nurses, psychiatrists, psychologists, social workers, pharmacists, dentists, and healthcare administrators. In Fiscal Year (FY) 2022, IHSC provided direct care to over 118,000 detained noncitizens housed at 19 IHSC-staffed facilities throughout the nation, including medical, dental, mental healthcare, and public health services. In addition, IHSC oversaw compliance with detention standards for healthcare for over 120,500 detained noncitizens housed in 163 non-IHSC-staffed facilities. In FY 2022, IHSC's operating budget approached $324 million on detained noncitizen health care.

ICE's detained population presents unique healthcare challenges. In many instances, the care detained noncitizens receive while in ICE custody is the first professional medical care they have ever received. Consequently, it is common for detained noncitizen health screenings to identify chronic and serious health conditions which were previously undiagnosed. To fulfill our mission of delivering high quality healthcare to all those in ICE custody, detained noncitizens within IHSC-staffed and non-IHSC-staffed facilities receive a comprehensive medical, dental, and mental health intake screening within 12 hours of arrival, and a comprehensive health assessment, including a physical examination and mental health screening by a qualified, licensed health care professional within 14 days. Detained noncitizens identified as high-risk during the intake process are triaged for a higher level of care immediately. In addition, each facility housing ICE detained noncitizens is staffed by medical care professionals 24 hours a day, seven days a week, for direct

patient access. IHSC staff work to improve health and resiliency through prevention and evidence-based disease treatment. While IHSC does not directly provide or direct the medical care provided in non-IHSC-staffed facilities, IHSC does oversee those facilities' compliance with national detention standards and coordination of offsite care through medical referrals, as needed, through the Field Medical Coordinator (FMC) program.

ICE embraces nationally recognized performance standards for detention and healthcare delivery, and ICE's integrated healthcare delivery program undergoes extraordinary scrutiny, including multiple levels of independent oversight. For example, to ensure compliance with ICE detention standards and the provision of high quality and comprehensive healthcare, ICE conducts regular reviews and on-site assessments and, when needed, implements corrective action plans.

Facility Oversight

ICE detention facilities comply with one of four sets of ICE's national detention standards and are also generally contractually required to maintain National Commission of Correctional Health Care and American Correctional Association standards. These standards are designed to ensure appropriate and consistent conditions of confinement exist throughout ICE's detention system. Various entities provide oversight of ICE detention operations based on national detention standards, and ICE detention facilities are subject to inspection by the Department of Homeland Security (DHS) Office of the Inspector General (OIG), the ICE Office of Detention Oversight, the DHS Office for Civil Rights and Civil Liberties, and most recently by a new and independent office within DHS, the Office of the Immigration Detention Ombudsman.

Moreover, IHSC conducts internal audits, referred to as the IHSC Health Systems Assessments at IHSC-staffed facilities annually, and the FMCs assigned to each ICE Field Office area of responsibility conduct site visits for non-IHSC staffed detention facilities. In addition, the ICE Enforcement and Removal Operations Custody Management Division's Detention Oversight Unit assigns dedicated onsite Detention Services Managers (DSMs) or Detention Standards Compliance Officers (DSCOs) to many of the larger detention facilities. DSMs and DSCOs review facility operations for compliance with applicable ICE detention standards and resolve issues and concerns of individuals detained in ICE custody "on the spot" when possible. A DSCO

and an FMC were both assigned to the Irwin County Detention Center (ICDC) during its operation as an ICE facility.

IHSC Response to the Coronavirus (COVID-19) Pandemic

In early 2020, IHSC responded to an emerging public health threat caused by a new coronavirus disease, or COVID-19, which rapidly spread within communities due to its highly transmissible nature. This public health threat quickly became a global pandemic. The nature of the illness, combined with its rapid spread around the globe, represented an unprecedented challenge to ICE operations and the IHSC health system. However, like other law enforcement agencies working with a detained population, ICE is experienced in optimizing operations to limit the spread of communicable infections amongst those in our custody. IHSC was able to quickly adapt procedures to control infections such as measles, mumps, and chicken pox during the onset of COVID-19, and to modify them as necessary as conditions changed.

During the pandemic, ICE implemented several steps to reduce the spread of COVID-19 throughout ICE's detention network. These steps were guided primarily by the Centers for Disease Control and Prevention's (CDC) recommendations, particularly for congregate settings, and by our own internal public health resources. As the understanding of the nature of the pandemic changed, so too did the CDC guidance. IHSC likewise continued to evaluate, align, and revise our policies and guidance as the pandemic evolved.

ICE ensures all those in its custody receive timely access to medical services and treatment, including an initial health intake screening and follow-up for any existing or emergent health conditions. IHSC continued to provide these services throughout the pandemic. Additionally, ICE performs rigorous testing to limit the spread of COVID-19. The ICE COVID-19 policy is described primarily in the Pandemic Response Requirement (PRR), of which there have been 10 versions. The PRR informs all internal guidance on COVID-19 for IHSC. ICE updates the PRR as needed, based on changes to CDC COVID-19 guidelines or other significant DHS or the U.S. government policy changes.

ICE currently evaluates several factors to assign a facility operating status to all IHSC facilities. These levels are green, yellow, and red; they mirror the CDC's risk assessment levels for COVID-19. The status levels take into consideration the presence of COVID-19 cases within a facility; the level of COVID-19 in the county surrounding the facility; and other risk factors. Depending on the risk level of the facility, ICE manages COVID-19 cases through several approaches.

Currently, ICE tests all new noncitizens who arrive at ICE-owned facilities for COVID-19 during the intake screening process. Depending on the facility operating status (thus the COVID-19 risk at the facility), detainees may be isolated or processed into the general population. IHSC uses the facility operational status level to inform other factors, such as testing upon transfer or release, and quarantine periods.

IHSC isolates detained noncitizens who develop fever, respiratory, or other COVID-related symptoms. On-site medical professionals manage and observe patients with mild symptoms for a specified period, in accordance with CDC guidance. ICE transports individuals with moderate to severe symptoms – or those who require higher levels of care or monitoring – to the appropriate medical centers or hospitals. IHSC places detained noncitizens, who return to a detention facility while still within the contagious period, in isolation; a medical provider manages their health care.

From the onset of reports of COVID-19, IHSC has tracked CDC and public health agencies' guidance on the virus, regularly updated the agency's infection prevention and control protocols, collaborated with state and local health partners, and issued timely guidance to staff and detention contractors regarding appropriate screening and management protocols for those with potential COVID-19 exposure or infection. In addition, ICE took several proactive measures to prevent the spread of COVID-19, including:

- IHSC coordinated with partner agencies, including the CDC, U.S. Marshals Service, and the Bureau of Prisons. IHSC collaborated with medical professionals, disease control specialists, detention experts, and field operators to identify enhanced steps to minimize the spread of the virus.

- ICE implemented measures to allow for greater social distancing in ICE detention facilities and directed all facilities to reduce the total population at detention facilities to 75 percent of capacity or less. ICE also set a target of 70 percent capacity for ICE-owned and ICE-dedicated facilities.
- Throughout the pandemic, ICE maintained regular communication and provided guidance to our facility staff and partners. We highlighted applicable CDC guidance that applies to dedicated ICE detention facilities and encouraged non-dedicated facilities to adopt these best practices.
- ICE created and continually updated a COVID-19-specific plan outlining response requirements for the pandemic. The PRR includes requirements on intake screening, testing, management, prevention, transportation, and visitation. As the pandemic evolved, ICE updated this guidance as needed to include testing and vaccination.
- ICE uses an infection prevention strategy known as cohorting, which involves housing together detained noncitizens who are believed to have been exposed to a person with an infectious agent but are asymptomatic. Cohorting lasts for the duration of the incubation period, so in the case of COVID-19, the duration is 10 days. Since individuals afflicted with these and other communicable diseases may be contagious *prior* to developing symptoms, such protocols are important to maintain the health and safety of the overall detained population and staff. Cohorted noncitizens who subsequently develop fever and/or other symptoms are referred to a medical provider, evaluated, and, if suspected of having COVID-19, are housed in isolation and considered for testing at the discretion of the treating medical provider.
- Following the recommendations of the CDC Advisory Committee on Immunization Practices and other relevant federal government guidance regarding vaccine prioritization to ensure detainees receive their vaccinations as quickly as possible, IHSC developed and implemented an operations memorandum that authorized COVID-19 vaccine administration to ICE-detained noncitizens and established vaccination plans and priorities. As with all medical procedures, ICE ensures informed consent of detained noncitizens regarding the receipt of the COVID-19 vaccine and, following CDC and other clinical guidance, administers the vaccine in accordance with any restrictions based on the detained noncitizen's medical history. At IHSC-staffed-

facilities, all detained noncitizens are offered a vaccine unless it is medically contraindicated, or the detained noncitizen has documentation of a previous COVID-19 vaccine. All non-IHSC-staffed facilities are instructed to follow the same guidelines. As of September 30, 2022, 66,580 non-citizens in ICE custody received COVID-19 vaccinations at IHSC-staffed and non-IHSC-staffed facilities nationwide since detainee vaccinations began. A total of 76,553 non-citizen migrants have refused vaccination.

- IHSC supports several special missions to prevent COVID's spread. Medical personnel staffed sites along the southwest border to test noncitizens for COVID, in support of U.S. Customs and Border Protection during the migrant surge. In total, IHSC tested 41,659 noncitizen migrants at these sites through September 15, 2022. IHSC managed all logistical support to ensure adequate supplies and equipment to sustain these operations. In Puerto Rico, IHSC staff tested and cared for 363 migrants, saving over $300,000.00 in emergency visits and staffing costs.

The health and safety of ICE detained noncitizens and personnel is one of the agency's highest priorities. Addressing the healthcare needs of those in ICE custody, even absent a pandemic, requires detailed planning and remarkable execution. However, in the face of this pandemic, our staff consistently demonstrates exceptional professionalism, adaptability, resilience, and continued commitment to the health and welfare of detained noncitizens.

Irwin County Detention Center

ICE established an Inter-Governmental Service Agreement (IGSA) for the provision of the necessary physical structure, equipment, facilities, personnel, and services at ICDC to provide a program of care in a properly staffed and secure environment under the authority of the Immigration and Nationality Act, as amended. All persons in the custody of the ICE are "Administrative Detainees." This term recognizes ICE detainees are not charged with criminal violations and are only held in custody to ensure their presence throughout the administrative hearing process, to ensure their presence throughout the administrative process, and to ensure their presence for removal from the United States pursuant a lawful final order by Immigration Court, the Board of Immigration Appeals or other Federal judicial body. The IGSA set forth the

responsibilities of ICE and the service provider. The agreement required the service provider to provide all personnel, management, equipment, supplies and services necessary for performance of all aspects of the agreement. The agreement also required the service provider to ensure the safekeeping, housing, subsistence, medical and other program services provided to ICE detainees housed in the facility is consistent with ICE's civil detention authority, the performance work statement, IGSA requirements, and the ICE standards referenced in the agreement.

In September 2020, ICE was informed of allegations of forced medical procedures performed by an offsite provider serving the ICDC detained population through a whistleblower complaint. While offsite, community-based providers are not contracted to provide services with ICE or the detention facility, they are licensed medical professionals vetted by state and county licensing boards. Following the whistleblower complaint, IHSC conducted a review of ICDC healthcare procedures in October 2020—to include the most recent FMC site visit, the offsite referral process related to OB/GYN surgeries, and the whistleblower allegations. Although ICE's own review did not find evidence of any forced medical procedures, out of an abundance of caution and due to the seriousness of the allegations, ICE took immediate steps to discontinue sending patients in our custody to this offsite provider and to pursue alternate providers to serve ICDC's female population. On November 25, 2020, ICE ceased intake of female detained noncitizens at ICDC and on September 17, 2021, ICE ceased operations at ICDC altogether.

On May 20, 2021, DHS Secretary Mayorkas directed ICE to prepare to discontinue use of ICDC as soon as possible and consistent with any legal obligations, to include the preservation of evidence for ongoing investigations. ICE is firmly committed to ensuring all those in its custody receive appropriate medical care and are treated with respect and dignity. ICE is also committed to fully cooperating and complying with all requests for information about these allegations from oversight bodies, including Congress.

Additionally, in September 2020, the DHS OIG received complaints concerning medical care and response to COVID-19 protocols at ICDC. On January 3, 2022, DHS OIG issued a report entitled, "Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center." In its report, the DHS OIG acknowledged ICE detention standards and overarching efforts to mitigate risks to the safety and well-being of detained noncitizens and staff

because of the COVID-19 pandemic were largely in compliance at ICDC. For example, the DHS OIG report noted ICE detention standards require all facilities provide detained noncitizens with access to appropriate and necessary medical, dental, and mental healthcare services, and that these services were provided at ICDC.

Furthermore, the report acknowledged ICE issued its initial ICE COVID-19 PRR in early April 2020, which has been updated throughout the pandemic to establish clear expectations and assist facility operators in mitigating risks to the safety and well-being of detainees, staff, contractors, as well as visitors and stakeholders due to COVID-19. The DHS OIG report also noted ICE dramatically reduced the ICDC population by releasing noncitizens who might be at higher risk of severe illness due to COVID-19 and that the facility complied with CDC and ICE COVID-19 guidance.

The DHS OIG report included five recommendations to improve ICE's oversight of medical care and facility operations at ICDC. However, in May 2021 – approximately five months before receiving the DHS OIG report – ICE gave notice of its intent to terminate its contract with ICDC. By September 17, 2021, ICE ceased operations at ICDC, and on October 7, 2021, ICE terminated its contract with ICDC. Since ICE no longer uses the facility, the recommendations provided in the DHS OIG report could not be fully implemented.

I look forward to your questions.

LaSalle Opening Statement of Dr. Hearn
Congressional Hearing
November 15, 2022

Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee:

Thank you for arranging this hearing and for the opportunity to provide testimony concerning these allegations of detainee mistreatment.

My name is Dr. Pamela Renee Hearn. I serve as the Medical Director for LaSalle Corrections and have overseen medical care at the Irwin County Detention Center in Georgia since January 2020. I am responsible for the medical operations and deployment of health resources to support a number of medical facilities, including the Irwin County Detention Center's Medical Department. Also, I work collaboratively with organization leaders; am actively involved in performance improvement initiatives targeted to improve care, treatment and services for patients served; communicate with Immigration and Customs Enforcement; establish policy, procedures, and protocols for the clinical designated area of service; and analyze audit results to ensure patient care meets the expected standards.

Today, I seek to clarify who LaSalle is, its limited role in the provision of outside medical services, and its inability to meaningfully affect the circumstances giving rise to these allegations due to the contractual and regulatory limitations imposed on it by the federal government.

I would like to begin by telling you who we are. LaSalle is a family-owned business, headquartered in Ruston, Louisiana, which provides detention and corrections industry solutions to law enforcement agencies. LaSalle was founded in 1997 to address dismal overcrowding and underfunding in state-run detention facilities, primarily located in rural areas. LaSalle has since grown to manage fifteen facilities in Louisiana, Texas, Arizona, and Georgia. LaSalle partners with the localities it serves to provide facility management and operation services with integrity, while also supplying widespread employment opportunities and economic stability to these areas.

LaSalle Opening Statement of Dr. Hearn
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November 15, 2022

LaSalle is led by a Corporate Management team, each member of which has extensive professional experience in detention administration, criminal justice, and/or public service. Guided by this leadership, LaSalle demonstrates a deep understanding of and ongoing commitment to the well-being and dignified experience of those who are entrusted to the facilities with which we partner. LaSalle commits to operating its facilities and programs with the highest levels of decency and humanity, while providing safe, secure, and humane surroundings for our staff, those in our custody and care, and the communities in which we operate, such as Irwin County, Georgia.

It is LaSalle's policy to ensure that all detainees have access to appropriate and necessary medical care by on-site appropriately trained and qualified personnel, who are licensed, certified, credentialed and/or registered in compliance with applicable state and federal requirements. Additionally, and with respect to the women, detainees have access to a continuum of health care services, including time-sensitive screening, preventative treatment, and health education in settings that respect detainees' privacy. LaSalle also assists in facilitating access to gynecological and obstetrical treatment during their detainment consistent with recognized guidelines for women's health services. Further, LaSalle provides communication assistance to detainees with disabilities and detainees who are limited in their English proficiency by way of bilingual staff or professional interpretation and translation services.

As I mentioned, one of the facilities LaSalle operates is the Irwin County Detention Center (or "ICDC"), a detention facility located in Ocilla, Georgia that has served the Irwin County community since 2007. ICDC is managed by an organizational team comprised of staff with education, licensure, and experience in various components of detention management.

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LaSalle provided on-site health care services to detainees in accordance with the stringent standards set by the U.S. Immigration and Enforcement (ICE) and other government partners, including the 2011 Performance-Based National Detention Standards promulgated by ICE, or "PBNDS." These performance-based standards include a range of requirements for the management of detention facilities. Frequent, independent audits verified ICDC's close adherence to these protocols. Additionally, ICE Health Services Corps ("IHSC") provided consistent updates in the form of interim reference sheets, and the Pandemic Response Program Requirement, to ensure medical care for the detainees was refined and updated in accordance with current medical guidance.

According to the PBNDS, "a detainee who is determined to require health care beyond facility resources shall be transferred in a timely manner to an appropriate facility." To that end, LaSalle's function respecting off-site treatment was limited to: (1) maintaining a transportation system that provided timely access to health care services, (2) maintenance of "a written list of referral sources, including emergency and routine care," and (3) requesting off-site evaluations/treatment for IHSC approval. Respecting care by third-party medical providers, LaSalle was allowed only to transfer detainees to nearby health care providers selected by IHSC in order to provide required health care not available within the facility. During the relevant time period, this process included LaSalle's identification of independent, off-site specialty providers whom it referred to IHSC. IHSC, in turn, was solely authorized and responsible for vetting and credentialing all off-site medical providers to offer medical services to detainees.

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At no point was I, or any other LaSalle employee, involved in the vetting and credentialing of off-site providers, nor could we have done so under the contracts or regulations governing our involvement at ICDC.

Contractually, the primary point of contact for obtaining pre-approval for non-emergent care, as well as post-approval for emergent care, was IHSC. Consistent with this division of responsibility, LaSalle had no fiscal responsibility for any off-site medical treatment of detainees. Pursuant to the relevant Intergovernmental Service Agreements, the cost of all medical services approved and provided off-site were the sole responsibility of ICE.

Simply put, LaSalle was limited to ensuring that off-site medical providers were available, and to transporting detainees to and from those medical providers. In the event Lasalle providers could not treat detainees on-site, Lasalle providers made appropriate referrals to off-site facilities and providers, all of whom were vetted exclusively by IHSC.

Equally important, ICE did not grant LaSalle any ability to decide the course of off-site medical treatment and/or terms of delivery of care by any outside provider, including the translation of communications related to treatment. Again, ICE contractually limited LaSalle to transfer detainees to and from its chosen off-site medical provider appointments. As such, obtaining informed consent for any medical treatment and/or procedure was and remains the exclusive duty of the healthcare provider performing the procedure, consistent with informed consent practices in the jurisdiction. Moreover, other than to ensure security, LaSalle agents were not authorized or allowed to enter a healthcare provider's operating or exam room to witness or assist in any medical procedures detainees might undergo. Pursuant to the relevant contracts and applicable regulations, these tasks remained exclusively under the purview of the treating

physician and IHSC. As a consequence, LaSalle had limited access to detainee medical records generated by off-site providers absent a duly authorized release by the detainee.

Finally, when the ICDC's on-site medical providers assessed the need for follow-up, off-site medical treatment, ICDC providers submitted a referral request for off-site specialty care to IHSC for review and approval. Once approved, ICDC staff transported detainees to and from the off-site provider consistent with the same limitations discussed above.

As a governmental partner dedicated to the safety, humanity, and dignity of all detained persons, we find the allegations in this matter serious and, if true, reprehensible. They stand in stark contrast to LaSalle's longstanding, family-based values. LaSalle believes that detainees should be afforded all reasonable opportunity to make informed decisions regarding their health care. To that end, it is LaSalle's policy to provide detainees with access to a grievance system that protects their rights and ensures fair review of their grievances, including those related to medical care. All detainees have the opportunity to file grievances via various modes of access including to the Office of the Inspector General hotline. These complaints and grievances are managed orally and informally by staff in their daily interaction with detainees. Detainees also have the right to file a formal grievance and pursue the grievance process at any time. A timely response is to be provided in accordance with grievance procedure guidelines. A multi-level appeal process is also available for detainees who are dissatisfied with the response.

Upon learning of these allegations in September 2020, I immediately conducted a focus driven, after incident review of all gynecological surgical services provided to ICDC detainees since 2017. Additionally, the facility medical director conducted a thorough review of the past five years' worth of focused, off-site procedures performed for ICDC detainees. These independent

reviews included an extensive examination of ICDC's internal records and the limited records it received from off-site providers. In addition, discussions and analysis with the facility's leadership regarding policy and procedures, facility operations, and previous independent audit reports was conducted. In conclusion, this review:

-supported the use of clinically appropriate rationale for referrals,

-indicated the operational process for IHSC approval was followed,

-showed no evidence of fraudulent behavior such as patient steering,

-confirmed transparency in clinical decision making,

-indicated no nefarious trends concerning off-site care,

-noted evidence of a robust multi-level grievance process,

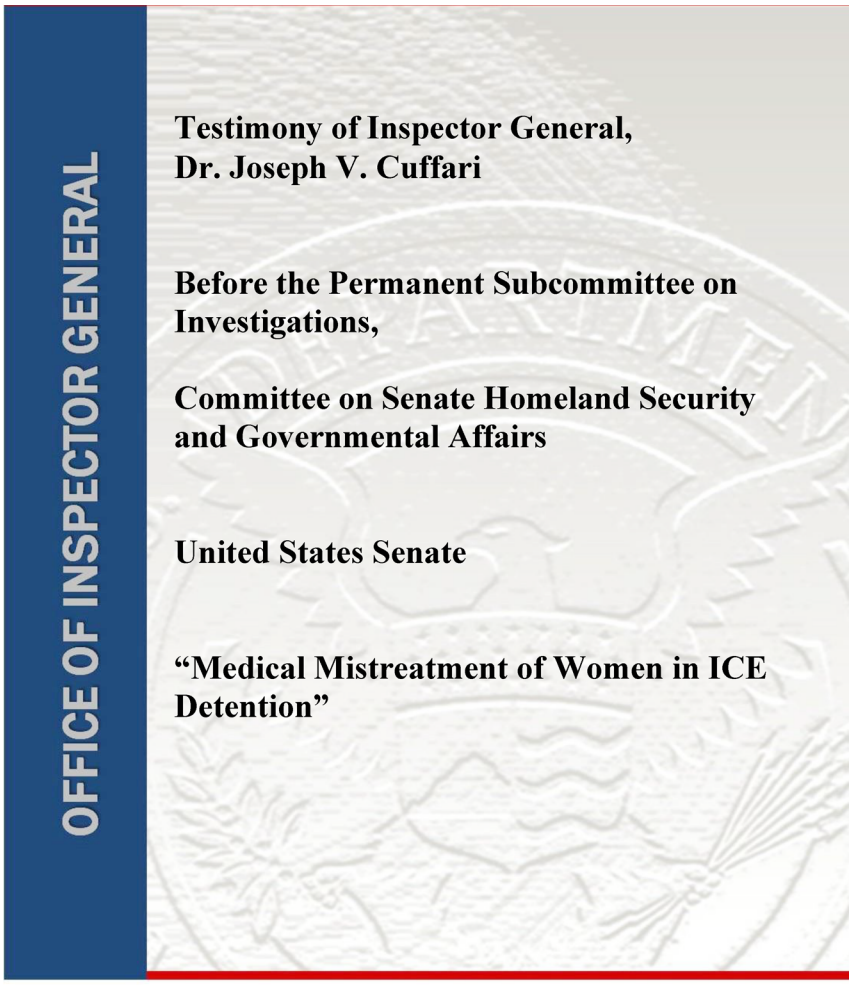
-highlighted the presence of open intra-departmental communication, and

-confirmed recent peer reviews for onsite providers.

In retrospect, ICE's decision to limit LaSalle's ability to select and ensure administrative oversight in the provision of outside medical service providers and procedures was restrictive but entirely consistent with the contractual and regulatory arrangements the federal government has implemented. These arrangements allowed LaSalle only to pass along the existence of (but not vet) local medical providers and to securely transport detainees to and from the medical providers IHSC approved. LaSalle's limited involvement with the provision of outside medical care constrained its ability to explore more about these allegations in real time.

If, in the future, the federal government chooses to allow organizations like LaSalle to play a more active role in the provision and monitoring of off-site medical care, these governing regulations and related contracts can be amended. Ultimately, private institutions such as LaSalle

are partners with the Immigration and Customs Enforcement agency and, as such, strive to provide excellence in the medical management of the detainees under their care exceeding the standards set forth in the PBNDS.


OFFICE OF INSPECTOR GENERAL
Testimony of Inspector General,
Dr. Joseph V. Cuffari
Before the Permanent Subcommittee on Investigations,
Committee on Senate Homeland Security and Governmental Affairs
United States Senate
"Medical Mistreatment of Women in ICE Detention"
Homeland Security
November 15, 2022
2:30 PM

Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss the oversight work of the Department of Homeland Security (DHS) Office of Inspector General (OIG). We provide objective oversight and actionable recommendations to the Department and its components to advance the Nation's homeland security objectives.

We are grateful for the continued, bipartisan support that we have received from Congress. To that end, recent congressional appropriations have allowed us to hire medical professionals to augment our oversight functions, including reviews of U.S. Immigration and Customs Enforcement's (ICE) detention facilities and detention practices.

Between FY 2020 and FY 2022, our office conducted 12 inspections of ICE detention facilities as part of our unannounced inspections program. In 9 of those inspections, teams of medical professionals—typically consisting of 1 nurse and 1 medical doctor—reviewed detainee medical files, medical staffing levels, training curriculum, and medical protocols to determine whether the medical care provided in ICE detention facilities complied with agency detention standards, as well as the 2018 National Commission on Correctional Health Care Standards.[1] Given the significant risk posed by the COVID-19 pandemic, the analysis of our medical partners also considered the COVID-19 protocols utilized in ICE detention facilities.

OIG's Review of the Medical Processes and Communication Protocols at the Irwin County Detention Center (OIG-22-14)

In September 2020, we received a complaint concerning ICE detainees at the Irwin County Detention Center (ICDC) in Ocilla, Georgia. The complaint included allegations from ICE detainees and a licensed practical nurse previously employed by ICDC about inappropriate medical care, inadequate response to coronavirus disease 2019 (COVID-19), and retaliation against employees and detainees. It also included specific allegations about the rate at which intrusive gynecological procedures were performed on ICE detainees in ICDC custody. We referred the allegations of intrusive gynecological procedures to our Office of Investigations and the allegations of whistleblower retaliation to our Office of Counsel.

In October 2020, we initiated an inspection of ICDC. In our review, we sought to determine whether ICDC provided adequate medical care to detainees and whether COVID-19 protections were in place and adequate.[2] We interviewed ICE personnel, ICDC officials, and detainees. We also reviewed surveillance video from common and housing areas. We utilized a team of medical experts from the National Commission on Correctional Health Care (NCCHC) Resources, Inc., to conduct a virtual tour of the ICDC medical unit and review medical records.

[1] 2008 and 2011 Performance-Based National Detention Standards and ICE National Detention Standards 2019. Our medical experts also rely on National Commission on Correctional Health Care Standards 2018.
[2] *Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center,* OIG-22-14.

Our inspection did not review the gynecological procedure approval process for detainees at ICDC. Rather, we launched a separate system-wide audit, across all DHS detention facilities, to ascertain the rigor of the approval process for invasive surgical procedures, as well as the propriety of previously approved invasive medical procedures, in light of medical community standards.[3]

ICDC Operations and Authorities

ICDC is owned by LaSalle Corrections and was operated as an ICE detention facility under an intergovernmental service agreement. When we initiated our inspection in October 2020, ICDC housed 321 male and 85 female immigration detainees. In May 2021, Secretary Mayorkas announced DHS' plans to discontinue the use of ICDC. ICE terminated the contract with LaSalle Corrections effective October 7, 2021. After September 3, 2021, ICE no longer housed detainees at ICDC, but the facility continued to house Irwin County inmates and Federal prisoners for the U.S. Marshals Service.

ICE began operating its detention system under the *National Detention Standards* (NDS), issued in 2000, to establish consistent conditions of confinement, program operations, and management expectations in immigration detention. Over the years, ICE developed two additional sets of standards, *Performance-Based National Detention Standards 2008* (PBNDS 2008) and PBNDS 2011, to improve safety, security, and conditions of confinement for detainees. ICE also revised NDS in 2019. ICE uses all three sets of standards across ICE detention facilities, depending on the type of facility.

ICDC's contract with ICE required ICDC to follow the PBNDS 2011. According to ICE, the PBNDS 2011 reflect ICE's ongoing effort to tailor detention standards to its unique purpose while maintaining a safe and secure detention environment for staff and detainees. ICE detention standards require that all facilities provide detainees with access to appropriate and necessary medical, dental, and mental health care, including emergency services. These standards also require facilities to have written plans that address the management of infectious and communicable diseases, including, but not limited to, education, prevention, testing, and isolation.[4]

On April 10, 2020, ICE Enforcement and Removal Operations (ERO) released the *COVID-19 Pandemic Response Requirements* (PRR),[5] a guidance document developed in consultation with the Centers for Disease Control and Prevention (CDC), that builds upon previously issued guidance. Specifically, the PRR sets forth specific mandatory requirements for all detention

[3] The U.S. Government Accountability Office (GAO) has also reviewed deficiencies in ICE detainee medical care. See, e.g., GAO-23-105196, *ICE Needs to strengthen Oversight of Informed Consent for Medical Care*. This report contained three recommendations and stated that ICE must obtain documentation of informed consent from individuals receiving onsite care. See also, GAO-23-105366, *Immigration Detention: Actions Needed to Collect Consistent Information for Segregated Housing Oversight*. This report made two recommendations to improve the use of segregation in detention.
[4] https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf.
[5] https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v1.pdf.

facilities housing ICE detainees, as well as model practices for such facilities, to ensure that detainees are appropriately housed and to mitigate safety and health risks during this pandemic.

ICE issued nine subsequent updates to the PRR guidance, on June 22, 2020;[6] July 28, 2020;[7] September 4, 2020;[8] October 27, 2020;[9] March 16, 2021;[10] October 19, 2021;[11] April 4, 2022;[12] June 13, 2022;[13] and November 1, 2022.[14]

Medical Care Provided to ICDC Detainees Generally Met Standards, but Improvements Were Necessary

ICDC generally adhered to the PBNDS 2011, which require that detainees have access to appropriate and necessary medical, dental, and mental health care. However, we evaluated 36 defined medical care processes in ICDC and determined that chronic care, continuity of care, and policies and procedures were inadequate. We also identified additional concerns in seven other areas, namely health assessments, medication administration, sick call, health records, program administration, emergency care, and women's health.

Based on their medical records review, our team of medical experts determined women's health care was appropriate. However, off-site specialty provider care information was not consistently shared with ICDC.

ICDC Generally Complied with CDC and ICE COVID-19 Guidance, but Faced Challenges Implementing Protocols

At ICDC, we identified issues with social distancing, wearing of personal protective equipment (PPE), and routine testing for COVID-19. For example, during our review of ICDC security camera footage, we found that ICDC did not adequately implement and enforce social distancing protocols throughout the facility. We confirmed that ICDC encountered problems obtaining and distributing masks to detainees and staff at the start of the COVID-19 pandemic. ICDC management acknowledged that its mask rollout was slow, which it attributed to confusion over guidance.

We found that, although ICDC implemented testing and other procedures to slow the spread of COVID-19, it did so without tracking reasons for testing. ICDC also did not consistently ensure detainees were notified of COVID-19 quarantine, cohort, or testing status, creating confusion and fear of reporting symptoms among detainees.

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[6] https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v2.pdf.
[7] https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v3.pdf.
[8] https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v4.pdf.
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[14] https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf

ICDC Detainees' Access to ICE Deportation Officers Was Limited during the COVID-19 Pandemic

According to the PBNDS, ensuring security, safety, and the orderly operation of a detention facility relies on a system that encourages and requires informal, direct, and written contact among staff and detainees, as well as informal supervisory observation of living and working conditions. Although the PBNDS are specific as to how ICE should interact with detainees, compliance with those provisions was limited at ICDC due to COVID-19 travel restrictions and reluctance of ICE officers to visit detainee dorms.

Although ICDC Detainees and ICDC Staff Were Generally Comfortable Lodging Concerns, Some ICE Officers Stated They Were Hesitant to Voice Their Concerns

We asked ICE and ICDC staff about fear of retaliation for raising concerns about facility operations. We also asked detainees to share any concerns about how they were treated at the facility. We found that most ICDC staff reported they were comfortable bringing their concerns to either their supervisors or directly to the warden. Several staff members reported their concerns were not always addressed and communication from management could be better.

Recommendations to Improve Medical Processes and Facility Operations at ICDC

We made five recommendations to improve ICE's oversight of medical care and facility operations at ICDC. ICE concurred with one recommendation to enhance communication in the Atlanta Field Office. ICE did not concur with the other four recommendations. ICE stated they could not reasonably implement the four recommendations, since they terminated the ICDC contract and no longer housed detainees at ICDC. We administratively closed the four ICDC-specific recommendations, but only after the Secretary announced that he was closing the facility to ICE detainees. One recommendation for the Atlanta Field Office was resolved and closed on May 18, 2022, after ICE provided documentation of implementation of the recommendation.

Findings from OIG's FY 2020–FY 2022 Unannounced Inspections of ICE Detention Facilities

In addition to our work at ICDC, from FY 2020 to FY 2022, we have issued 11 reports related to OIG's annual unannounced ICE detention facility inspections and are in the process of drafting 3 more reports.[15] In all but 4 of the 11 reports, we found deficiencies in medical care being provided to detainees.

[15] Violations of ICE Detention Standards at Torrance County Detention Center, OIG-22-75; Violations of ICE Detention Folkston Processing Center and Annex, OIG-22-47; Violations of ICE Detention Standards at South Texas ICE Processing Center, OIG-22-40; *Management Alert – Immediate Removal of All Detainees from the Torrance County Detention Facility* OIG-22-31; *Violations of ICE Detention Standards at Otay Mesa Detention Center*, OIG-21-61; *Violations of ICE Detention Standards at Adams County Correctional Center*, OIG-21-46; *Violations of ICE Detention Standards at Pulaski County Jail*, OIG-21-32; *Violations of Detention Standards amid COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ*, OIG-21-30; *ICE Needs to Address Prolonged Administrative Segregation and Other Violations at the Imperial Regional Detention Facility*, OIG-21-12; *ICE*

In FY 2020, at the outset of the COVID-19 pandemic, our office developed and implemented an innovative remote inspection protocol. Using the latest available technology, our team directed a video tour of various spaces within the facility. We also reviewed a combination of randomized and select security camera footage of the facility, including footage where nonlethal force was noted in the detention center logs.

We generally limited the scope of our inspections to the relevant standards for health, safety, access to medical and mental health care, grievances, classification and searches, use of segregation, use of force, and language access. In addition to a physical inspection of areas used by detainees, during our visits to facilities, we also reviewed written documentation and interviewed ICE and detention facility staff members and detainees. At the onset of the pandemic, we added a review of COVID-19 protocols to ensure facilities were meeting ICE's requirements for COVID-19 response.

We also rely on our contracted medical experts to review medical care provided to detainees. These medical experts review facility medical staffing, training, and protocols to ensure that the medical care provided complies with detention standards. Also, during the medical review, our medical contractors pull a minimum of 10 detainee files to review medical care provided to detainees. Records are selected based on detainee medical grievances, hotline complaints, detainee interviews, and detainees with significant medical conditions. Medical experts review the medical records and medical care of any interviewed detainees who identified medical concerns. Finally, the medical contractor also reviews all recent detainee deaths at each facility (if any) to ensure adequate care was provided.

Medical care at ICE facilities varies greatly and is affected by a number of factors, including staffing, training, and access to medical providers. We have identified numerous deficiencies in medical care at detention centers, such as inadequate medical care in segregation, lack of documentation related to medical visits, untimely response to medical grievances, critical medical understaffing, inadequate medical protocols, and delayed medical treatment and medication refills for detainees.

In March 2022, we issued a management alert, recommending immediate removal of detainees from the Torrance County Detention Facility (Torrance) in Estancia, New Mexico, unless and until the facility ensured adequate staffing and appropriate living conditions. ICE did not concur with our recommendation. During our unannounced inspection in February 2022, we found Torrance was critically understaffed. This staffing shortage prevented the facility from meeting contractual requirements, including requirements that detainees reside in a safe, secure, and humane environment. We issued our final report on the Torrance inspection in September 2022, in which we found that Torrance did not meet standards for facility conditions, facility security, medical care, use of force, detainee classification, communication between staff and detainees, and access to legal services. In addition to the management alert recommendation, in the final report we made 14 recommendations to improve ICE's oversight of detention facility

Needs to Address Concerns about Detainee Care and Treatment at the Howard County Detention Center, OIG-21-03; Capping Report: Observations of Unannounced Inspections of ICE Facilities in 2019, OIG-20-45.

management and operations at Torrance. ICE concurred with all 14 recommendations in the final report and provided information and documentation on corrective actions that were sufficient to close 4 of the recommendations. For the remaining 10 recommendations, ICE provided information on how it is addressing each recommendation, along with estimated completion dates.

At multiple facilities, including Imperial Regional Detention Facility in Calexico, California, we found that medical staff did not provide adequate daily medical visits to all detainees held in segregation. We also found that multiple facilities, including Howard County Detention Center, in Jessup, Maryland, did not properly document and respond in a timely manner to detainee medical grievances. At Torrance County Detention Center, in Estancia, New Mexico, we found medical staff shortages were a problem, and Torrance did not meet standards in the areas of dental care and dental complaints, chronic care, administration of medication, lab test results, and controlled substances. At La Palma Correctional Center, in Eloy, Arizona, we found the medical unit was critically understaffed, with vacancies that lingered for several months, which may have contributed to deficiencies in responsiveness to detainee sick call requests and delayed refills for essential medications. Lastly, we found that Pulaski County Jail, in Ullin, Illinois, did not have chronic care protocols or guidelines in place for the medical provider to follow. Health record reviews showed that the provider did not initiate statin therapy (drugs used to lower cholesterol levels in the blood) for diabetic patients requiring such treatment.

ICE Has Taken Action to Address OIG Recommendations

As part of the FY 2020 through FY 2022 unannounced inspections, we issued 69 recommendations for improvement of ICE detention operations. ICE has implemented 56 recommendations and 13 remain open.

In 7 of the 11 unannounced inspection reports, we made 20 recommendations related to medical care issues discovered during our reviews. Below are several examples of the recommendations we made and their status.

- Ensure La Palma Correctional Center's Medical Unit is appropriately refilling and administering detainees' medication. This recommendation is closed. La Palma was able to demonstrate that it had improved the effectiveness and timeliness of refilling and administering detainee medication.

- Ensure Adams County Correctional Center's Medical Unit develops emergency care guidelines, documents patient treatment during sick call encounters, and documents interpretation and medical care provided based on laboratory testing results. This recommendation is closed. Adams and ICE provided documentation showing that Adams implemented a process to document sick call requests, provide medical care to detainees based on results from medical testing, and provide training to medical staff to ensure proper documentation of medical care provided to detainees.

- Ensure the Pulaski County Detention Center's Medical Unit develops chronic care guidelines and provides routine and emergency dental care. This recommendation is

closed. Pulaski developed chronic care guidelines to care for detainees with chronic medical conditions and has completed enrollment and onboarding of an additional dental provider to provide emergency dental services for detainees.

- We made 6 medical-related recommendations in the Torrance inspection report, primarily concerning dental care, chronic care guidelines, documentation in medical files, and controlled substance storage. One of the 6 recommendations is resolved and closed, while the remaining five are resolved and open. ICE and Torrance have taken actions to address the remaining 5 recommendations and expect to have them implemented by November 30, 2022.

Challenges with Medical Vacancies at ICE Facilities

In FY 2022, we conducted an evaluation to assess the causes and impact of medical vacancies at ICE detention facilities to determine whether existing medical staffing plans and vacancies at detention facilities hinder ICE detainees' access to adequate medical care. This evaluation included information that ICE relies on a patchwork of nearly 200 detention facilities to house detainees.[16] Regardless of how medical care is provided, facilities face challenges recruiting, hiring, and retaining medical staff. Remote locations, cumbersome hiring processes, and competing opportunities hinder ICE's ability to maintain adequate staffing levels at detention facilities. Many of the challenges in hiring medical staff also affect ICE's access to offsite specialty care. Remote locations and reluctance among some medical specialists to treat detainees reduce access to specialty care. In addition, ICE's hiring process for Federal medical staff is lengthy and not adequately resourced.

ICE has limited options to impose consequences if contractors operating detention facilities do not meet contract terms for staffing plans or for timeliness of detainee medical care. ICE has sanctioned some contractors, but sanctions have limited value in resolving vacancy rates. In addition, if contracts are not written with sufficient specificity, it may be difficult to impose penalties. ICE medical staff and contract staff can cooperate to improve the language in contracts, but such cooperation is not required, and staffing resources are limited.

Medical vacancies may increase the risk of inadequate care, but the full effects of medical vacancies are difficult to evaluate. The unusual circumstances presented by COVID-19 limited our ability to assess the costs and effects of medical vacancies during the period of our review.

We made five recommendations for ICE to evaluate options for improving the hiring and requirements for medical staffing at detention facilities. For example, we recommended ICE evaluate the feasibility of hiring and retention incentives for high-demand healthcare professionals, as well as the feasibility of including medical requirements in future contract negotiations. We also recommended that ICE evaluate staffing units that support ICE Health Service Corps (IHSC) personnel to ensure there are adequate staff to expedite processing applications for medical positions. ICE concurred with all our recommendations, which are open and resolved.

[16] *Many Factors Hinder ICE's Ability to Maintain Adequate Medical Staffing at Detention Facilities,* OIG-22-03.

Challenges with ICE's Efforts to Mitigate COVID-19

In FY 2021, we conducted a review to determine whether ICE effectively controlled COVID-19 in its facilities.[17] The health and safety of detainees and staff in ICE detention facilities, especially during the COVID-19 pandemic, are critical. ICE took various actions to prevent the virus' spread among detainees and staff at its detention facilities. However, we found areas in which detention facilities struggled to properly manage detainee health and safety.

First, we could not independently confirm whether ICE appropriately grouped ("cohorted") detainees. ERO defines a cohort as a group of detainees "with a similar condition grouped or housed together for observation over a period of time." We analyzed weekly cohort reports to ensure COVID-positive detainees and those suspected to have COVID were separated from each other and other detainees, as required, but the cohort reports did not capture this information. IHSC officials said some facilities might use the comments field in the report to track this information, but it was not consistently tracked.

Second, we found that facility staff did not always document responses to sick call requests in tracking systems. We requested sick call documentation but received disparate information from each facility. Because of this, we were unable to determine for all the facilities we inspected remotely whether detainees were treated sufficiently and in a timely manner. When we could analyze sick call requests, we found that facility staff did not always include necessary information to confirm they responded to the requests. Some of the complaints directly referenced COVID-19, including one detainee who said, "Please, I need urgent medical attention…. I have all the symptoms of coronavirus and I'm going to infect everyone here."

Third, we determined that the facilities did not consistently communicate with detainees regarding the outcomes of their COVID-19 tests. Specifically, some detainees we interviewed alleged they had tested positive for COVID-19 but were not notified of the results. In one instance, a detainee expressed surprise when we told him he had tested positive for COVID-19 three months earlier. Facility officials acknowledged instances in which detainees were not informed of their test results because they were moved to medical isolation or another location before they could be notified. As a result of this lack of communication, one detainee stated he and other detainees were "scared and confused."

Finally, detention facilities did not test all new detainees for COVID-19, as required. According to guidance issued on October 27, 2020, "[a]ll new arrivals to ICE detention facilities require COVID-19 testing within 12 hours of arrival." Regardless of this requirement, we found that facilities were still not testing all new detainees when they arrived at a facility. As of December 2020, while all 17 IHSC facilities conducted testing as required, only 44 of the 166 non-IHSC facilities conducted testing.

We made six recommendations to help ICE improve its COVID-19 response. For example, we recommended that ICE revise its cohort tracking report to differentiate between confirmed and

[17] *ICE's Management of COVID-19 in its Detention Facilities Provides Lessons Learned for Future Pandemic Responses,* OIG-21-58.

suspected cases of contagious diseases; develop specific guidance regarding communication with detainees regarding their medical conditions; and ensure detention facilities follow ICE's Pandemic Response Requirements regarding testing of all new arrivals to ICE detention facilities for COVID-19. ICE concurred with all six recommendations. To date, four of the six recommendations are closed based on actions ICE has taken - the other two remain resolved and open.

Systemic Reviews of Long-Standing Detention Issues

Since 2020, at my direction, in addition to our typical inspections of individual detention facilities, DHS OIG has initiated systemic reviews of long-standing detention issues. Two of those reports were mentioned above and provide an overview of ICE's COVID-19 protocols and ICE's medical vacancies.[18]

Additionally, in October 2021, we issued our first-ever systemic review of the use of administrative and disciplinary segregation in ICE detention facilities.[19] Our audit objective was to determine whether ICE's use of administrative and disciplinary segregation across all detention facilities complied with ICE detention standards. We performed data-driven and statistical analysis of detention files to accomplish our objective.

We determined that ICE did not always comply with segregation reporting requirements and did not ensure detention facilities complied with records retention requirements. In analyzing a statistical sample of detention files from FY 2015 through FY 2019, we determined ICE did not maintain evidence showing it considered alternatives to segregation for 72 percent of segregation placements. ICE also did not record 13 percent of segregation placements as required by its own policy. Finally, ICE did not ensure detention facilities complied with the National Archives and Records Administration's (NARA) records retention schedule. According to ICE officials, 24 of 265 detention files were destroyed before NARA's minimum retention date.

These problems occurred because ICE did not have effective oversight and clear policies to ensure accurate and comprehensive tracking and reporting on the use of segregation, or proper record retention. In addition, ICE's own reporting policy does not require facilities to report all segregation placements, so ICE cannot provide complete oversight or reporting to Congress and the public about the prevalent use of segregation.

We made three recommendations to improve ICE's oversight and reporting of segregation at detention facilities. ICE concurred with all three recommendations.

[18] *ICE's Management of COVID-19 in its Detention Facilities Provides Lessons Learned for Future Pandemic Responses,* OIG-21-58; *Many Factors Hinder ICE's Ability to Maintain Adequate Medical Staffing at Detention Facilities,* OIG-22-03.
[19] *ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities,* OIG-22-01.

OIG's Ongoing Detention Oversight

In FY 2023, we are continuing our oversight of detention facilities through several ongoing projects, including our unannounced inspection of ICE detention facilities and our mandated reviews of deaths in both ICE and U.S. Customs and Border Protection (CBP) custody.

We appreciate the ongoing support of Congress and acknowledgement of our objective, independent work. Thank you for the opportunity to discuss the critical oversight efforts of DHS OIG.

United States Senate
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Committee on Homeland Security and Governmental Affairs

Jon Ossoff, Chairman
Ron Johnson, Ranking Member

MEDICAL MISTREATMENT OF WOMEN IN ICE DETENTION

STAFF REPORT

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

UNITED STATES SENATE

RELEASED IN CONJUNCTION WITH THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS NOVEMBER 15, 2022 HEARING

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Chairman

SENATOR RON JOHNSON
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MEDICAL MISTREATMENT OF WOMEN IN ICE DETENTION

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GLOSSARY OF ACRONYMS

Acronym	Definition
CIA	Corporate Integrity Agreement
CMD	Custody Management Division
CMS	Centers for Medicare & Medicaid Services
CPI	Center for Program Integrity
CRCL	Office for Civil Rights and Civil Liberties
D&C	Dilation and Curettage
DHS	Department of Homeland Security
DOJ	Department of Justice
DON	Director of Nursing
DSCO	Detention Standards and Compliance Officer
DSM	Detention Service Manager
eCAMS	Electronic Claims Adjudication Management System
ERO	Enforcement and Removal Operations
FMC	Field Medical Coordinator
FOIA	Freedom of Information Act
GAO	Government Accountability Office
HHS	Department of Health and Human Services
HPMU	Health Plan Management Unit
HSA	Health Services Administrator
ICDC	Irwin County Detention Center
ICE	Immigration and Customs Enforcement
ICH	Irwin County Hospital
IGSA	Intergovernmental Service Agreement

IHSC	ICE Health Service Corps
IHSC Facilities	Facilities in which IHSC directly provides healthcare services
LaSalle or LaSalle Corrections	LaSalle Southeast, LLC
LEEP	Loop Electrosurgical Excision Procedure
LOU	Letter of Understanding
LPN	Licensed Practical Nurse
MedPAR	Medical Payment Authorization Request
NCCHC	National Commission on Correctional Health Care
Non-IHSC Facilities	Facilities in which local governments or their contractors provide services without embedded federal staff
NPDB	National Practitioner Data Bank
OB-GYN	Obstetrician and Gynecologist/Obstetrics and Gynecology
ODO	Office of Detention Oversight
OIG	Office of Inspector General
OPR	Office of Professional Responsibility
PBNDS	Performance-Based National Detention Standards
PSI or Subcommittee	Permanent Subcommittee on Investigations
RCD	Regional Clinical Director
VAFSC	Veterans Affairs Financial Services Center

I. EXECUTIVE SUMMARY

In May 2021, the Permanent Subcommittee on Investigations ("Subcommittee" or "PSI") initiated a bipartisan investigation into the alleged mistreatment of Immigration and Customs Enforcement ("ICE") detainees housed in the Irwin County Detention Center ("ICDC") in Ocilla, Georgia. Over the course of its 18-month-long investigation, the Subcommittee examined multiple allegations of medical abuse against detainees at ICDC, a private detention center owned and operated by LaSalle Southeast, LLC ("LaSalle" or "LaSalle Corrections"). The allegations stemmed from a September 2020 whistleblower complaint ("September 2020 complaint") filed by immigration advocacy groups and attorneys alleging that an off-site obstetrician and gynecologist ("OB-GYN"), Dr. Mahendra Amin, performed "high rates" of unauthorized hysterectomies on ICDC detainees.[1] The groups also alleged that ICDC had poor medical conditions and lax COVID-19 mitigation procedures.[2]

The Subcommittee's investigation identified serious issues relating to ICDC and specifically connected to Dr. Amin's care:

- Female detainees appear to have been subjected to excessive, invasive, and often unnecessary gynecological procedures.
- There appears to have been repeated failures to secure informed consent for off-site medical procedures performed on ICDC detainees.
- Medical care provided to detainees at ICDC was known by DHS to be deficient, but neither ICE nor LaSalle took effective corrective action.
- ICE did not conduct thorough oversight of off-site medical providers and procedures.

The Subcommittee did not substantiate the allegations of mass hysterectomies on ICDC detainees. Records indicate that Dr. Amin performed two hysterectomies on ICDC detainees between 2017 and 2019. Both procedures were deemed medically necessary by ICE.

Dr. Amin stopped treating ICE detainees after the September 2020 complaint became public. In December 2020, former ICDC detainees filed a class action lawsuit ("December 2020 lawsuit") against ICDC, ICE, Dr. Amin, Irwin County Hospital ("ICH"), and other federal and nonfederal parties alleging that the detainees had undergone nonconsensual and unnecessary gynecological procedures.[3] In addition, the lawsuit alleged a broader pattern of medical abuse

[1] Complaint by Project South, Georgia Detention Watch, Georgia Latino Alliance for Human Rights & South Georgia Immigrant Support Network to Joseph V. Cuffari, Cameron Quinn, Thomas P. Giles, & David Paulk, *Re: Lack of Medical Care, Unsafe Work Practices, and Absence of Adequate Protection Against COVID-19 for Detained Immigrants and Employees Alike at the ICDC County Detention Center* (Sept. 14, 2020) (projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf) [hereinafter *Project South Complaint*].
[2] *Id.*
[3] Consolidated Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Declaratory and Injunctive Relief and for Damages (Dec. 21, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).

and mistreatment of detainees at ICDC. The plaintiffs demanded $5 million in money damages and other relief. The litigation is ongoing.

As of early 2022, Dr. Amin was under criminal investigation by multiple federal agencies.[4] PSI staff attempted on multiple occasions to obtain voluntary testimony from Dr. Amin regarding his treatment of female ICE detainees at ICDC. Dr. Amin declined these requests. On February 7, 2022, the Subcommittee served Dr. Amin with a subpoena for deposition. Through his attorney, Dr. Amin submitted an affidavit stating that he declined to provide testimony pursuant to his Fifth Amendment privilege against self-incrimination. The Subcommittee accepted Dr. Amin's invocation of his rights and did not question him throughout the investigation.

In May 2021, the Department of Homeland Security ("DHS") directed ICE to discontinue its contract with ICDC. As of September 3, 2021, all immigrant detainees were removed from the ICDC facility and moved to other detention facilities. Effective October 7, 2021, ICE terminated the contract with LaSalle regarding its management of ICDC.[5] As of today, ICDC is still utilized to detain individuals under the custody of the U.S. Marshals Service. The federal government continues to contract with LaSalle to operate other detention facilities throughout the country.

The Subcommittee investigated the veracity of the allegations surrounding medical treatment at ICDC and sought to determine whether these treatments occurred against a backdrop of general medical neglect or abuse at the facility. The Subcommittee also sought to determine whether gaps in ICE policies permitted an off-site provider of medical care to perform unnecessary, nonconsensual, or excessive procedures on ICE detainees.

A. Female Detainees Appear to Have Been Subjected to Excessive, Invasive, and Often Unnecessary Gynecological Procedures

According to expert medical analysis conducted for the Subcommittee, under Dr. Amin's care, female detainees appear to have undergone excessive, invasive, and often unnecessary gynecological procedures. Over the course of its review, the Subcommittee determined that Dr. Amin holds no board certifications, and in 2013 the Department of Justice ("DOJ") and the State of Georgia sued Dr. Amin, claiming he had committed Medicaid fraud by ordering unnecessary and excessive medical procedures.[6] That lawsuit was settled in 2015, when Dr. Amin and his codefendants paid a $520,000 settlement to the federal government while admitting no wrongdoing.[7]

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[4] Letter from Counsel for Dr. Amin to the Senate Permanent Subcommittee on Investigations (Feb. 21, 2022). PSI is unaware of the current status of these investigations.

[5] U.S. Department of Homeland Security, Office of Inspector General, *Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center* (OIG-22-14) (Jan. 3, 2022) (https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf).

[6] Complaint (July 8, 2013), *United States v. Hospital Authority of Irwin County*, M.D. Ga. (No. 7:13-cv-00097-HL).

[7] The United States of America's Filing of Settlement Agreement (July 8, 2013), *United States v. Hospital Authority of Irwin County*, M.D. Ga. (No. 7:13-cv-00097-HL); U.S. Department of Justice, U.S. Attorney's Office Middle District of Georgia, *Hospital Authority of Irwin County Resolves False Claims Act Investigation for $520,000* (Apr.

The Subcommittee's review of Dr. Amin's treatment practices of ICE detainees after the settlement, from 2017 to 2020, identified a similar pattern of potentially excessive medical procedures. Dr. Amin was a clear outlier in both the number and types of procedures he performed compared to other OB-GYNs that treated ICE detainees. ICDC housed roughly 4% of female ICE detainees nationwide from 2017 to 2020. Dr. Amin accounted for roughly 6.5% of total OB-GYN *visits* among all ICE detainees in the same time period. However, he performed nearly one-third of certain OB-GYN *procedures* on ICE detainees across the country between 2017 and 2020 and more than 90% of some key procedures.

For example, from 2017 to 2020:[8]

- Dr. Amin performed 44 laparoscopies to excise lesions, or 94% of all such procedures conducted on all ICE detainees.[9]
- Dr. Amin administered 102 Depo-Provera injections, or 93% of all such injections provided by all OB-GYN specialists to ICE detainees.[10]
- Dr. Amin performed 163 limited pelvic exams, or 92% of limited pelvic exams conducted on all ICE detainees.
- Dr. Amin performed 53 dilation and curettage ("D&C") procedures, or 82% of all D&C procedures conducted by all OB-GYN specialists treating ICE detainees.[11]

29, 2015) (www.justice.gov/usao-mdga/pr/hospital-authority-irwin-county-resolves-false-claims-act-investigation-520000).

[8] The Subcommittee recognizes that this data in and of itself does not indicate that the treatments were unnecessary. ICE does not track the demographic information of its female population, and the agency could not provide the Subcommittee with information regarding key variables of the female detainee population, including age and medical history.

[9] A laparoscopy may be used to obtain a small tissue sample for testing or even remove organs like the appendix or gallbladder, and it is generally performed under anesthesia. Johns Hopkins Medicine, *Laparoscopy* (www.hopkinsmedicine.org/health/treatment-tests-and-therapies/laparoscopy) (accessed Nov. 13, 2022).

[10] Depo-Provera is an injection that contains the hormone progestin and is typically administered every three months to prevent pregnancy and manage issues related to the menstrual cycle. Mayo Clinic, *Depo-Provera (contraceptive injection)* (www.mayoclinic.org/tests-procedures/depo-provera/about/pac-20392204) (accessed Nov. 13, 2022).

[11] A D&C procedure removes tissue from inside the uterus. During this procedure, a provider will dilate the cervix and then use a surgical instrument called a curette (a sharp instrument or suction device) to remove uterine tissue. Mayo Clinic, *Dilation and Curettage (D&C)* (www.mayoclinic.org/tests-procedures/dilation-and-curettage/about/pac-20384910) (accessed Nov. 13, 2022).

Figure 1: Number of OB-GYN Medical Procedures Performed on ICE Detainees and Percentage Nationwide of Dr. Amin's Procedures for FY 2017-2020[12]

Medical Procedure	**Dr. Mahendra Amin**	**Second Highest-Ranking Physician**[13]	**Total Number of Procedures on ICE Detainees Nationwide**
Limited Pelvic Exam	163 (92%)	4	179
Depo-Provera Injection	102 (93%)	2	110
D&C	53 (82%)	3	65
Laparoscopy	44 (94%)	1	47
Total Procedures	**362 (90%)**	**10**	**401 (100%)**

Following the September 2020 complaint, the ICE Health Services Corps ("IHSC") stated it "conducted a comparative analysis of medical referrals and claims completed after receiving allegations about Dr. Amin."[14] IHSC also stated that it "conduct[ed] an analysis of referral and claims data at ICDC compared to other ICE detention facilities housing females and determined that the number of referrals and claims was not abnormal."[15] IHSC stated that it never identified any red flags regarding Dr. Amin's treatment of detainees before or after officials reviewed his procedures following the publication of the September 2020 complaint.[16]

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[12] U.S. Immigration and Customs Enforcement, *Q&A Paper: IHSC Response to PSI Requests: Irwin County Detention Center* (Sept. 1, 2021) (response on file with the Subcommittee) [hereinafter *Sept. 1, 2021 ICE Q&A Paper*].

[13] The second highest-ranking physician for these procedures varied. This column represents the second highest-ranking physician providing these treatments to ICE detainees for each procedure.

[14] U.S. Immigration and Customs Enforcement, *Q&A Paper: Responses to Allegations of Inappropriate Care Provided by Dr. Amin for the Female Population of the Irwin County Detention Center (ICDC)* (June 23, 2021) (response on file with the Subcommittee) [hereinafter *June 23, 2021 ICE Q&A Paper*].

[15] *Id.* Information ICE used in this analysis is discussed in more detail in Section IV.

[16] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). ICE later stated to the Subcommittee that based on the comparative analysis, ICE noted a possible overutilization of the D&C and laparoscopic procedures, but that it would need an expert OB-GYN review of the medical records because its analysis was based solely on medical claims data. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

An IHSC Regional Clinical Director ("RCD") approved each procedure before it was authorized. In interviews with the Subcommittee, IHSC officials explained that the disparity in the number of Dr. Amin's procedures compared to other doctors treating ICE detainees alone did not raise alarm either when the RCD approved the surgeries, or when IHSC retrospectively reviewed Dr. Amin's medical care. However, IHSC could not explain or provide context explaining why Dr. Amin was such an outlier compared to other doctors treating ICE detainees.

To better understand the appropriateness of Dr. Amin's treatment and care of ICDC detainees, the Subcommittee engaged Dr. Peter Cherouny, an OB-GYN physician who previously conducted medical reviews for the Department of Health and Human Services ("HHS") Office of Inspector General ("OIG") in other contexts. To support this investigation, Dr. Cherouny conducted an independent review of more than 16,600 pages of medical records obtained by the Subcommittee, pertaining to approximately 94 ICDC women Dr. Amin treated.

Dr. Cherouny identified significant issues with the care Dr. Amin provided to ICDC detainees and found Dr. Amin's use of certain surgical procedures to be "too aggressive" and inappropriate.[17] Dr. Cherouny's key findings include:

- Dr. Cherouny found that Dr. Amin performed 40 D&C procedures with a laparoscopy on ICDC detainees. He found that Dr. Amin's use of these procedures were "too aggressive" and that the "vast majority [of cases where Dr. Amin performed a D&C] appear to be manageable with imaging and appropriate hormonal therapy."[18]

- Dr. Cherouny concluded that Dr. Amin's practices were "woefully behind the times" and his treatment of ICDC detainees "is not meeting current standards of care."[19] He added, "[d]ue to a lack of knowledge or capability, Dr. Amin persistently uses inpatient, surgical options as diagnostic tools for benign clinical conditions."[20] Such conditions are "more appropriately managed with imaging studies and outpatient clinical tools."[21] Dr. Cherouny told the Subcommittee that Dr. Amin "appears unaware of these current options or does not have them available in his office or hospital."[22] In one interview with the Subcommittee, Dr. Cherouny summarized Dr. Amin's care as "pretty good medicine for the 1980s, but we're not there anymore."[23]

- Dr. Cherouny found that "Dr. Amin seemed to use a boiler plate approach to care. He uses a D&C and laparoscopy for primary diagnostic reasons and seems to 'pile

[17] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022); Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[18] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[19] *Id.*
[20] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[21] *Id.*
[22] *Id.*
[23] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Sept. 8, 2022).

on' the pathologic diagnoses postoperatively."[24]

- Dr. Cherouny flagged that because Dr. Amin is not board certified, Dr. Amin "likely does no or limited continuing education to stay current" on up-to-date medical practices in these areas. He explained further that there appeared to be board certified OB-GYN providers in the area of ICDC and that he was "concerned" with how and why Dr. Amin was selected to treat this population.[25]

- Dr. Cherouny found that Dr. Amin performed 36 transvaginal ultrasounds on patients in the records he reviewed. Those records indicate Dr. Amin generally had "[p]oor performance and documentation of transvaginal ultrasound evaluation."[26] Dr. Cherouny commented further that Dr. Amin is "clearly not skilled in ultrasound of the female pelvis" and that he "appears to frequently confuse normal findings for pathology and uses these as indications for surgery."[27] Dr. Cherouny explained to the Subcommittee that these practices did not appear to comply with the American Institute of Ultrasound in Medicine Guidelines.[28]

- Dr. Cherouny explained that Dr. Amin "does not appear to follow the current recommendations regarding Pap smear management through colposcopy and further treatment."[29]

- Dr. Cherouny also found that Dr. Amin did not give "adequate time to affect a clinical response" in most of the 40 cases he examined where Depo-Provera injections were administered for abnormal uterine bleeding.[30] He explained that the "adequate time" for a response to this medication was six months and that was not given to these patients.[31] Dr. Cherouny noted that Dr. Amin generally used 2-6 weeks of clinical response time before declaring that the Depo-Provera medication failed and proceeded to surgery.[32]

- Dr. Cherouny explained that 40 patient records—of the 94 examined—indicated the patients had benign ovarian cysts removed by Dr. Amin, despite the fact that benign ovarian cysts "generally resolve without surgical intervention."[33] He noted that in the records he reviewed, Dr. Amin "persistently finds and removes

[24] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[25] *Id.*
[26] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[27] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[28] The American Institute of Ultrasound in Medicine is a multidisciplinary medical association of more than 10,000 physicians, sonographers, scientists, students, and other healthcare providers. *See* American Institute of Ultrasound in Medicine, Training Guidelines (https://www.aium.org/resources/ptGuidelines.aspx) (accessed Nov. 13, 2022).
[29] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[30] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[31] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[32] *Id.*
[33] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).

functional ovarian cysts" and that the "vast majority" of the cysts "did not require removal."[34] He also noted that there are risks with this surgery like any other, including infection and bleeding, and other issues that "can result in pain and infertility, among other risks."[35]

- Dr. Cherouny explained that seven patients underwent a Loop Electrosurgical Excision Procedure ("LEEP"),[36] used to identify abnormalities on Pap smears,[37] and he found that the records he reviewed suggest Dr. Amin has "limited knowledge and/or skill in Pap smear management."[38] He noted that the "point of the [LEEP] procedure is to get tissue for diagnostic purposes and in each case [Dr. Amin] failed this outcome."[39] Dr. Cherouny attributed these failures to Dr. Amin's "technique" in performing the procedure.[40]

- Dr. Cherouny also found that "Dr. Amin frequently prescribes multiple treatments for a vaginal discharge complaint without an appropriate clinical evaluation."[41] The failure to conduct appropriate clinical evaluation in these circumstances "results in patients receiving multiple treatments for the same complaints without improvement."[42]

- Dr. Cherouny stated that "[i]t appears there was, likely, no oversight of the care provided to these patients. The repetitive nature of some of the issues, like inadequate cervical tissue after a LEEP procedure, would seem to prompt a review in many hospitals."[43]

Additionally, the Subcommittee interviewed three physicians—Dr. Ted Anderson, Dr. Margaret Mueller, and Dr. Sarah Collins.[44] These physicians were part of a medical team asked

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[34] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022); Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[35] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[36] A LEEP is a procedure in which a provider uses a heated, electric wire to remove cell s and tissues in the cervix and vagina. John Hopkins Medicine, *Loop Electrosurgical Excision Procedure (LEEP)* (www.hopkinsmedicine.org/health/treatment-tests-and-therapies/loop-electrosurgical-excision-procedure-leep) (accessed Nov. 13, 2022).
[37] A Pap smear or Pap test is a procedure used to test for cervical cancer in women. A Pap test requires a provider to insert an instrument called a speculum into the vagina to take a tissue sample from the cervix using a soft brush and scraping device known as a spatula. Mayo Clinic, *Pap Smear* (www.mayoclinic.org/tests-procedures/pap-smear/about/pac-20394841) (accessed Nov. 13, 2022).
[38] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[39] *Id.*
[40] *Id.*
[41] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[42] *Id.*
[43] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[44] Dr. Anderson is the Vice Chair for Clinical Operations and Director of the Division of Gynecology at Vanderbilt University Medical Center. Vanderbilt University Medical Center, *Ted L. Anderson, MD, PhD* (https://www.vumc.org/obgyn/person/ted-l-anderson-md-phd) (accessed Nov. 13, 2022). Dr. Collins is an Assistant Professor at the Northwestern University, Feinberg School of Medicine. Northwestern Medicine, *Sarah A. Collins, MD* (https://www.nm.org/doctors/1942401948/sarah-a-collins-md) (accessed Nov. 13, 2022). Dr. Mueller is also an

by attorneys and advocacy groups later involved with the December 2020 lawsuit to review the medical charts for 19 ICDC detainees Dr. Amin treated.[45] The plaintiffs in the December 2020 lawsuit filed the summary findings of the medical review team and declarations from these doctors summarizing the chart reviews of select individual plaintiffs in support of the litigation.[46]

These experts concluded that Dr. Amin subjected women to aggressive and unethical gynecological care.[47] They found that Dr. Amin quickly scheduled surgeries when non-surgical options were available, misinterpreted test results, performed unnecessary injections and treatments, and proceeded without informed consent.[48] Dr. Collins later reviewed a new set of over 500 pages of medical records associated with 36 ICDC detainees in coordination with attorneys involved in the lawsuit by former detainees.[49] Dr. Collins stated that in many cases, Dr. Amin appeared to have proceeded with unnecessary or excessive treatment regardless of patient conditions.[50]

Subcommittee staff interviewed six former ICDC detainee patients treated by Dr. Amin—Karina Cisneros Preciado, Jaromy Floriano Navarro, Wendy Dowe, Maribel Castaneda-Reyes, Jane Doe #1, and Jane Doe #2—who described negative experiences with Dr. Amin.[51] All of these women, except Jane Doe #2, are plaintiffs in the December 2020 lawsuit. These women described feeling confused, afraid, and violated after their treatment by Dr. Amin. Several reported that they still live with physical pain and uncertainty regarding the effect of his treatments on their fertility. These women also described instances in which Dr. Amin was rough and insensitive while performing procedures, continued despite their complaints regarding pain, and failed to disclose the potential side effects of certain procedures or even answer

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Assistant Professor at the Northwestern University, Feinberg School of Medicine. Northwestern Medicine, *Margaret G. Mueller, MD* (https://www.nm.org/doctors/1346570405/margaret-g-mueller-md) (accessed Nov. 13, 2022).

[45] The review team consisted of nine board-certified OB-GYN physicians and two nursing experts. The team examined 3,200 pages of medical records for 19 women who alleged medical maltreatment while detained at ICDC. The records for these 19 detainees were included in the files of the 94 detainees that Dr. Cherouny reviewed. *Executive Summary of Findings by the Independent Medical Review Team Regarding Medical Abuse Allegations at the Irwin County Detention Center* (Oct. 21, 2020) (on file with the Subcommittee).

[46] Docket, *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).

[47] *Executive Summary of Findings by the Independent Medical Review Team Regarding Medical Abuse Allegations at the Irwin County Detention Center* (Oct. 21, 2020) (on file with the Subcommittee).

[48] *Id.* Informed consent requires that patients are well informed of the planned benefits, potential risks, and possible alternative options of medical treatments, procedures or surgeries that a healthcare provider intends to perform. Importantly, it also requires that the patient clearly understands the benefits and potential risks of the proposed treatment option and is afforded ample opportunity to ask questions and obtain medically sound responses. Based on witness testimony to the Subcommittee and a review of medical records by a number of physicians, it appears that informed consent was not provided to multiple ICDC detainees treated off-site by OB-GYN specialist Dr. Amin. Dr. Amin did not voluntarily sit for an interview with the Subcommittee. However, in civil litigation against Dr. Amin he has claimed he always obtains informed consent from his patients.

[49] Email from Counsel for the National Immigration Project of the National Lawyers Guild to the Senate Permanent Subcommittee on Investigations (Oct. 22, 2021).

[50] Dr. Sarah Collins, Interview with Senate Permanent Subcommittee on Investigations (Oct. 19, 2021).

[51] All of these women entered ICDC detention following arrests by local law enforcement in the interior of the United States. These women's records were included in the documents reviewed by the medical experts engaged by the Subcommittee. Two former ICDC detainees the Subcommittee interviewed asked to remain anonymous.

questions regarding his diagnosis or treatment plan. Several women stated that they did not provide their consent to the examinations or procedures Dr. Amin performed.

B. There Appears to Have Been Repeated Failures to Secure Informed Consent for Off-Site Medical Procedures Performed on ICDC Detainees

Obtaining informed consent from any patient is a sacrosanct responsibility of practicing physicians. This is particularly true when treating a vulnerable population in a confined institution. The American Medical Association's Code of Medical Ethics describes the importance of informed consent:

> To enable patients to participate meaningfully in decisions about health care, physicians have a responsibility to provide information and help patients understand their medical condition and options for treatment. [...] Informed consent to medical treatment is fundamental in both ethics and law. It helps patients make well-considered decisions about their care and treatment.[52]

Furthermore, the Code of Medical Ethics advises: "Document the informed consent conversation and the patient's (or surrogate's) decision in the medical record in some manner. When the patient/surrogate has provided specific written consent, the consent form should be included in the record."[53]

ICE Performance-Based National Detention Standards ("PBNDS") define informed consent as: "An agreement by a patient to a treatment, examination, or procedure after the patient receives the material facts about the nature, consequences, and risks of the proposed treatment, examination or procedure; the alternatives to it; and the prognosis if the proposed action is not undertaken."[54]

The Subcommittee found that ICE does not monitor informed consent procedures for off-site medical providers and does not have a responsibility to do so.[55] IHSC officials stated to the Subcommittee that it is the sole professional obligation of the off-site provider to obtain informed consent from patients. Furthermore, there is no requirement in ICE's process for the approval or review of off-site medical procedures that an ICE official verifies that a consent form

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[52] American Medical Association, Code *of Medical Ethics: Consent, Communication & Decision Making*, (https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-consent-communication-decision-making) (accessed Nov. 13, 2022).
[53] American Medical Association, *Informed Consent: Code of Medical Ethics Opinion 2.1.1* (https://www.ama-assn.org/delivering-care/ethics/informed-consent) (accessed Nov. 13, 2022).
[54] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *Performance-Based National Detention Standards 2011*, at 469-470 (Revised December 2016) (https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf).
[55] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). According to ICE, the agency does not have a responsibility to monitor informed consent because providers are professionally and legally obligated to ensure informed consent. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

from a visit with an off-site provider is included in a detainee's medical file. The Subcommittee also found that LaSalle, the ICDC contractor, did not have any contractual obligation with ICE to oversee the off-site care of detainees housed at its facility.

According to medical experts who reviewed the records of Dr. Amin's ICDC patients, there was a lack of informed consent in many instances. For example, based on the records Dr. Cherouny reviewed, he stated that Dr. Amin did not provide sufficient information regarding surgical procedures with detainee patients.[56] The medical records reviewed do not consistently document thorough patient-doctor discussions and do not establish that patients were fully informed of all of their treatment options, including the benefits and risks of surgical procedures and other treatments, or whether they were clearly given a choice to opt out of any treatment at all.

Former ICDC detainees interviewed by Subcommittee staff stated that Dr. Amin did not explain or answer questions regarding examinations, medication administration, or surgical procedures he performed on them. For example, one former detainee treated by Dr. Amin, Ms. Castaneda-Reyes, stated that she was told she was having surgery to remove an ovarian cyst and that when she arrived for the surgery, an electronic tablet and a stylus were simply handed to her to sign with no explanation from the nurses, the anesthesiologist, or Dr. Amin about the surgery or its risks, and they did not ask if she had any questions.[57] This would appear to violate best practices of the doctor-patient informed consent process.

The Subcommittee received incomplete records from ICH, the hospital where Dr. Amin performed the procedures on ICDC detainees, and no records from Dr. Amin. Thus, the Subcommittee could not verify whether any consent forms for the anonymized patients the medical experts reviewed may have existed in files separately maintained by Dr. Amin or ICH. The records from ICH included signed consent forms from some anonymized ICDC patients. In some cases, the records indicate that a nurse discussed the surgical process with Dr. Amin's patients. However, these files do not indicate that Dr. Amin himself engaged in a thorough discussion with all of his patients regarding the informed consent process as would be expected medical practice for a physician. Furthermore, the records provided to the Subcommittee do not establish that the detainees Dr. Amin treated were fully informed of all of their treatment options.

C. Medical Care Provided to Detainees at ICDC Was Known by DHS to Be Deficient, but neither ICE nor LaSalle Took Effective Corrective Action

Following its review of records and interviews with former detainees, former employees, and DHS auditors, the Subcommittee found that ICDC detainees made frequent complaints about the quality and timeliness of medical care they received at the facility.[58] Former ICDC nurses described deficiencies and delays in the treatment of detainees. Moreover, DHS offices

[56] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[57] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).
[58] The Subcommittee did not seek to verify every complaint heard from witnesses or every allegation reviewed in written grievances. However, the Subcommittee reviewed an estimated 760 grievances and nearly 650 of them were related to medical care. In addition, the complaints by detainees mirrored observations that former ICDC nurses relayed to Subcommittee staff in interviews and that have previously been documented by DHS.

responsible for oversight of detention facilities identified numerous, repeated, and serious deficiencies with the ICDC medical unit as far back as 2012, but ICDC and ICE failed to take effective corrective action to address these issues.

ICDC medical staff dealt with a large number of medical complaints from detainees on a regular basis. These complaints ranged from cosmetic issues like dandruff and dry skin to more serious medical and mental health conditions.[59] When detainees were not satisfied with the services they received from the medical unit, they submitted grievances to be addressed by ICDC leadership. The Subcommittee reviewed more than 760 grievances filed by ICDC ICE detainees between 2018 and 2020. Of those grievances reviewed, the Subcommittee identified 659 medical grievances that contained allegations of delayed or deficient medical care. For example, one detainee stated that the facility failed to provide their diabetes medicine and as a result they started experiencing blurry vision due to elevated sugar levels.[60] In other instances, an individual with chronic seizures and those with other chronic ailments, such as asthma, high blood pressure, and anemia, stated they were forced to wait days and weeks for the ICDC medical staff to address their critical prescription needs. Records reviewed by the Subcommittee showed that medical unit staff generally responded to these grievances with 24 to 48 hours.[61]

One detainee interviewed by Subcommittee staff said he submitted multiple requests related to a toothache but never received a response.[62] He claimed his pain eventually stopped because the tooth fell out.[63] Another detainee, who fell and broke her foot while at ICDC, told Subcommittee staff she was not taken to see anyone to treat the injury for a full month.[64] Former detainees also described making multiple requests for access to their own medical laboratory or imaging results that went unaddressed.[65] The Subcommittee was not able to review the medical records for these detainees and could not verify their claims. Some detainees alleged that their medical complaints were either not addressed or they received delayed care.[66] The Subcommittee did not obtain records to corroborate the allegations made by these detainees. However, medical records reviewed by the Subcommittee showed that the ICDC medical unit frequently responded to medical requests within a few days and provided lab or imaging results when requested.[67]

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[59] *See, e.g.*, LaSalle_167885-88, LaSalle_216450, LaSalle_216456 (sick calls for dandruff); LaSalle_232939-40, LaSalle_232942 (sick calls for dry skin and dry scalp); LaSalle_177638-41 (mental health sick call for depression); LaSalle_281516-19 (sick call for pain related to a hernia).

[60] Records indicate that ICDC staff responded three days later stating that staff would contact the detainee's previous detention center again to request records and obtain medication names and dosages. LaSalle_002652.

[61] Records indicate that ICDC medical staff generally responded to these grievances within one to two days after the grievance was filed. LaSalle_000187; LaSalle_002668; LaSalle_002598; LaSalle_002600.

[62] Senate Permanent Subcommittee on Investigations Staff Visit to Irwin County Detention Center (Aug. 17, 2021) (memorandum on file with the Subcommittee).

[63] *Id.*

[64] A.K., Interview with Senate Permanent Subcommittee on Investigations (June 23, 2021).

[65] Senate Permanent Subcommittee on Investigations Staff Visit to Irwin County Detention Center (Aug. 17, 2021) (memorandum on file with the Subcommittee).

[66] *Id.*

[67] For example, one detainee filed a sick call request on September 9, 2020 requesting test results and complaining of skin irritation and pain in her ovaries (LaSalle_177857-61). She was seen for all three requests at the medical unit on September 10, 2020 where she also requested her medical records at the same visit (LaSalle_177863-65). The detainee received her medical records on September 21, 2020 (LaSalle_177869). The detainee requested all of

Interviews with former ICDC staff provided additional insight on the issues with the ICDC medical unit. A former nurse described the facility's medical unit as "filthy."[68] Another former nurse described ICDC as "the least clean place of any place I have worked in."[69]

As far back as 2012, internal DHS audit and oversight entities identified deficiencies with the ICDC medical unit.[70] For example, the DHS Office for Civil Rights and Civil Liberties ("CRCL") cited issues at ICDC with record maintenance and medication distribution, including an incident involving a cancer patient who was never allegedly provided medication.[71]

In addition, a 2017 ICE Office of Detention Oversight ("ODO") review of ICDC found that ICDC staff inconsistently reviewed detainees' medical intake forms and often left sections of those forms blank.[72] The review also found a lack of documentation showing that medical staff had completed required staff training.[73] Finally, ODO found syringes and needles in examination rooms that were "neither secured nor inventoried."[74] Overall, the inspection examined 15 ICE detention standards and found 26 deficiencies in 10 standards, which included nine "medical care" deficiencies, a number of which were repeat deficiencies.[75]

In March 2020, five months prior to the public allegations against ICDC surfaced, another ODO inspection found that medical files at ICDC were stored improperly, on the floor and across desks, and examination tables in facility medical units were "torn beyond repair, making cleaning and decontamination impossible."[76] The ODO review found that ICDC was only in compliance with five of 18 ICE detention standards they examined overall and documented 36 deficiencies, including three regarding "medical care."[77]

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her ICDC medical records on December 7, 2020 (LaSalle_178320). She signed an acknowledgment that she received her ICDC medical records on December 10, 2020 (LaSalle_178329).

[68] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021).

[69] LPN #2, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 12, 2021).

[70] U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, *Redacted Irwin Rec & Close Memorandum from FY13 Expert Report Memorandum* (Nov. 5, 2012) (notes from document review on file with the Subcommittee).

[71] U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, *Redacted Irwin Rec & Close Memorandum Expert Report Memorandum* (Nov. 4, 2016) (notes from document review on file with the Subcommittee).

[72] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Inspections and Detention Oversight Division, *Compliance Inspection for the Irwin County Detention Center Ocilla, Georgia* (Mar. 2017) (https://www.ice.gov/doclib/foia/odo-compliance-inspections/2017IrwinCountyGA.pdf).

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Inspections and Detention Oversight Division, *Compliance Inspection for the Irwin County Detention Center Ocilla, Georgia* (Mar. 2020) (https://www.ice.gov/doclib/foia/odo-compliance-inspections/irwinCoDetCntr_OcillaGA_Mar3-5_2020.pdf).

[77] *Id.*

D. ICE Did Not Conduct Thorough Oversight of Off-Site Medical Providers and Procedures

Past DHS reviews have documented consistent, ongoing, and unresolved deficiencies in ICE's medical record keeping procedures, prescription medication distribution practices, and overall quality of medical care at various ICE detention facilities, including ICDC. In addition, through multiple interviews with senior IHSC officials and a review of ICE documents, the Subcommittee identified key gaps in ICE oversight of physicians providing medical care to ICE detainees at facilities outside of its detention centers.

Highlights of the Subcommittee's investigation on ICE oversight of off-site medical providers include:

- ICE was not aware of, and did not review key information regarding Dr. Amin's professional history prior to the agency's agreement to allow Dr. Amin to treat ICDC detainees in 2014. ICE authorized Dr. Amin to treat ICE detainees based solely on the fact that he had an active medical license, admitting privileges at ICH, and was not otherwise prohibited from treating ICE detainees.

- ICE did not have access to the National Practitioner Data Bank ("NPDB")—a confidential federal clearinghouse of healthcare provider information—and was unable to conduct a search for Dr. Amin in the database before he began treating ICDC detainees. Had ICE been able to conduct this search, it would have found multiple past medical malpractice claims against Dr. Amin, and the fact that a major U.S. insurance company dropped him as a covered physician in 2005 due to "excessive malpractice cases" and an "extensive malpractice history."[78] ICE was not aware of the medical malpractice suits filed against Dr. Amin until after the September 2020 public allegations against him.

- ICE was unaware that DOJ and the State of Georgia had filed a 2013 lawsuit against Dr. Amin and other physicians at ICH until after the September 2020 allegations. The lawsuit included five counts, including allegations that Dr. Amin and his codefendants had engaged in Medicaid fraud, violated the Federal Anti-Kickback Statute and Georgia Medicaid policies, and maintained "standing orders" to conduct unnecessary gynecological procedures.

- Dr. Amin began treating ICDC detainee patients in 2014, the year after DOJ filed its lawsuit against him. In 2015, Dr. Amin, other physicians, and the hospital entered into a settlement agreement with DOJ and the State of Georgia and agreed to pay $520,000 to resolve the allegations regarding Medicaid fraud.

- ICE did not have a process to automatically flag the disproportionately high number of medical procedures Dr. Amin or any given doctor performs compared to his or her peers. While ICE informed the Subcommittee that the disparity in

[78] Staff conducted an *in camera* review at the U.S. Department of Health and Human Services of National Practitioner Data Bank information on Dr. Amin. (Dec. 9, 2021) (notes on file with the Subcommittee).

> the number of Dr. Amin's procedures alone would not be disqualifying, additional scrutiny of Dr. Amin's practices may have prevented unnecessary procedures from occurring.[79]

Since the initial September 2020 public allegations against Dr. Amin and ICE, IHSC has initiated limited vetting procedures of off-site medical providers. IHSC officials also noted, however, that even these new procedures likely would not have disqualified Dr. Amin from treating ICE detainees. An IHSC official told Subcommittee staff that the agency would not have deemed the information on Dr. Amin in the NPDB as disqualifying based on the fact that he maintains a current, active medical license with the state of Georgia, and the state had never restricted his license or otherwise intervened at any point in his medical service. As a result, the IHSC official said IHSC "would not have had any issues" with allowing Dr. Amin to treat ICE patients.[80]

Following the public allegations against Dr. Amin in September 2020, ICE conducted a limited review of medical records, claims, and referrals for his patients. ICE did not, however, obtain complete files from ICDC or ICH and ultimately suspended its investigation pending completion of a DHS OIG investigation into the allegations of inappropriate off-site gynecological care at ICDC.[81] In multiple conversations with Subcommittee staff, IHSC officials were only able to speculate about the reasons why Dr. Amin performed so many more procedures than other physicians providing OB-GYN care to ICE detainees. Dr. Amin stopped treating ICE detainees in September 2020.

The Subcommittee's Investigation

During the Subcommittee's 18-month long investigation, the Subcommittee interviewed more than 70 witnesses and reviewed more than 541,000 pages of records, including records from DHS, ICE, ICDC, LaSalle, and ICH.

The Subcommittee evaluated litigation materials, reports, declarations, expert medical assessments, and documents provided by the Department of Veterans Affairs Financial Services Center ("VAFSC"), and conducted an *in camera* review of documents from HHS and the Departments of Treasury.

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[79] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). ICE later stated to the Subcommittee that based on the comparative analysis, ICE noted a possible overutilization of the D&C and laparoscopic procedures, but that it would need an expert OB-GYN review of the medical records because its analysis was based solely on medical claims data. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

[80] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[81] The DHS OIG started its review in October 2020. However, this review did not evaluate off-site medical care of ICDC detainees. This review "sought to determine whether ICDC provided detainees adequate [on-site] medical care and adhered to COVID-19 protections. This inspection did not review the gynecological procedure approval process for detainees at ICDC, which has been referred to our Office of Investigations." The review of gynecological treatment is currently underway. U.S. Department of Homeland Security, Office of Inspector General, *Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center* (OIG-22-14) (Jan. 3, 2022) (https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf).

The Subcommittee secured briefings from attorneys, advocates, physicians, and other entities including: the U.S. Marshals Service, the Centers for Medicare & Medicaid Services ("CMS"), HHS OIG, DHS OIG, the Nakamoto Group, and the Georgia Composite Medical Board.

Additionally, the Subcommittee interviewed nearly 50 former ICDC detainees, 40 of which were interviewed during the Subcommittee's August 2021 staff visit to ICDC. Subcommittee staff also interviewed seven former ICDC employees, four current ICDC or LaSalle employees, two ICH executives, three ICH nurses, six current ICE officials, and one former ICE official.

FINDINGS OF FACT AND RECOMMENDATIONS

Findings of Fact

(1) **Female detainees at ICDC appear to have been subjected to excessive, invasive, and often unnecessary gynecological procedures.**

(2) **The Subcommittee did not substantiate the allegation that ICDC detainees underwent "high rates" of unauthorized hysterectomies.** Dr. Amin performed two hysterectomies on ICDC detainees between 2017 and 2019. According to ICE, patient records indicated that both procedures were medically necessary.

(3) **Between 2017 and 2020 Dr. Amin performed a significantly higher volume of invasive procedures on ICE detainees compared to other OB-GYN physicians serving ICE detainees.** Dr. Amin ranked first among all physicians treating ICE detainees across the country during this period in terms of the number of D&C procedures, laparoscopies to excise lesions, and limited pelvic exams he performed, as well as the number of Depo-Provera injections he administered. In fact, of the 401 combined total number of these procedures performed on all ICE detainees by OB-GYN specialists across the nation, Dr. Amin performed 362 of these procedures—or 90% of them. In ten categories of OB-GYN procedures the Subcommittee reviewed, Dr. Amin was among the top five providers for eight of the ten procedures. For the specific OB-GYN procedures the Subcommittee examined, Dr. Amin performed nearly one-third of the total procedures performed on ICE detainees at **all** ICE detention facilities between 2017 and 2020. This was despite the fact that ICDC housed about 4% of the female detainee population.

(4) **For the specific OB-GYN procedures the Subcommittee examined, Dr. Amin received around half of all payments from ICE for these procedures.** From 2017 to 2020, physicians performed 1,201 of these ten types of OB-GYN procedures on ICE detainees, costing ICE over $120,400. Dr. Amin performed 392 of the 1,201 procedures and received approximately $60,000 for these procedures.

(5) **Dr. Amin had a history of medical malpractice suits filed against him**. Due to this history, a major U.S. insurance company dropped its contract with him nearly one decade before ICE began using his services at ICDC.

(6) **ICE was not aware of publicly available information regarding medical malpractice suits and a DOJ and State of Georgia Medicaid fraud complaint against Dr. Amin before he began treating ICE detainees.**

(7) **Prior to October 2019, ICE did not employ a thorough vetting process for physicians treating detainees at facilities outside detention centers.** ICE has since established a process to review board certifications, records of adverse actions, and a list of individuals and entities excluded from federal healthcare programs, but ICE never completed this process for Dr. Amin.

(8) **ICE officials stated that its new vetting procedures would not necessarily have disqualified Dr. Amin from treating detainees.** Due to the fact that the state of Georgia had never restricted Dr. Amin's license or otherwise intervened at any point in his medical service, and the information in the NPDB were unsubstantiated allegations that had been settled, ICE would not necessarily have disqualified Dr. Amin from treating ICE detainees.

(9) **ICE lacked a medical utilization review process to identify potential trends in off-site medical treatment.** Until recently, ICE did not maintain a system to detect trends in medical procedures by off-site physicians that might indicate medical waste, fraud, or abuse. ICE states it intends to change its procedures to standardize the medical request approval process and has begun to employ a web-based application for medical utilization review and management, beginning with a retrospective review of ICE medical claims.

(10) **ICE performed an investigation of medical treatments provided to ICDC detainees following the public allegations against Dr. Amin, but did not obtain complete medical records for ICDC detainees.** During its investigation, ICE did not obtain complete medical records for ICDC detainees and ultimately did not conduct a more thorough review due to the pending DHS OIG investigation involving off-site gynecological procedures.

(11) **ICE personnel failed to conduct site visits at ICDC between January 2018 and October 2020.** The Field Medical Coordinator assigned to ICDC did not visit ICDC between January 2018 and October 2020—the period of greatest activity for Dr. Amin in terms of office visit claims and procedures.

(12) **ICE is not required to monitor the use of language translation services by off-site medical providers or ensure these providers obtain informed consent for off-site medical procedures.** Instead, ICE has relied on off-site providers to fulfill their professional obligations to ensure detainees understand and consent to the medical care they receive.

(13) ICE conducts limited oversight of hospitals providing off-site care to detainees. To date, ICE has also performed no reviews of hospitals treating detainees to review the appropriateness of the medical care they provide, although ICE told the Subcommittee that it intends to conduct these reviews in the future.

(14) ICE approved Dr. Amin's performance of OB-GYN procedures on a case-by-case basis and never identified any of Dr. Amin's treatments as potentially excessive or unnecessary.

(15) ICE's contract with LaSalle did not require the company or ICDC to conduct oversight of off-site medical care for detainees. ICDC and LaSalle played no role in vetting off-site medical providers treating detainees, or ensuring that these providers obtained informed consent or used appropriate language translation services. No ICDC or LaSalle employee the Subcommittee interviewed recalled a review of treatment by Dr. Amin—prior to the public allegations in September 2020 or since—that found signs of waste, fraud, or abuse.

Recommendations

(1) ICE should expedite efforts to improve the vetting of off-site medical providers for detainees and should consider expanding criteria for excluding providers. ICE officials noted to the Subcommittee that even new vetting procedures ICE instituted in 2019 might not have excluded Dr. Amin—despite his previous malpractice settlements, the fact that a major insurance company severed its contract with him based on his history of malpractice cases, and his False Claims Act settlement with DOJ in 2015.

(2) ICE should expedite efforts to identify trends in off-site medical procedures for detainees for potential waste, fraud, or abuse and should conduct regular audits of physicians, hospitals, or other facilities providing off-site care. To provide context for its review efforts, ICE should also expand the range of information it collects from detention centers to include historic demographic population information and descriptions of on-site medical capabilities.

(3) ICE should institute policies and procedures to ensure off-site providers obtain informed consent in connection with their treatment of detainees. ICE currently expects that off-site medical providers will honor their professional obligations to ensure detainees understand and consent to medical procedures, but ICE has taken no responsibility for them doing so.

(4) ICE should ensure it reviews all detainee complaints regarding medical treatment independently of site visits from Field Medical Coordinators. ICE officials should have the ability to receive and review all detainee medical

complaints electronically and contemporaneously, regardless of whether staffing challenges prevent annual visits to detention facilities.

(5) Federal immigration policy should support and allow for the swifter adjudication of immigration cases without undermining the procedural due process rights of immigrants.

II. BACKGROUND

On September 14, 2020, several immigration advocacy organizations filed a whistleblower complaint to DHS OIG, DHS CRCL, the ICE Atlanta Field Office, and the ICDC Warden alleging, among other claims, that an off-site medical provider for the ICDC facility had performed mass hysterectomies on detainees at ICDC.[82] This provider was later identified as Dr. Mahendra Amin, an OB-GYN specialist authorized to provide off-site medical services for ICDC detainees since 2014.[83] Three months after the initial complaint was filed, former ICDC detainees filed a class action lawsuit against ICDC, ICE, Dr. Amin, and other federal and nonfederal parties alleging that the detainees had received nonconsensual and unnecessary gynecological procedures.[84] The lawsuit also alleged a broader pattern of medical abuse and mistreatment of detainees at ICDC.[85] The lawsuit is ongoing.[86]

The initial September 2020 whistleblower complaint alleged that Dr. Amin performed mass hysterectomies on ICDC detainees.[87] However, the Subcommittee found this allegation to be false, and ICE determined that the two hysterectomies Dr. Amin performed on ICDC detainees appeared to be medically necessary.[88] Additional allegations in the September 2020 whistleblower complaint focused on ICDC's mismanagement of its response to COVID-19 and other issues related to medical care at ICDC.[89]

Dr. Amin stopped treating ICDC detainees in September 2020, when the public allegations against him first emerged.[90] In May 2021, DHS directed ICE to discontinue its contract with ICDC.[91] ICE terminated the contract effective October 7, 2021.[92] As of September 3, 2021, all ICE detainees were removed from ICDC.[93]

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[82] The Subcommittee's investigation did not find that Dr. Amin performed a large number of hysterectomies. According to records obtained by the Subcommittee, he performed two hysterectomies on ICE detainees, one in 2017 and one in 2019. However, the data the Subcommittee obtained reveals that Dr. Amin did perform a dramatically larger number of other medical procedures on female detainees when compared to other OB-GYN specialists treating ICE detainees. Information on the hysterectomies Dr. Amin performed are discussed in more detail in Section IV below. *See* Project South Complaint, *supra* note 1.
[83] Consolidated Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Declaratory and Injunctive Relief and for Damages (Dec. 21, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).
[84] *Id.; June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[85] Consolidated Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Declaratory and Injunctive Relief and for Damages (Dec. 21, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).
[86] *Id.*
[87] Project South Complaint, *supra* note 1.
[88] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[89] Project South Complaint, *supra* note 1.
[90] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Oct. 22, 2021) (Tranche 18, 11144).
[91] U.S. Department of Homeland Security, *ICE to Close Two Detention Centers* (May 20, 2021) (https://www.dhs.gov/news/2021/05/20/ice-close-two-detention-centers).
[92] U.S. Department of Homeland Security, Office of Inspector General, *Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center* (OIG-22-14) (Jan. 3, 2022) (https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf).
[93] *Id.*

The Subcommittee's investigation examined the provision of healthcare on and off-site for ICDC detainees and reviewed Dr. Amin's treatment of female ICDC detainees. This section provides background on the key entities, policies, and procedures that served as the subject matter of the Subcommittee's investigation.

A. Key Players

i. ICE and Relevant Subcomponents

Fiscal year 2022 saw a record 2,378,944 apprehensions of migrants at the Southwest border.[94] Federal law requires that migrants in certain immigration proceedings be detained throughout the adjudication of their cases. ICE is the federal agency responsible for immigration enforcement, including detention of noncitizens who have violated U.S. immigration laws.[95] For decades, the federal government has struggled to balance the requirements of federal immigration law with rates of border apprehensions, rising timelines of completion for immigration cases, limited resources, and the rights and interests of detainees.

For Fiscal Year 2022, ICE housed immigration detainees in 130 detention centers, processing centers, and other facilities, with an average length of stay of about 25.8 days and an average daily population of about 22,578 detainees.[96] ICE executes its detention mission through two main entities: IHSC, which oversees healthcare at ICE detention facilities and ICE Enforcement and Removal Operations ("ERO"), which manages all aspects of enforcement and detention process.

a. IHSC

As part of its healthcare focused mission, IHSC directs patient care at ICE-run facilities and oversight of compliance with detention standards at facilities operated by non-federal entities.[97] IHSC maintains a workforce of 915 employees, including 600 commissioned officers of the U.S. Public Health Service, 15 federal civil servants, and 300 contract health professionals.[98] IHSC directly provides healthcare services in 21 facilities nationwide ("IHSC facilities").[99] IHSC monitors compliance with healthcare-related detention standards at approximately 150 other facilities in which local governments or their contractors provide services without embedded federal staff ("non-IHSC facilities") through the Field Medical Coordinators ("FMC") program.[100] When it housed ICE detainees, ICDC was a non-IHSC

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[94] U.S. Customs and Border Protection, *Southwest Land Border Encounters* (Oct. 21, 2022) (https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters) (accessed Nov. 13, 2022).
[95] U.S. Immigration and Customs Enforcement, *Mission* (Aug. 17, 2022) (https://www.ice.gov/mission).
[96] U.S. Immigration and Customs Enforcement, *ICE Facilities Data FY22 YTD* (https://www.ice.gov/doclib/detention/FY22_detentionStats09292022.xlsx) (accessed Nov. 13, 2022).
[97] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).
[98] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[99] U.S. Immigration and Customs Enforcement, *ICE Health Service Corps* (https://www.ice.gov/detain/ice-health-service-corps) (accessed Nov. 13, 2022).
[100] *Id.*; *June 23, 2021 ICE Q&A Paper*, *supra* note 14.

facility. If ICDC was unable to provide certain medical services with its on-site medical staff, it would transfer detainees off-site to receive medical services from providers in the community.

IHSC FMCs typically conduct at least one site visit per year at non-IHSC facilities to evaluate their adherence to detention standards and quality of care indicators.[101] IHSC employees known as RCDs are physicians with oversight responsibilities for all ICE-operated and non-ICE-operated facilities.[102]

b. ICE ERO

ICE ERO "manages all aspects of the immigration enforcement process, including identification and arrest, domestic transportation, detention, bond management, and supervised release, including alternatives to detention."[103] The Custody Management Division ("CMD") within ERO provides oversight of ICE detention facilities through two sub-divisions: the Custody Programs Division develops policies related to programing within detention facilities and oversees segregation procedures and policies to protect detainees with special vulnerabilities, and the Detention Management Division provides oversight of detention facilities through Detention Service Managers ("DSMs") and Detention Standards and Compliance Officers ("DSCOs") who inspect and audit certain detention facilities.[104] In addition to inspections by the Detention Management Division, CMD also performs announced annual inspections of detention facilities.[105]

c. Other Federal Entities and Contractors

In addition to IHSC and ICE ERO, federal immigration detention is overseen by:

- DHS OIG who conducts unannounced inspections of detention facilities for violations of ICE standards;

- ICE ODO who conducts biannual inspections of certain facilities;

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[101] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); *see also* Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 7, 2022) (Tranche 3, 01014-27). IHSC provides direct medical care at 21 facilities in the United States and, in FY 2021, "oversaw health care for over 169,000 detainees housed in 150 non-IHSC staffed facilities." U.S. Immigration and Customs Enforcement, *ICE Health Service Corps* (https://www.ice.gov/detain/ice-health-service-corps) (accessed Nov. 13, 2022).
[102] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[103] U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations* (http://www.ice.gov/about-ice/ero) (accessed Nov. 13, 2022).
[104] U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Custody Management Division, Briefing with Senate Permanent Subcommittee on Investigations (June 17, 2021).
[105] *Id.*

- DHS CRCL who investigates allegations of civil rights and civil liberties violations at detention facilities and issues policy recommendations to ICE headquarters, field offices, and facilities; and

- The Nakamoto Group, which is contracted by ICE to conduct annual inspections of detention facilities.[106]

ii. ICDC and LaSalle

ICDC is located in Ocilla, Georgia. In 2007, the U.S. Marshals Service entered into an Intergovernmental Service Agreement ("IGSA") with Irwin County, Georgia, which allowed the Marshals Service, Federal Bureau of Prisons, and ICE to house federal detainees at ICDC.[107] The most recent IGSA between the federal government and Irwin County became effective on June 15, 2020.[108] In this IGSA, ICE agreed to maintain a minimum population of at least 600 detainees at ICDC with a bed day rate of $83 per detainee for the first 600 detainees and $65 per detainee above the 600-person threshold.[109]

On December 12, 2013, Irwin County entered into an agreement with LaSalle, a private company that operates correctional facilities in Louisiana, Texas, Arizona, and Georgia.[110] Under the agreement, LaSalle provided certain operation, maintenance, and management services to ICDC, either directly through LaSalle employees or individuals who contract with LaSalle.[111]

The current Warden of ICDC is David Paulk.[112] Mr. Paulk oversees officials including the Deputy Warden, Chief Security Officer, Captain of Administrative Services, Captain of Security, Health Services Administrator ("HSA"), Director of Nursing ("DON"), Medical Director, and food service manager.[113] According to Mr. Paulk, the ICDC staff comprised between 210 and 220 individuals when the facility operated at full capacity, during which it had 944 beds available.[114] Between FY 2017 and FY 2020, the average length of stay at ICDC rose

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[106] In addition to these oversight bodies, detention facilities are required to maintain National Commission on Correctional Health Care and American Correctional Association accreditation. *Id.*; U.S. Department of Homeland Security, Office of Inspector General, *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements* (OIG-18-67) (June 26, 2018) (https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf); Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021); Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).
[107] LaSalle_048633-89.
[108] LaSalle_048623.
[109] LaSalle_048636. Bed day is defined as "one person per day." *Id.*
[110] LaSalle Corrections, Our Locations (https://lasallecorrections.com/locations/) (accessed Nov. 13, 2022); LaSalle_009481-505.
[111] Counsel for LaSalle, Briefing with Senate Permanent Subcommittee on Investigations (May 19, 2021); LaSalle 009481-505.
[112] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021).
[113] *Id.*
[114] *Id.*

slightly from 36 days to 42 days, and the average daily population varied between a high of 850 detainees and a low of 642 detainees.[115]

Under its agreement with Irwin County, LaSalle provided limited, basic medical services to detainees at ICDC, including intake screening, physicals, laboratory testing, routine healthcare, and emergency services or referrals.[116] According to LaSalle policy, the HSA at ICDC was responsible for ensuring detainees have access to care and supporting the delivery of healthcare services to detainees.[117] The HSA was to be aided by the DON, registered nurses, licensed practical nurses ("LPNs"), a medical records clerk, a dentist, and a psychiatrist.[118]

According to LaSalle policy, all detainees were supposed to receive an initial medical, dental, and mental health screening within 12 hours of arrival at ICDC that consisted of intake review questions and observatory assessments.[119] LaSalle policy also required that all female detainees had "access to appropriate and necessary medical and mental healthcare, gynecological and obstetrical treatment during their detainment," as well as access to pregnancy services and preventative screenings, such as breast examinations, mammograms, and sexually transmitted disease testing.[120] If ICDC medical personnel determine that they lack the capabilities or capacity to treat a particular ailment on-site, they would refer the patient to an outside provider. ICE would review and make the determination on whether the detainee would see an outside provider.

LaSalle was responsible for providing "communication assistance" to detainees who were limited in their English proficiency during on-site medical appointments.[121] ICDC medical unit staff were responsible for referring detainees in need of healthcare beyond facility resources or hospital services to an IHSC-approved facility, and "all surgeries and major treatments must be approved by the Warden of [sic] designee."[122] However, according to LaSalle's agreement with ICE, "[t]he primary point of contact for obtaining pre-approval for non-emergent care as well as the post approval for emergent care will be the IHSC FMC assigned to [ICDC]."[123] Medical providers with which LaSalle contracted also had to maintain "adequate records in accordance with HIPPA [sic] guidelines" for on-site care, and LaSalle had to provide transportation to off-site medical services for detainees.[124]

LaSalle also contracted with Dr. Howard McMahan for the provision of medical services as ICDC Medical Director, which involved overseeing the work of on-site medical employees and—while ICDC housed individuals for ICE—providing medical services as necessary to all

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[115] U.S. Immigration and Customs Enforcement, *HSGAC/PSI Interviews with ICE Health Service Corps (IHSC) Personnel Get-backs* (Nov. 5, 2021) (response on file with the Subcommittee).
[116] LaSalle_027934-37.
[117] LaSalle_009506-09.
[118] *Id.*
[119] LaSalle_027993-97.
[120] LaSalle_028057-59.
[121] LaSalle_027938-43.
[122] LaSalle_009506-09.
[123] LaSalle_048633-89.
[124] LaSalle_009506-09.

detainees, including those with chronic illnesses.[125] Dr. McMahan is physically on-site at ICDC between two and a half and six hours per week and reports to Dr. Pamela Hearn, the Medical Director for LaSalle.[126]

iii. Dr. Amin and ICH

When an ICDC detainee required off-site OB-GYN care, ICDC medical personnel previously would refer the detainee patients to Dr. Mahendra Amin. Dr. Amin attended medical school at Government Medical College of South Gujarat University in Surat, India. He completed his internship at the New Civil Hospital in Surat, India and his OB-GYN residency at the University of Medicine and Dentistry in Newark, New Jersey.[127] Dr. Amin maintains an active medical license with the Georgia Composite Medical Board, which was issued on June 11, 1985.[128] However, he holds no board certifications.[129] Dr. Amin has practices in Douglas, Georgia, and Ocilla, Georgia, and he has admitting privileges at ICH and Coffee Regional Medical Center.[130]

According to public reports and documents reviewed by the Subcommittee, a company incorporated by Dr. Amin called "MGA Health Management, Inc." ("MGA") entered into a contractual relationship with ICH in 1996 to run daily operations for the hospital.[131] A November 2010 Amended and Restated Management Services Agreement between MGA and ICH states that MGA had "the authority and responsibility to supervise and manage the day-to-

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[125] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021).
[126] *Id.*
[127] Emily Shugerman & William Bredderman, *ICE Hysterectomy Doctor Wasn't Even a Board-Certified OB-GYN*, Daily Beast (Sept. 19, 2020) (www.thedailybeast.com/ice-hysterectomy-doctor-wasnt-even-a-board-certified-ob-gyn); Georgia Composite Medical Board, License Details for Mahendrakumar Govindbhai Amin (https://gcmb.mylicense.com/verification/) (search first name "Mahendra" and search last name "Amin") (accessed Nov. 13, 2022).
[128] Georgia Composite Medical Board, License Details for Mahendrakumar Govindbhai Amin (https://gcmb.mylicense.com/verification/) (search first name "Mahendra" and search last name "Amin") (accessed Nov. 13, 2022). Georgia state law requires one year of postgraduate training after medical school to obtain a medical license, and board certification is a voluntary process. *See* Rules and Regulations of the State of Georgia, Rule 360-2-.01 Requirements for Licensure (https://rules.sos.ga.gov/gac/360-2); Shugerman & Bredderman, *supra* note 127.
[129] The American Board of Obstetrics and Gynecology has stated that "its records show Amin is not certified by the organization," and the American Board of Medical Specialties—the primary organization for physician board certifications in the United States—stated that Dr. Amin was not certified by any of its 24 member boards. Shugerman & Bredderman, *supra* note 127.
[130] *Id.*; Georgia Composite Medical Board, License Details for Mahendrakumar Govindbhai Amin (https://gcmb.mylicense.com/verification/) (search first name "Mahendra" and search last name "Amin") (accessed Nov. 13, 2022); Alan Judd, *At ICE Detention Center, Red Flag Raised about Gynecologist*, Atlanta Journal-Constitution (Oct. 2, 2020) (www.ajc.com/news/at-ice-detention-center-red-flag-raised-about-gynecologist/SH7TJ35UJRAOXONQH7KALL7IVM/).
[131] *See* Production from Irwin County Hospital to the Senate Permanent Subcommittee on Investigations, *November 10th Amended and Restated Management Services Agreement between MGA Health Management and Irwin County Hospital Authority* (Aug. 5, 2021); Shugerman & Bredderman, *supra* note 127; Alan Judd, *At ICE Detention Center, Red Flag Raised about Gynecologist*, Atlanta Journal-Constitution (Oct. 2, 2020) (www.ajc.com/news/at-ice-detention-center-red-flag-raised-about-gynecologist/SH7TJ35UJRAOXONQH7KALL7IVM/).

day operation of the Facilities."[132] Under the agreement, MGA was required to assist the hospital "in the recruitment of physicians to join the medical staffs of the Facilities," including by "screening candidates presented by any physician recruitment firms or possible candidate to locate or relocate their medical practice to the area served by the Hospital."[133] MGA received an annual fee of $960,000 in exchange for its services.[134] In addition to the amended agreement, in November 2010, MGA and ICH entered into a promissory note for $2,303,847.71.[135] According to current ICH CEO Paige Wynn, the promissory note was a loan from Dr. Amin for renovations to the hospital.[136]

In December 2014, the November 2010 amended agreement was terminated, and Dr. Amin and ICH entered into a "Physician Services Agreement."[137] The new agreement established Dr. Amin as the Chief Medical Officer of ICH and an independent contractor receiving an hourly fee.[138] Under the agreement, the ICH Board of Trustees "retain[ed] control over all functions of the Hospital."[139] As Chief Medical Officer, Dr. Amin was required to assist with the development of policies and procedures regarding regulatory compliance, conduct oversight over hospital credentialing, assist the CEO and other hospital staff with accreditation and licensure, assist the DON with evaluating staffing needs, prepare operating and capital budgets for the hospital, and assist the Chief Compliance Officer with implementation of a compliance plan.[140]

Dr. Amin's agreement with the hospital continued to be renewed from 2015 through 2020.[141] He continues to serve as the Chief Medical Officer and was re-credentialed in 2021.[142] According to Ms. Wynn, Dr. Amin is "by far the busiest" physician at the hospital, the main doctor at ICH, and the busiest physician in the community at large.[143]

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[132] Production from Irwin County Hospital to the Senate Permanent Subcommittee on Investigations, *November 10th Amended and Restated Management Services Agreement between MGA Health Management and Irwin County Hospital Authority* (Aug. 5, 2021).
[133] *Id.*
[134] *Id.*
[135] ICH005144-49.
[136] Ms. Wynn told the Subcommittee that the hospital renovations were completed and the Promissory Note was fully paid by ICH in May 2021. Paige Wynn, Irwin County Hospital, Interview with Senate Permanent Subcommittee on Investigations (Aug. 25, 2021).
[137] ICH005120-35.
[138] According to counsel for ICH, in 2014, all agreements between ICH and Dr. Amin were provided to the HHS OIG and subsequently reviewed by an Independent Review Organization HHS OIG approved. ICH005120-35; Email from Counsel for Irwin County Hospital to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[139] ICH005120-35.
[140] ICH005128-29.
[141] ICH005101; ICH005113; ICH005114-19; ICH005136-41; ICH005143.
[142] Paige Wynn, Irwin County Hospital, Interview with Senate Permanent Subcommittee on Investigations (Aug. 25, 2021).
[143] *Id.* Counsel for ICH noted to the Subcommittee that the community is "small" and contains approximately 9,500 residents. Email from Counsel for Irwin County Hospital to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).

According to a 2016 survey from the American Medical Association, around 63% of OB-GYN specialists have been sued at least once, and around 44% of these specialists have been sued at least twice.[144] The NPDB shows that Dr. Amin settled at least seven medical malpractice lawsuits between 1998 and 2007.[145] The settlements involve allegations concerning a mother's death, a miscarriage, fetal brain damage, stillbirths, and a pelvic abscess/infection.[146] (See Figure 2.) The Subcommittee's review of the NPDB showed that a major private insurance company terminated its contract with Dr. Amin in 2005 due to "excessive malpractice cases" and an "extensive malpractice history."[147]

Figure 2: Dr. Amin Malpractice Settlements in the NPDB[148]

Date	Settlement
March 16, 2007	Settlement for improper performance: 29-year-old underwent a hysterectomy for pelvic pain and bleeding; allegedly resulted in right **ureterovaginal fistula.**[149]
April 30, 2004	Settlement for delay in treatment of identified fetal distress: alleged delay in C-section led to post-surgical pulmonary embolism which resulted in **mother's death.**
February 21, 2002	Settlement for delay in delivery (inductive or surgery): allegedly resulted in **stillbirth.**
November 30, 2001	Settlement for obstetric not otherwise specified: alleged failure to evaluate 21-week gestation resulted in **miscarriage.**
November 15, 1999	Settlement for improperly managed labor not otherwise specified: alleged failure to diagnose and treat group B streptococcus infection, which resulted in **fetal brain damage.**
September 7, 1999	Settlement for failure to diagnose: alleged **pelvic abscess/infection.**
February 26, 1998	Settlement for delay in delivery: alleged failure to monitor fetus resulted in **stillbirth.**

Many of the contractual arrangements for services by Dr. Amin described above occurred after DOJ and the State of Georgia joined a complaint filed by two employees of ICH in July 2013 against ICH, Dr. Amin, and eight other ICH physicians, alleging violations of the False

[144] The survey did not provide numbers on the percentage of OB-GYN specialists sued seven times in less than one decade. José R. Guardado, PhD, *Medical Liability Claims Frequency Among U.S. Physicians*, American Medical Association: Policy Research Perspectives (2017) (https://www.ama-assn.org/media/21976/download).
[145] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3037-42).
[146] *Id.*
[147] Staff conducted an *in camera* review at HHS of National Practitioner Data Bank information on Dr. Amin. (Dec. 9, 2021) (notes on file with the Subcommittee).
[148] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3037-42).
[149] A ureterovaginal fistula describes an unusual opening that develops between the vagina and the tubes that carry urine from the kidneys to the bladder, also known as ureters. Mayo Clinic, *Vaginal Fistula* (https://www.mayoclinic.org/diseases-conditions/vaginal-fistulas/symptoms-causes/syc-20355762) (accessed Nov. 13, 2022).

Claims Act and the Georgia False Medical Claims Act.[150] The complaint asserted that physicians at ICH billed Medicare and Medicaid for treatments and procedures performed by nurses and technicians instead of physicians.[151] Nurses allegedly followed "standing orders"—scripted procedures—regardless of an individual patient's condition.[152]

These standing orders allegedly required that "certain tests always be run on pregnant patients, without any medical evaluation and regardless of her condition."[153] For example, the 2013 DOJ complaint stated:

> [N]o matter what symptoms the patient may be exhibiting, ICH performs an OB ultrasound on every pregnant patient, without consulting [Dr. Amin] or obtaining his or any other doctor's medical opinion for that particular patient. . . . Dr. Amin's standing order for ultrasounds on his patients constitutes a pattern of medical services that he, ICH, and the on-call doctors know or should know are not medically necessary.[154]

The complaint further alleged that Dr. Amin and other physicians allegedly engaged in a kickback scheme and directed patients to ICH despite the availability of a closer hospital.[155]

In April 2015, the defendants reached a civil settlement and agreed to pay $520,000 to resolve the allegations without a determination of liability.[156] In announcing the settlement, DOJ noted that it "marks the end of an investigation into alleged violations of the Federal Anti-Kickback Statute, the Federal Stark Law, and related Georgia Medicaid policies."[157]

In October 2015, ICH replaced MGA with a different management company—ER Hospital LLC; however, Dr. Amin remained on the medical staff at the hospital, as the Medical Director.[158] Along with the civil settlement, ICH entered into a five-year Corporate Integrity

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[150] The other named physician defendants included: Ashfaq Saiyed, M.D.; Romana Bairan, M.D.; Arturo Ruanto, M.D.; Concordio Ursal, M.D.; Drew Howard, M.D.; Steve Anderson, M.D.; Robert Reese M.D.; and Marshall Tanner, M.D. Complaint (July 8, 2013), *United States v. Hospital Authority of Irwin County*, M.D. Ga. (No. 7:13-cv-00097-HL).
[151] *Id.*
[152] *Id.*
[153] *Id.*
[154] *Id.*
[155] *Id.*
[156] The United States of America's Filing of Settlement Agreement (July 8, 2013), *United States v. Hospital Authority of Irwin County*, M.D. Ga. (No. 7:13-cv-00097-HL); U.S. Department of Justice, U.S. Attorney's Office Middle District of Georgia, *Hospital Authority of Irwin County Resolves False Claims Act Investigation for $520,000* (Apr. 29, 2015) (www.justice.gov/usao-mdga/pr/hospital-authority-irwin-county-resolves-false-claims-act-investigation-520000).
[157] U.S. Department of Justice, U.S. Attorney's Office Middle District of Georgia, *Hospital Authority of Irwin County Resolves False Claims Act Investigation for $520,000* (Apr. 29, 2015) (www.justice.gov/usao-mdga/pr/hospital-authority-irwin-county-resolves-false-claims-act-investigation-520000).
[158] Irwin County Hospital, *2018 Annual Hospital Questionnaire* (Feb. 28, 2019) (www.irwincntyhospital.com/fileadmin/Files/Irwin/Transparency_Documents/HTR-Annual-Hospital-Questionnaire.pdf).

Agreement ("CIA") with the HHS OIG that became effective in January 2015.[159] The CIA required ICH to establish and maintain a compliance program that included a compliance officer and committee, develop and implement a code of conduct setting forth its "commitment to full compliance with all Federal healthcare program requirements," develop and implement written policies and procedures related to the operations of the hospital's compliance program, and provide training to staff regarding the compliance program and code of conduct.[160] Counsel for ICH told the Subcommittee that ICH followed all recommendations in the CIA, and both HHS OIG and an Independent Review Organization that HHS OIG approved and reviewed this implementation, as well as monitoring and reporting by ICH.[161]

As of early 2022, Dr. Amin was under active criminal investigation by multiple federal agencies.[162] In addition, the DHS OIG is currently examining two other matters that relate to the issues PSI investigated. First, the DHS OIG Office of Investigations is reviewing the gynecological procedure approval process for ICDC detainees who underwent treatment by Dr. Amin.[163] Second, the DHS OIG is conducting an audit of all surgical procedure authorizations and approvals across all ICE detention centers.[164]

B. Key Processes for Medical Treatment of ICDC Detainees

i. ICDC Sick Call Process

According to LaSalle's medical care policy, "[i]t is the policy of LaSalle Corrections to ensure a sick call procedure that allows detainees the unrestricted opportunity to freely request medical, mental health and dental services that are provided by a physician or other qualified medical staff in a clinical setting."[165] To request routine medical assistance, detainees filled out a Health Services Request Form located in each residential housing unit or in the ICDC medical unit and submitted these forms at designated "Sick Call" boxes.[166] Alternatively, detainees could complete an electronic request form on tablet computers available in each dormitory.[167] The timeframe for the medical unit to respond to a request was 24 to 48 hours, and appointments for

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[159] Production from Irwin County Hospital to the Senate Permanent Subcommittee on Investigations, *Corporate Integrity Agreement between the Office of Inspector General of the U.S. Department of Health and Human Services and Hospital Authority of Irwin County* (Aug. 5, 2021).
[160] *Id.*
[161] Email from Counsel for Irwin County Hospital to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[162] Letter from Counsel for Dr. Amin to the Senate Permanent Subcommittee on Investigations (Feb. 21, 2022). PSI is unaware of the current status of these investigations.
[163] U.S. Department of Homeland Security, Office of Inspector General, *Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center* (OIG-22-14) (Jan. 3, 2022) (https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf).
[164] *Id.*
[165] LaSalle_011126.
[166] LaSalle_011127; LaSalle_014225-26; LaSalle_014246-47.
[167] Amber Hughes Strout, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 22, 2021). Nurse Hughes Strout worked as a sick call nurse at ICDC from 2016 to April 2021.

detainees were typically scheduled within one week of their request.[168] The detainee would either see a nurse practitioner or physician assistant for basic needs or the facility's medical director Dr. McMahan for more involved medical questions.[169] If the facility lacked the capabilities to treat ICE detainees in house, ICDC would refer them to IHSC-approved off-site providers.[170]

ii. ICE Surgical Approval Process

The IHSC RCD reviews requests for routine, nonemergency surgery for detainees by off-site providers.[171] According to ICE, detainee patients are first evaluated in the facility medical unit by the facility clinician.[172] (See Figure 3.) If the facility clinician believes a detainee patient's medical condition warrants a referral to an off-site specialist, the facility submits a Medical Payment Authorization Request ("MedPAR"). The FMC reviews and approves the MedPAR for the initial consult. If the off-site provider recommends surgery, the facility will submit a MedPAR for the surgery. The FMC will review the surgery request and forward the request to the RCD for review. The RCD will review the documentation accompanying the surgery request and use their clinical judgment to approve or deny the surgery via email. The facility is required to submit the approved MedPAR with the referral authorization number to the off-site provider for reimbursement.[173]

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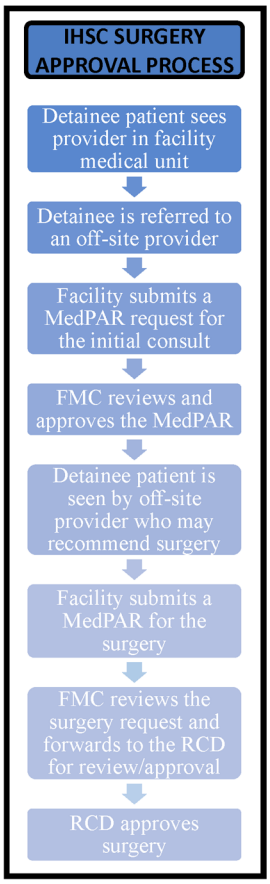
[168] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); Amber Hughes Strout, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 22, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).
[169] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021).
[170] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).
[171] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[172] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01255); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations, *Summary Report: Irwin County Detention Center-Employee Allegations & Media Response* (Sept. 27, 2021) (Tranche 10, 3037-42).
[173] *Id.*; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 7, 2022) (Tranche 3, 00947, 00983).

Figure 3: IHSC Surgery Approval Process[174]



[174] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01255); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations, *Summary Report: Irwin County Detention Center-Employee Allegations & Media Response* (Sept. 27, 2021) (Tranche 10, 3037-42).

Along with the referral, RCDs may review laboratory and imaging reports and the off-site provider's examination notes.[175] When additional information or documentation is needed to aid in the RCD's determination of the referral, RCDs will contact the FMCs who will then ask the off-site provider for that information.[176] RCDs will make decisions regarding surgical requests based on the needs of the patient and clinical practice guidelines.[177] IHSC officials noted to the Subcommittee that IHSC currently does not provide guidance to RCDs regarding requirements for approving referral requests.[178] In rare cases, an off-site provider can appeal if an RCD rejects a request due to lack of medical necessity, and a surgical request can be escalated to IHSC leadership.[179] RCDs are also responsible for identifying unusually frequent referrals to a certain provider or insufficient justifications for referrals.[180]

iii. ICDC Grievance Process

When ICDC detainees had issues related to their detention, including medical treatment, detainees were supposed to utilize LaSalle's grievance process. According to LaSalle policy, ICDC is responsible for providing "a grievance system that protects the detainee's rights and ensures they are treated fairly by providing procedures for them to file both informal and formal grievances, which will receive timely responses relating to any aspect of their detention, including medical care."[181] The policy defines a "grievance" as a "formal written complaint filed by a detainee related to any aspect of facility life or condition of detention that personally affects the detainee grievant."[182] To file a grievance, ICDC detainees filled out a paper grievance form or the electronic form on tablet computers.[183] ICDC's "grievance officer" then

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[175] An IHSC official told the Subcommittee that IHSC does not require specific documents to be submitted to RCDs with each referral. U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022). The Subcommittee reviewed emails between the ICDC FMC and the ICDC RCD regarding surgical requests and found that provider visit notes, documentation of prescribed medication, imaging reports, and lab results were generally forwarded to the RCD along with the surgical request. *See, e.g.*, Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Apr. 25, 2022) (Tranche 10, 01445-61); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Apr. 25, 2022) (Tranche 11, 01792-1806); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Apr. 25, 2022) (Tranche 13, 02645-56).

[176] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).

[177] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).

[178] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).

[179] *Id.*; U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).

[180] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).

[181] According to the policy, an informal grievance is an "oral or written complaint attempting to resolve an issue through an informal process. The issue may be resolved by staff at any level without complete processing of a formal grievance." LaSalle_011690.

[182] *Id.*

[183] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021); Shanise Bell, formerly of Irwin County Detention Center, Interview with Senate

processed and forwarded the grievances to the relevant department heads who would respond to the grievances.[184] For example, all medical grievances were referred to the HSA.[185] According to former HSA Lakeysa Brown, the medical unit responded to medical grievances within 72 hours.[186] ICDC addressed non-medical grievances typically within 5 to 15 days.[187] After a grievance was investigated and addressed, it was logged and stored by the facility.[188]

Specifically for medical grievances, the HSA investigated each grievance.[189] According to former HSA Brown, the investigative process generally involved calling the detainee to the medical unit.[190] For example, regarding a grievance related to medication, the detainee's chart would be reviewed to see if the medication was ordered and the detainee would be called to the medical unit for a "face-to-face encounter" to resolve the issue.[191] If the issue was resolved, the resolution and date of the resolution was noted in a grievance log, and no further response was required. If a detainee was not satisfied with the resolution, the detainee could pursue the formal grievance process or appeal to the grievance board, which was composed of the Warden, Deputy Warden, and one other facility official.[192] Detainees were also able to submit grievances related to off-site providers through this grievance process, and the HSA would "explore" the complaint.[193]

C. Key Medical Procedures and Treatments

The report will discuss the following medical procedures and treatments:

- Colposcopy: A colposcopy used to examine the cervix, vagina, and vulva for signs of disease. The procedure is recommended after an abnormal Pap test result. During the

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Permanent Subcommittee on Investigations (Oct. 13, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[184] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021).

[185] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021).

[186] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[187] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021).

[188] *Id.*; Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021); Shanise Bell, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Oct. 13, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[189] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[190] *Id.*

[191] *Id.*

[192] *Id.*; David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021).

[193] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

procedure, a colposcopy—a magnifying instrument—is used to identify any suspicious cells. A small sample of tissue may be collected if suspicious cells are identified.[194]

- Depo-Provera: Depo-Provera is an injection that contains the hormone progestin and is typically administered every three months to prevent pregnancy and manage issues related to the menstrual cycle.[195]

- Dilation & Curettage ("D&C"): A D&C procedure removes tissue from inside the uterus. During this procedure, a provider will dilate the cervix and then use a surgical instrument called a curette (a sharp instrument or suction device) to remove uterine tissue.[196]

- Laparoscopy: A laparoscopy may be used to obtain a small tissue sample for testing or even remove organs like the appendix or gallbladder, and it is generally performed under anesthesia.[197]

- Loop Electrosurgical Excision Procedure ("LEEP"): A LEEP is a procedure in which a heated, electric wire is used to remove cells and tissues in the cervix and vagina.[198]

- Pap smear: A Pap smear or Pap test is a procedure used to test for cervical cancer. A Pap test requires a provider to insert an instrument called a speculum into the vagina to take a tissue sample from the cervix using a soft brush and scraping device known as a spatula.[199]

III. FORMER DETAINEES AND EMPLOYEES AS WELL AS FEDERAL ENTITIES HAVE ALLEGED SUBSTANDARD CARE AT ICDC

ICDC detainees, former ICDC medical unit employees, and federal entities have alleged substandard medical care at ICDC. The Subcommittee reviewed more than 700 grievances submitted by ICDC detainees. The grievances reviewed by Subcommittee staff included complaints regarding delays in medical care and lack of quality medical care. During a visit by Subcommittee staff to ICDC in August 2021, multiple detainees raised concerns regarding long wait times for medical care and issues obtaining translation services and medical test results. The Subcommittee also conducted interviews with eight former ICDC detainees who expressed

[194] Mayo Clinic, *Colposcopy* (https://www.mayoclinic.org/tests-procedures/colposcopy/about/pac-20385036) (accessed Nov. 13, 2022).
[195] Mayo Clinic, *Depo-Provera (Contraceptive Injection)* (www.mayoclinic.org/tests-procedures/depo-provera/about/pac-20392204) (accessed Nov. 13, 2022).
[196] Mayo Clinic, *Dilation and Curettage (D&C)* (www.mayoclinic.org/tests-procedures/dilation-and-curettage/about/pac-20384910) (accessed Nov. 13, 2022).
[197] Johns Hopkins Medicine, *Laparoscopy* (www.hopkinsmedicine.org/health/treatment-tests-and-therapies/laparoscopy) (accessed Nov. 13, 2022).
[198] John Hopkins Medicine, *Loop Electrosurgical Excision Procedure (LEEP)* (www.hopkinsmedicine.org/health/treatment-tests-and-therapies/loop-electrosurgical-excision-procedure-leep) (accessed Nov. 13, 2022).
[199] Mayo Clinic, *Pap Smear* (www.mayoclinic.org/tests-procedures/pap-smear/about/pac-20394841) (accessed Nov. 13, 2022).

concerns regarding medical treatment at the facility and referrals to off-site providers. PSI could not verify all of these allegations.

The Subcommittee also heard concerns from three former ICDC nurses who collectively worked at the facility from 2016 to 2020. The three nurses shared concerns regarding unsanitary medical unit conditions, delays in medical care, record keeping issues, and inconsistent use of language translation services.

Internal DHS entities—ICE ODO and DHS CRCL—have identified numerous and repeat deficiencies at ICDC over the past few years. Since 2017, at least three ODO inspections of ICDC documented violations of safety and health standards, including medical standards, at ICDC. CRCL inspections of ICDC conducted within the past ten years found ICDC detainees failed to receive appropriate or timely medical care, identified poor medical unit conditions at ICDC, and found medical records were mishandled. In addition, a recent DHS OIG report on medical care provided by ICDC found that ICDC generally met ICE detention standards but identified areas for improvement. The OIG report did not review the gynecological procedure approval process or the surgical approval process for detainees at ICDC. It is currently engaged in a separate investigation reviewing those matters.

A. Former Detainees Have Alleged Deficiencies Related to ICDC Healthcare

ICDC medical staff dealt with a large number of medical complaints from detainees on a regular basis. These complaints ranged from cosmetic issues like dandruff and dry skin to more serious medical and mental health conditions.[200]

When detainees were not satisfied with the services they received from the medical unit, they submitted grievances to be addressed by ICDC leadership. The Subcommittee reviewed more than 650 medical grievances. The grievances reviewed included complaints regarding delays in medical care and lack of quality medical care. Detainees detailed not receiving requested medical care for severe stomach pain, severe intestinal pain, blood in urine, and mouth pain and bleeding.[201] One detainee grievance described being in pain for two months and not receiving a requested tooth extraction.[202] In addition, there were allegations of not receiving prescribed medications and waiting weeks for required medical care. One detainee stated that

[200] *See, e.g.*, LaSalle_167885-88, LaSalle_216450, LaSalle_216456 (sick calls for dandruff); LaSalle_232939-40, LaSalle_232942 (sick calls for dry skin and dry scalp); LaSalle_177638-41 (mental health sick call for depression); LaSalle_281516-19 (sick call for pain related to a hernia).

[201] Records indicate that for the detainee asking for "urgent help" due to stomach pain, the detainee had submitted a medical request one week before and received no response. The detainee filed this grievance, and ICDC staff responded to the detainee's grievance within six days stating that the detainee had been placed "on the list to be evaluated by the sick call nurse." LaSalle_002597. Records indicate that the detainee who detailed intestinal pain was seen for the issue three days after submitting the grievance. LaSalle_002831. Records indicate that the detainee who complained of urinary pain was seen for the issue within four days of submitting the grievance. LaSalle_003150. Records indicate that the detainee who complained of experiencing "severe mouth pain including bleeding" felt that "medical isn't providing care." The Warden spoke with the medical unit for the detainee and an off-site appointment was scheduled. LaSalle_000349.

[202] Records indicate that within an hour of the grievance submission, ICDC staff responded, "[y]ou have an upcoming appointment with the dentist." LaSalle_002659.

the facility failed to provide their diabetes medicine and as a result they started experiencing blurry vision due to elevated sugar levels.[203] Records obtained by the Subcommittee indicate that medical unit staff responded three days after the detainee's initial complaint.[204] Other detainees with chronic conditions, such as seizures, asthma, high blood pressure, and anemia, alleged in grievances that they were forced to wait days and weeks for their prescriptions.[205] Records reviewed by the Subcommittee, however, showed that medical unit staff generally responded to these grievances with 24 to 48 hours.[206] Another detainee said that he had submitted requests for a toothache, but ICDC staff never responded, and the pain ultimately stopped because the tooth fell out.[207] The Subcommittee could not verify the accuracy of this detainee's claims.

In an interview with Subcommittee staff, ICDC detainees also complained about slow or non-existent translation services at ICDC. For example, one detainee stated that he had repeatedly asked to go to the medical unit, and once he did arrive, it took one and a half hours to reach a translator on the language line.[208] The Subcommittee's document review revealed widespread and common use of translation services at ICDC. Documents show ICDC medical unit staff completed a "communication assessment" at intake to determine whether the detainee spoke English and made such notes in their medical files.[209] If a detainee did not speak English, the medical file included a note indicating which language the detainee spoke and a code for the interpretation services provided.[210] Other records identify the use of translation services when assessing sick call requests.[211] In addition, during a Subcommittee staff visit to ICDC in August

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[203] LaSalle_002652.

[204] Records indicate that ICDC staff responded three days later stating that staff would contact the detainee's previous detention center again to request records and obtain medication names and dosages. *Id.*

[205] Records indicate that a detainee who suffered from chronic seizures had not received their third dose of seizure medications for a few days. The ICDC HSA responded two days later stating that the pill cart nurses had been instructed to administer the detainee's medication three times daily and stated, "I can assure you that this matter will not occur again." LaSalle_000187. Records indicate that a detainee with asthma complained of waiting more than one month for an inhaler. An inhaler was ordered for the detainee one day after the grievance was filed. LaSalle_002668. Records indicate that a detainee with high blood pressure complained of not receiving medication for two days and that "every other day a nurse will not find my blood pressure [medications]." The ICDC medical unit staff responded to the complaint and changed the status of the grievance from "open" to "closed" two days after the grievance was filed. LaSalle_002598. Records indicate a detainee with anemia had not received iron supplements for two weeks despite multiple requests. ICDC medical unit responded to the detainee by stating they did not see the detainee's "multiple medical requests," and placed the detainee "on the [nurse practitioner] list" the day after the grievance was submitted. LaSalle_002600.

[206] Records indicate that ICDC medical staff generally responded to these grievances within one to two days after the grievance was filed. LaSalle_000187; LaSalle_002668; LaSalle_002598; LaSalle_002600.

[207] Senate Permanent Subcommittee on Investigations Staff Visit to Irwin County Detention Center (Aug. 17, 2021) (memorandum on file with the Subcommittee).

[208] *Id.*

[209] *See*, *e.g.*, LaSalle_199415; LaSalle_386054; LaSalle_396725 (indicating these detainees were English speakers).

[210] *See*, *e.g.*, LaSalle_248643; LaSalle_350105 (indicating that these detainees spoke Spanish and were provided a Spanish interpreter). The codes appear to be different for each use of the interpreter.

[211] *See*, *e.g.*, LaSalle_315366 (identifying that an interpreter was used in a July 14, 2017 medical request to address complaints of abdominal pain and a need to refill pain medication); LaSalle_315368 (identifying that an interpreter was used in a July 5, 2017 medical request for medical records); LaSalle_315370 (indicating an interpreter was used in a January 7, 2017 medical request complaining of irregular bleeding).

2021, ICDC medical unit staff showed Subcommittee staff how they use translation services.[212] ICDC staff were able to quickly and easily obtain a translator for a language of their choosing over the phone.[213]

Several detainees also stated to Subcommittee staff that they never received test results after medical tests. For example, one detainee told staff that the medical unit took a blood and urine sample for his kidney issues; he had yet to receive results from these tests one month later.[214] Another detainee said he had experienced knee pain and received an off-site X-ray, but he never received the results.[215] He stated that he continued to experience pain in his knees, and submitted multiple medical requests, but he had not received a response.[216] Subcommittee staff did not review the medical records for these detainees. However, Subcommittee staff reviewed medical files for other detainees and found that they received their test results when requested.[217]

The Subcommittee conducted more extensive interviews with eight former ICDC detainees who expressed concerns regarding medical treatment at ICDC and referrals to off-site providers. Several detainees described instances where another detainee's medical records ended up in their own medical file.[218] One detainee said that at one point during her detainment at ICDC, she fell and fractured her left foot.[219] It then took approximately one month before ICDC staff transported her to an off-site provider.[220] During this appointment, she said that the provider stated to her that he was surprised ICDC did not bring her for treatment sooner.[221] The Subcommittee was unable to verify the specifics of each of these claims.

B. Former ICDC Employees Reported Disturbing Conditions to the Subcommittee

In interviews with the Subcommittee, three former LPNs who worked at ICDC collectively from 2016 to 2020 shared their concerns regarding unsanitary medical unit conditions, delays in medical care, record keeping issues, and inconsistent use of language translation services at the facility. These three individuals asked to remain anonymous. In interviews with the Subcommittee, the LPNs did not provide specific details or any corroborating evidence to support any of the alleged misconduct. The Subcommittee's review of hundreds of

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[212] Senate Permanent Subcommittee on Investigations Staff Visit to Irwin County Detention Center (Aug. 17, 2021) (memorandum on file with the Subcommittee).
[213] *Id.*
[214] *Id.*
[215] *Id.*
[216] *Id.*
[217] For example, one detainee filed a sick call request on September 9, 2020 requesting test results and complaining of skin irritation and pain in her ovaries (LaSalle_177857-61). She was seen for all three requests at the medical unit on September 10, 2020 where she also requested her medical records at the same visit (LaSalle_177863-65). The detainee received her medical records on September 21, 2020 (LaSalle_177869). The detainee requested all of her ICDC medical records on December 7, 2020 (LaSalle_178320). She signed an acknowledgment that she received her ICDC medical records on December 10, 2020 (LaSalle_178329).
[218] N.A., Interview with Senate Permanent Subcommittee on Investigations (June 23, 2021); A.K., Interview with Senate Permanent Subcommittee on Investigations (June 23, 2021).
[219] A.K., Interview with Senate Permanent Subcommittee on Investigations (June 23, 2021).
[220] *Id.*
[221] *Id.*

thousands of pages of records from LaSalle did not identify instances corroborating these allegations. The Subcommittee makes no determination on the veracity of any of the LPNs' allegations.

LPN #1 described the ICDC medical unit conditions as "filthy."[222] They stated that the floors and examination tables were always dirty and they had to wipe down surfaces when they arrived to work.[223] They noted that staff members were responsible for bringing their own cleaning supplies, even during the COVID-19 pandemic.[224] When asked how the sanitary conditions at ICDC compared to previous places of employment, LPN #2 described ICDC as "the least clean of any place I have worked in."[225] LPN #3 stated that the conditions at ICDC were "terrible" and the building needed a lot of work.[226] In addition, LPN #1 stated that prior to ICE audits of the medical unit, the ICDC medical staff "scrambled" to get the unit in order, and according to LPN #3, medical unit staff would "shuffle things around" before ICE officials visited the unit.[227]

LPN #1 also alleged to the Subcommittee that detainee requests for medical attention were not addressed in a timely manner, and detainees often had to submit multiple requests before being seen.[228] LPN #1 recalled one detainee who submitted 14 medical requests, but did not provide the name of the detainee to allow the Subcommittee to verify the accuracy of this claim.[229] LPN #1 also stated that in some cases, detainees were not even seen by ICDC medical staff, however she did not raise this issue with her supervisors and did not provide specific cases to support this claim.[230] According to records reviewed by the Subcommittee, detainees generally received care within a few days after submitting requests, and ICDC medical staff responded to most requests within days.[231]

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[222] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021).
[223] *Id.*
[224] *Id.*
[225] LPN #2, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 12, 2021).
[226] LPN #3, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 19, 2021).
[227] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021); LPN #3, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 19, 2021).
[228] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021).
[229] *Id.* The Subcommittee was unable to identify the individual referenced in this statement and thus could not verify this claim.
[230] *Id.*
[231] For example, one detainee filed a sick call request on September 9, 2020 requesting test results and complaining of skin irritation and pain in her ovaries (LaSalle_177857-61). She was seen for all three requests at the medical unit on September 10, 2020. (LaSalle_177863-65). This detainee was added to the sick call list within 24 hours of submitting a complaint for irregular bleeding on November 24, 2020 (LaSalle_178294) and for general pain on December 23, 2020 (LaSalle_178607) and was seen within two days for a December 28, 2020 sick call complaining of blood in her stool (LaSalle_178635; LaSalle_178642).

LPN #2 stated that ICDC medical staff, "when possible," tried to see detainees within 24 hours after submission of a medical request, but sometimes it was not possible when the medical unit was short-staffed.[232] In addition, if the ICDC nurse responsible for triaging sick call requests was absent over the weekend, detainees had to wait until Monday to be seen.[233]

Regarding record keeping inside the medical unit, LPN #1 stated, without providing specifics, that they saw some medical requests "tucked away" and "underneath a box."[234] LPN #1 told the Subcommittee that when they showed these requests to a fellow nurse, the nurse responded that it "happens all the time."[235] LPN #3 told the Subcommittee, without providing specific examples, that if a detainee submitted multiple requests, some medical unit staff would say, "we have already seen them for that" and "get rid" of the sick call request.[236]

LPN #1 alleged that medical unit staff had fabricated vital signs.[237] Specifically, LPN #1 alleged the shift nurses would fabricate vital signs for patients in medical isolation and make little changes to previous vitals taken.[238] Instead of taking vital signs, LPN #1 alleged ICDC medical staff were "busy surfing the internet."[239] LPN #1 provided no names of detainees or cases to support this allegation. In interviews with the Subcommittee, ICDC Medical Director Dr. McMahan, former ICDC HSA Brown, and former ICDC DON Shanise Bell denied these events occurred.[240] The Subcommittee identified no evidence of fabrication of vital signs or document destruction.

The former LPNs also told the Subcommittee about instances in which the medical unit did not use language translation services. For example, LPN #1 told the Subcommittee that one time when a detainee needed blood drawn, another nurse did not bother to call a translation provider and instead made another detainee waiting to be seen by medical staff translate for the patient.[241] The LPN did not tell the Subcommittee the name of the nurse or detainee to allow for verification. LPN #3 told the Subcommittee that if medical unit staff had "piles of intake,"

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[232] LPN #2, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 12, 2021).
[233] *Id.* LPN #3 also stated that detainees who would place a sick call request on Saturdays and Sundays would not be seen until Monday because sick call nurses would not work on the weekends. LPN #3, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 19, 2021).
[234] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021).
[235] *Id.* LPN #1 also alleged that a "stack" of grievances against a certain nurse were destroyed and "nothing was done." *Id.*
[236] LPN #3, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 19, 2021).
[237] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021).
[238] *Id.*
[239] *Id.*
[240] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); Shanise Bell, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Oct. 13, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).
[241] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021).

translation services might not have been used.[242] LPN #3 also noted that staff could not use translation services when internet or phone services were down at the facility.[243] The Subcommittee's document review, however, indicated widespread use of translation services both at intake and during sick call requests.[244]

C. Internal DHS Entities Have Identified Numerous and Repeat Deficiencies at ICDC

ICE ODO has completed at least three compliance inspections of ICDC dating back to 2017. In these inspections, ODO documented violations of safety and health standards, including medical standards, at ICDC. ODO identified several medical deficiencies as repeat deficiencies and "priority components" for mitigation.

In 2017, ODO found that intake screening forms were inconsistently reviewed and the mental health, medical history, and medication sections of intake forms were incomplete or left blank.[245] ODO further noted that of the 35 medical records it reviewed, three detainees had not received health appraisals or dental screenings at all and two more detainees received their appraisals and screenings outside of the required 14-day timeframe.[246] ODO identified both of the intake-related deficiencies as a "priority component and repeat deficiency."[247] ODO also found a lack of documentation showing that ICDC medical staff had completed required training.[248] In reviewing medical records, ODO discovered that the materials "were not organized in a uniform or orderly manner, and many documents were awaiting filing at the time of inspection."[249] Finally, ODO found syringes and needles in examination rooms that were "neither secured nor inventoried."[250] Overall, the inspection examined 15 ICE detention standards and found 26 deficiencies in 10 standards, which included nine "medical care" deficiencies, a number of which were repeat deficiencies.[251]

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[242] LPN #3, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 19, 2021).
[243] *Id.*
[244] *See, e.g.*, LaSalle_248643, LaSalle_350105 (indicating that these detainees spoke Spanish and were provided a Spanish interpreter at intake); *see also, e.g.*, LaSalle_315366 (identifying that an interpreter was used on a July 14, 2017 medical request to address complaints of abdominal pain and a need to refill pain medication); LaSalle_315368 (identifying that an interpreter was used on July 5, 2017 to receive a request for medical records); LaSalle_315370 (indicating an interpreter was used in a January 7, 2017 sick call request complaining of irregular bleeding).
[245] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Inspections and Detention Oversight Division, *Compliance Inspection for the Irwin County Detention Center Ocilla, Georgia* (Mar. 2017) (www.ice.gov/doclib/foia/odo-compliance-inspections/2017IrwinCountyGA.pdf).
[246] *Id.*
[247] According to ODO, "priority components" are "considered critical to facility security and the legal and civil rights of detainees." *Id.*
[248] *Id.*
[249] *Id.*
[250] *Id.*
[251] *Id.*

In March 2020, ODO found that patient examination tables in the ICDC medical units were "torn beyond repair, making cleaning and decontamination impossible."[252] In the medical department, "medical records were stored on the floor and across the desks throughout the area."[253] ODO noted that the medical storage issues were a "repeat deficiency."[254] In addition, ODO found that staff were not conducting regular medication room inventories and could not validate if requested peer reviews were conducted by an outside physician.[255] The ODO review found that ICDC was only in compliance with five of 18 ICE detention standards examined overall and documented 36 deficiencies, including three regarding "medical care."[256]

In December 2020, ODO reviewed medical records of 12 detainees relating to their initial physical examination and found that one out of the 12 medical files had not been "reviewed nor signed by the physician within 14-days of the detainee's arrival to assess the detainee's priority for treatment."[257] According to counsel for LaSalle, ODO identified these issues from numerous medical encounters ICDC facilitated in December 2020 and conducted 20 voluntary interviews with ICE detainees and a remote examination as part of its investigation.[258]

Over the past ten years, DHS CRCL has also conducted two on-site investigations of ICDC and noted deficiencies with the facility's provision of medical care. Two CRCL Expert Recommendation Memoranda from November 2012 and November 2016 indicate that CRCL

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[252] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Inspections and Detention Oversight Division, *Compliance Inspection for the Irwin County Detention Center Ocilla, Georgia* (Mar. 2020) (www.ice.gov/doclib/foia/odo-compliance-inspections/irwinCoDetCntr_OcillaGA_Mar3-5_2020.pdf).
[253] *Id.*
[254] *Id.*
[255] *Id.* According to the 2008 Performance-Based National Detention Standards, health authorities at detention centers must coordinate an external review of licensed medical professionals at their facilities every two years. *Id.* In interviews with the Subcommittee, LaSalle medical personnel stated that physicians outside of the ICDC medical unit conducted peer reviews on an annual basis and included chart reviews of patients of ICDC providers. Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).
[256] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Inspections and Detention Oversight Division, *Compliance Inspection for the Irwin County Detention Center Ocilla, Georgia* (Mar. 2020) (https://www.ice.gov/doclib/foia/odo-compliance-inspections/irwinCoDetCntr_OcillaGA_Mar3-5_2020.pdf).
[257] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, Inspections and Detention Oversight Division, *Compliance Inspection of the Irwin County Detention Center Ocilla, Georgia* (Dec. 2020) (www.ice.gov/doclib/foia/odo-compliance-inspections/irwinCoDetCntrOcillaGA_Dec14-17_2020.pdf). According to counsel for LaSalle, ICDC challenged or explained the two deficiencies in the December 2020 ODO report. Specifically, regarding the physician sign-off deficiency, counsel for LaSalle explained that a local policy allowed for a licensed nurse practitioner to sign off on initial health assessments; the one medical file missing a physician sign-off had a signature from a nurse practitioner. Regarding the lack of consent forms for psychotropic medications, ICDC staff maintained these forms in its files and submitted them to ODO on March 24, 2021. Counsel for LaSalle, Briefing with Senate Permanent Subcommittee on Investigations (May 19, 2021).
[258] Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021). ODO did not issue any corrective action as a result of this review. Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

conducted site visits to ICDC due to complaints it received regarding the facility.[259] The November 2012 memorandum detailed findings from a medical expert concerning circumstances in which ICDC detainees failed to receive appropriate or timely medical care.[260] The medical expert noted instances in which staff inappropriately handled medication, failed to process laboratory orders correctly, and elected to prescribe medication for serious conditions instead of alerting the medical director immediately—actions that could have resulted in serious injury to detainees.[261] In one case, staff allegedly never ordered medication for a detainee who suffered from chronic seizures; in several other cases, detainees waited multiple days for medical attention for acute conditions.[262] After reviewing 11 randomly-selected medical records, the expert concluded that five files showed unacceptable response times to sick call requests.[263] Another review of eight complaints from detainees concluded that four detainees had received inappropriate medical care.[264]

A second CRCL memorandum from November 2016—while generally describing medical care at ICDC as "good"—identified issues with medication distribution, medical records maintenance, and nurse staffing.[265] The medical expert for this review concluded that medication was not consistently available to detainees at ICDC and specifically identified an incident in which medication was allegedly prescribed—but never administered—to a detainee with a serious cancer condition.[266] The expert also identified two intake healthcare appraisals out of a set of 13 randomly-selected files that failed to meet appropriate standards and noted that ICDC medical records were not easily navigable.[267]

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[259] According to the November 2012 memorandum, CRCL received three complaints from December 2011 to April 2012 and a report by the American Civil Liberties Union of Georgia "regarding concerns related to conditions of detention at ICDC. Following a review of these complaints, CRCL decided to conduct a site review of ICDC to review medical care and overall correctional policies." Similarly, the November 2016 memorandum indicated that CRCL conducted a site visit to ICDC following "numerous allegations alleging civil rights and civil liberties violations of persons being detained at ICDC" since 2015. The allegations related to medical and mental healthcare, use of force, food service, segregation, recreation, and the detainee grievance system. U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, *Redacted Irwin Rec & Close Memorandum from FY13 Expert Report Memorandum* (Nov. 5, 2012) (notes from document review on file with the Subcommittee); U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, *Redacted Irwin Rec & Close Memorandum Expert Report Memorandum* (Nov. 4, 2016) (notes from document review on file with the Subcommittee).

[260] U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, *Redacted Irwin Rec & Close Memorandum from FY13 Expert Report Memorandum* (Nov. 5, 2012) (notes from document review on file with the Subcommittee).

[261] *Id.*

[262] *Id.*

[263] *Id.*

[264] *Id.*

[265] U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, *Redacted Irwin Rec & Close Memorandum Expert Report Memorandum* (Nov. 4, 2016) (notes from document review on file with the Subcommittee).

[266] *Id.*

[267] *Id.*

D. The DHS OIG Found That ICDC Generally Met ICE Detention Standards for Healthcare but Identified Areas for Improvement

Following receipt of the September 2020 whistleblower complaint, the DHS OIG opened an audit in October 2020 to evaluate whether "ICDC provided detainees adequate medical care and adhered to COVID-19 protections."[268] According to the audit report that was released in January 2022, the OIG determined that ICDC "generally met [ICE] detention standards, which specify that detainees have access to appropriate and necessary medical, dental, and mental health care."[269] However, the OIG noted that the evaluation of ICDC's medical processes revealed that the facility's chronic care, continuity of care, and medical policies and procedures were inadequate. Further, the OIG identified seven other areas of concern within the ICDC medical unit.[270]

The OIG noted that its inspection did not review the gynecological procedure approval process for detainees at ICDC. That investigation has been referred to the OIG's Office of Investigations due to the potential criminal nature of the investigation and remains ongoing.[271] In addition, the OIG has initiated a separate audit that will focus on how surgical procedures are authorized and approved for detainees across the ICE system.[272]

i. The DHS OIG Found That ICDC Medical Care Generally Met Standards but Improvements Are Necessary

For the audit, the OIG utilized a contract medical team from the National Commission on Correctional Health Care ("NCCHC") to review medical records of ICDC detainees.[273] The NCCHC medical team was comprised of one physician and two registered nurses. The team reviewed 200 detainee records, including records for detainees held at ICDC for 180 days or longer between the fiscal years 2017 and 2020.[274] These chart reviews occurred in conjunction with a virtual site visit that occurred in February 2021.[275]

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[268] U.S. Department of Homeland Security, Office of Inspector General, *Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center* (OIG-22-14) (Jan. 3, 2022) (https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf).
[269] *Id.*
[270] Those seven areas of concern include: health assessments, medication administration, sick call, health records, program administration, emergency care, and women's health. *Id.*
[271] *Id.*
[272] *Id.*
[273] *Id.*
[274] The medical chart reviews included 195 randomly selected records for detainees at ICDC for 180 days or longer between FY 2017 and FY 2020, including 118 male detainee records and 77 female detainee records. The team reviewed an additional five records based on concerns detainees raised with OIG staff during interviews. The nursing staff reviewed 158 records, "focusing on completeness, timeliness, and proper actions," while the physician reviewed the charts of 37 detainees with chronic illnesses. *Id.*; U.S. Department of Homeland Security, Office of Inspector General, Briefing with Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[275] *Id.*

The OIG "determined that ICDC adhered to the ICE 2011 PBNDS, which specify that detainees have access to appropriate and necessary medical, dental, and mental health care."[276] The OIG's contract medical team "assessed the adequacy of medical processes and policies and the appropriateness of any actions taken to address medical concerns."[277] Of the 36 medical processes the NCCHC medical team evaluated, the team determined three—chronic care, continuity of care, and policies and procedures—were inadequate.[278]

The NCCHC medical team determined that the care ICDC provided for specific chronic conditions "such as hypertension, hyperlipidemia, diabetes, asthma, and menstrual disorders, appeared adequate, but that the chronic care program itself was inadequate."[279] For this review, the NCCHC physician reviewed medical files for 37 ICDC detainees with chronic conditions.[280] The physician identified issues in chronic care management in 15 of the medical files.[281] These issues included inconsistent guidelines for chronic care; lack of monitoring and documenting the current status of detainees with chronic conditions; and issues with the interpretation, documentation, and sharing of lab information with detainees.[282]

The NCCHC physician identified issues with ICDC's continuity of care process in 12 of the 37 detainee medical files reviewed.[283] These issues included "multiple medical files missing care plans, records without planned chronic care visits, missing laboratory results, and improper medications."[284] The team also identified inconsistent medical record keeping including unexplained orders, grievance responses, improper referrals, and timeliness concerns.[285]

ii. The OIG Identified Seven Other Areas of Concern About ICDC Medical Care

The OIG identified seven additional areas of concern in the ICDC medical unit: (1) health assessments, (2) medication administration, (3) sick call, (4) health records, (5) program administration, (6) emergency care, and (7) women's health.[286] A number of the OIG's findings mirror similar allegations the Subcommittee reviewed during its investigation.

With respect to health assessments, the NCCHC medical team concluded that in general, "ICDC's compliance with standards [for medical intake screening] was adequate, but there is room for improvement."[287] Of the 195 detainee intake records reviewed, the NCCHC team found that medical care at intake was "timely and complete," and that three records showed

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[276] *Id.*
[277] *Id.*
[278] *Id.*
[279] *Id.*
[280] *Id.*
[281] *Id.*
[282] *Id.*
[283] *Id.*
[284] *Id.*
[285] *Id.*
[286] *Id.*
[287] *Id.*

"minor issues that were not reflections of an inefficient intake program."[288] The OIG noted, however, that seven records indicated an initial health screening occurred after the required 14-day timeframe, and 15 records lacked health assessment documentation altogether.[289]

The medical contractors concluded that the ICDC medication management process was ultimately "adequate," but that there were "some issues in medication administration."[290] The NCCHC medical team found that it was "almost impossible to provide an accurate assessment of medication administration practices based on the documentation provided in the health record."[291] In order to determine the adequacy of the medication administration procedures at ICDC, the contract medical team needed documents, such as the original order and documentation of the first dose, that were not in the health records of the detainees they reviewed.[292] The NCCHC medical team also found additional concerns with records management of chronic care patients that refused to take prescribed medications.[293]

The NCCHC medical team reviewed 195 health records with 236 sick call visits and determined that the care provided during 8 of the 236 visits could have been "more appropriate."[294] The contract team identified additional issues with nursing protocols that allow the ICDC "nursing staff to provide over-the-counter medications without checking the current medications the detainee is prescribed."[295] For example, the NCCHC medical team determined it was inappropriate that ICDC LPNs were allowed to prescribe ibuprofen to detainees while the detainee was already on another non-steroidal anti-inflammatory drug or were on orders to not be administered such medication.[296]

The NCCHC medical team also identified issues with health records management. The OIG noted that during the review, the medical team was "unable to determine if a Health Insurance Portability and Accountability Act (HIPAA) program was in place and properly applied" at ICDC.[297] The team requested evidence that ICDC staff had undergone HIPAA training, but ICDC did not provide any.[298]

With respect to program administration, the NCCHC medical team found that "ICDC's medical unit had not developed a continuous quality improvement program."[299] Such a program would improve detainee healthcare by "identifying problems, implementing and monitoring corrective action, and studying the improvement program's effectiveness."[300] The OIG

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[288] *Id.*
[289] *Id.*
[290] *Id.*
[291] *Id.*
[292] *Id.*
[293] *Id.*
[294] *Id.*
[295] *Id.*
[296] *Id.*
[297] *Id.*
[298] *Id.*
[299] *Id.*
[300] *Id.*

explained that "ICDC did not provide documentation showing any organized approach to evaluate the delivery of health care services."[301]

The ICDC medical unit was "unable to provide emergency response drill documentation" to the NCCHC medical team.[302] With the missing documentation, it was "unclear whether drills were being conducted."[303] The OIG explained that the lack of emergency preparation could "hinder proper response to emergency situations at ICDC."[304]

Regarding women's health, the OIG's contract medical team concluded that, based on its medical records review, women's healthcare at ICDC was "appropriate."[305] The OIG noted, however, "off-site specialty provider care information was not consistently returned to the ICDC medical unit."[306]

IV. ALLEGED SERIOUS MEDICAL MISCONDUCT BY DR. MAHENDRA AMIN

In the September 2020 complaint to DHS OIG, DHS CRCL, the ICE Atlanta Field Office, and the ICDC Warden, a whistleblower alleged that Dr. Amin had performed a high volume of hysterectomies on female detainees at ICDC.[307] This allegation was not substantiated by the Subcommittee. In December 2020, several detainees filed a lawsuit against Dr. Amin, ICDC, ICE, and other parties alleging that Dr. Amin had subjected them to nonconsensual and unnecessary gynecological procedures as part of a broader pattern of medical abuse at ICDC.[308] This litigation is ongoing. Other complaints making similar allegations followed, including complaints to the Georgia Composite Medical Board.[309]

Ultimately, the Subcommittee's investigation found that Dr. Amin performed just two hysterectomies, one in 2017 and one in 2019, which ICE deemed to be medically necessary. However, the Subcommittee did find that Dr. Amin performed an unusually high number of other gynecological procedures on ICDC detainees.

As described in Section I, the Subcommittee discovered that Dr. Amin had also been the subject of similar allegations just seven years earlier. A 2013 DOJ complaint against Dr. Amin and other parties alleged that he and other physicians at ICH had maintained "standing orders" that required nurses to perform certain medical treatments on pregnant women regardless of their

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[301] *Id.*
[302] *Id.*
[303] *Id.*
[304] *Id.*
[305] *Id.*
[306] *Id.*
[307] Project South Complaint, *supra* note 1.
[308] Consolidated Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Declaratory and Injunctive Relief and for Damages (Dec. 21, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).
[309] Complaints for six ICDC detainee patients treated by Dr. Amin are on file with the Subcommittee.

condition and without an evaluation from a physician.[310] Dr. Amin and the other defendants reached a civil settlement with DOJ in 2015 without a determination of liability.[311]

In 2014—the year before his settlement with DOJ—Dr. Amin began providing OB-GYN services to detainees at ICDC.[312] The Subcommittee interviewed six of these detainees who described feeling confused, afraid, and violated after their encounters with Dr. Amin—and many of the women reported that they still live with pain and uncertainty regarding their fertility. Former nurses at ICDC also told the Subcommittee that they had observed confusion among detainee patients regarding the procedures they were scheduled to receive by Dr. Amin and why they were receiving them. The nurses also informed the Subcommittee that they observed excessive numbers of OB-GYN treatments by Dr. Amin.[313] Dr. Amin stopped treating female ICDC detainees after the whistleblower complaint was filed in September 2020.[314]

The Subcommittee also spoke with multiple experts in the OB-GYN field of medicine. These doctors reviewed medical records of former ICDC patients who were treated by Dr. Amin. Each expert raised significant concerns about the treatment Dr. Amin provided to ICDC detainees.

A. Former ICDC Detainees Have Raised Concerns About Conditions at ICDC and Alleged That Dr. Amin Performed Nonconsensual, Unnecessary, or Excessive OB-GYN Procedures

To assess the allegations in the complaints, the Subcommittee spoke directly with six of the women Dr. Amin treated: Karina Cisneros Preciado, Jaromy Floriano Navarro, Wendy Dowe, Maribel Castaneda-Reyes, Jane Doe #1, and Jane Doe #2. All of these women, except Jane Doe #2, appear as plaintiffs in the December 2020 lawsuit against the federal government and other parties.[315] Based on interviews with the women and reviews of their medical records, it appears that Dr. Amin deployed a specific pattern in examining and treating these women. Records and testimony indicate that Dr. Amin performed a vaginal ultrasound on all six women, diagnosed five of the women with ovarian cysts, and subsequently prescribed Depo-Provera

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[310] Complaint (July 8, 2013), *United States v. Hospital Authority of Irwin County*, M.D. Ga. (No. 7:13-cv-00097-HL).

[311] The United States of America's Filing of Settlement Agreement (July 8, 2013), *United States v. Hospital Authority of Irwin County*, M.D. Ga. (No. 7:13-cv-00097-HL); U.S. Department of Justice, U.S. Attorney's Office Middle District of Georgia, *Hospital Authority of Irwin County Resolves False Claims Act Investigation for $520,000* (Apr. 29, 2015) (www.justice.gov/usao-mdga/pr/hospital-authority-irwin-county-resolves-false-claims-act-investigation-520000).

[312] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.

[313] LPN #2, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 12, 2021); LPN #3, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 19, 2021).

[314] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Aug. 10, 2021) (Tranche 16, 10869). The same day, Dr. Amin sent a letter to a LaSalle employee stating that he had "decided to sever my ties with ICDC and will no longer be treating ICDC patients." Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Oct. 22, 2021) (Tranche 18, 11144).

[315] *See* Consolidated Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Declaratory and Injunctive Relief and for Damages (Dec. 21, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).

injections for each woman with the cyst diagnosis. Dr. Amin also appears to have recommended surgical procedures to four of the women, including a cyst removal, D&C, and a LEEP. One patient avoided undergoing a procedure from Dr. Amin because she tested positive for COVID-19 antibodies on the day of her scheduled surgery.[316]

i. Karina Cisneros Preciado

Ms. Cisneros Preciado—a 23-year-old mother and survivor of domestic abuse—was brought to the United States by her mother from Mexico in 2007 at the age of eight.[317] She was detained at ICDC from July 2020 to January 2021 following an arrest in Georgia for domestic violence against an abusive partner.[318] Shortly before her detainment at ICDC, she gave birth to her daughter, and she sought postpartum treatment while at ICDC.[319] Ms. Cisneros Preciado also experienced pain in her lower abdomen.[320] She was ultimately referred to Dr. Amin.

Ms. Cisneros Preciado recalled that at her first appointment on September 2, 2020, Dr. Amin did not acknowledge her when he came into the room.[321] She stated that instead of explaining the procedures he intended to perform, Dr. Amin simply told Ms. Cisneros Preciado to "open your legs."[322] She stated that the ICDC female guard who escorted her to the visit sat directly in front of her during this encounter, so she did not feel comfortable complying.[323] Once the guard moved and stood next to her, she complied, and Dr. Amin inserted a long white tube into her vagina.[324]

Ms. Cisneros Preciado explained that the ICDC nurse had told her that she would be getting a Pap smear at this visit; however, based on her previous treatments, Ms. Cisneros Preciado said that she knew this was a vaginal ultrasound and not a Pap smear.[325] Ms. Cisneros Preciado told Subcommittee staff that she became confused and extremely uncomfortable, but she did not feel that she had any choice about what occurred.[326]

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[316] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[317] Karina Cisneros Preciado, Interview with Senate Permanent Subcommittee on Investigations (Oct. 6, 2021).
[318] Ms. Cisneros Preciado told Subcommittee staff that she was actually the victim in the altercation that led to her arrest. Her charges have subsequently been dismissed. *Id.*; Email from Counsel for Ms. Cisneros Preciado to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[319] Karina Cisneros Preciado, Interview with Senate Permanent Subcommittee on Investigations (Oct. 6, 2021); LaSalle_177704 (August 11, 2020 medical request from Ms. Cisneros Preciado stating, "I would like to get [p]renatal[] [vitamins]. I had a baby a few months ago and I still need them.").
[320] LaSalle_177736 (August 17, 2020 sick call request from Ms. Cisneros Preciado stating, "I have pain in the lower part of my stomach. Like my ovaries."); *see also* LaSalle_177737-39.
[321] Karina Cisneros Preciado, Interview with Senate Permanent Subcommittee on Investigations (Oct. 6, 2021); LaSalle_178472-82.
[322] Karina Cisneros Preciado, Interview with Senate Permanent Subcommittee on Investigations (Oct. 6, 2021).
[323] *Id.*
[324] *Id.*
[325] *Id.*
[326] *Id.*

She said that Dr. Amin told her that she had an ovarian cyst and he planned to administer a Depo-Provera injection, but he never provided any other information about the injection.[327] According to Dr. Amin's notes from the visit, his treatment plan included prescribing a Depo-Provera injection and having Ms. Cisneros Preciado return for a follow-up visit in four weeks.[328]

Ms. Cisneros Preciado recalled shaking while dressing after this encounter ended.[329] After she dressed, the ICDC guard put handcuffs back on Ms. Cisneros Preciado, and Dr. Amin's nurse asked her to sign a form.[330] While Ms. Cisneros Preciado was handcuffed, a nurse administered the Depo-Provera injection.[331] Ms. Cisneros Preciado learned after the appointment that Depo-Provera was a form of contraception.[332] According to an ICDC medical unit provider's notes from September 26, 2020, Ms. Cisneros Preciado "got a Depo – states wasn't explained."[333]

Ms. Cisneros Preciado did not return to Dr. Amin for additional treatment because the allegations about him became public a few weeks later.[334] On October 5, 2020, Ms. Cisneros Preciado received a transvaginal ultrasound at ICH for "report [of an] ovarian cyst."[335] The imaging report states that the ultrasound showed "[t]he uterus is normal in its appearance" and found an "[u]nremarkable evaluation of the pelvis."[336]

Ms. Cisneros Preciado currently resides in Fort Lauderdale, Florida.

ii. Jaromy Floriano Navarro

Ms. Floriano Navarro—a 29-year-old mother of three daughters—was brought to the United States from Mexico when she was about eight years old by a family member, and was detained at ICDC from October 2019 to September 2020 following an arrest for traffic

[327] *Id.*
[328] LaSalle_178463; LaSalle_178465-67.
[329] Karina Cisneros Preciado, Interview with Senate Permanent Subcommittee on Investigations (Oct. 6, 2021).
[330] *Id.*
[331] *Id.*
[332] *Id.*
[333] LaSalle_178401.
[334] Karina Cisneros Preciado, Interview with Senate Permanent Subcommittee on Investigations (Oct. 6, 2021). According to medical records reviewed by the Subcommittee, Ms. Cisneros Preciado experienced irregular bleeding after the Depo-Provera injection and was referred to another OB-GYN provider in December 2020. The new OB-GYN provider prescribed oral Provera and Sprintec. LaSalle_178294; LaSalle_178295-97; LaSalle_178323; LaSalle_178354-64.
[335] LaSalle_178414-23.
[336] LaSalle_178223.

violations.[337] Ms. Floriano Navarro described ICDC to the Subcommittee as "living in Hell."[338] She said that the facility was dark and dirty, and detainees were treated like they were "less than human."[339] Ms. Floriano Navarro also stated that the drinking water in the facility was "nasty" and "always dirty."[340] She explained that detainees would often drink water from a rusty faucet, and rust would fall into the water.[341] Additionally, she stated that the conditions at ICDC terrified her because she believed she "could die in there and nobody is going to know how it happened."[342]

While at ICDC, Ms. Floriano Navarro complained of painful menstrual cramps for about five to six months before she was ultimately referred to Dr. Amin.[343] Prior to her appointment with Dr. Amin she had heard him referred to as "Mr. Two-Fingers" because "he would always just stick his two fingers inside of you."[344] When Ms. Floriano Navarro ultimately met with Dr. Amin for the first time on February 24, 2020, she thought he was "cold" and stated that he did not look her in the eyes or say hello but instead walked in and said "lay back, open your legs."[345] During this appointment, Dr. Amin performed a vaginal ultrasound, determined Ms. Floriano Navarro had an ovarian cyst, and administered a Depo-Provera injection.[346] Ms. Floriano Navarro stated that she was grateful that she understood English because otherwise she would not have known what was occurring.[347] Ms. Floriano Navarro recalled that no one asked her if she would be comfortable removing her clothes for an examination and stated that "no one ever got my consent."[348]

Ms. Floriano Navarro recalled that Dr. Amin did not explain anything in later appointments and did not look her in the eyes.[349] In a subsequent visit with Dr. Amin on May 26, 2020, Ms. Floriano Navarro was under the impression she was to receive her second Depo-

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[337] Ms. Floriano Navarro was arrested for possession of marijuana in 2013. Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); Declaration of Jaromy Jazmin Floriano Navarro (Nov. 18, 2020) (on file with the Subcommittee); Email from Counsel for Ms. Floriano Navarro to the Senate Permanent Subcommittee on Investigations (Nov.10, 2021); Email from Counsel for Ms. Floriano Navarro to the Senate Permanent Subcommittee on Investigations (Apr. 26, 2022); Email from Counsel for Ms. Floriano Navarro to the Senate Permanent Subcommittee on Investigations (Nov. 12, 2022).
[338] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[339] *Id.*
[340] *Id.*
[341] *Id.*
[342] *Id.*
[343] *Id.*; *see, e.g.,* LaSalle_334271 (January 15, 2020 sick call request from Ms. Floriano Navarro stating, "I'm experiencing severe back pain and cramps due to my period."); LaSalle_334412 (February 6, 2020 sick call request from Ms. Floriano Navarro complaining of "cramps").
[344] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[345] *Id.*; LaSalle_335998-336018.
[346] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); LaSalle_333620-21 (The impressions from the transvaginal ultrasound report included "[e]nlarged uterus. Thickened Endometrium. Follicular cysts on both ovaries."); LaSalle_333625.
[347] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[348] *Id.*
[349] *Id.*

Provera injection; however, this did not occur, and Dr. Amin prescribed antibiotics after she presented with right side pain, white discharge, and pain with urination.[350] According to ICDC nurse notes from a June 5, 2020 encounter, Ms. Floriano Navarro continued "having cramps in lower [abdomen] and [] was told by Dr. Amin that she needed to have cyst removed."[351] On June 29, 2020, Dr. Amin administered the second Depo-Provera injection.[352]

At a July 22, 2020 appointment, Dr. Amin informed Ms. Floriano Navarro that she would be receiving surgery for her cyst.[353] Ms. Floriano Navarro said that she did not understand why Dr. Amin decided on surgery rather than giving the Depo-Provera injections a chance to work.[354] On July 31, 2020, the day of her scheduled surgery for what she believed to be a cyst removal, Ms. Floriano Navarro stated that an ICDC guard informed Ms. Floriano Navarro that she was scheduled to receive a hysterectomy.[355] Ultimately, this surgery did not take place because Ms. Floriano Navarro tested positive for COVID-19 antibodies.[356] When Ms. Floriano Navarro returned to ICDC, she inquired about the potential hysterectomy.[357] Ms. Floriano Navarro stated that an ICDC nurse told her that the ICDC guard must have misheard the name of the treatment and that she was actually scheduled for a D&C procedure.[358]

Ms. Floriano Navarro's surgery was later rescheduled for August 14, 2020.[359] Before her surgery date, Ms. Floriano Navarro asked the ICDC medical unit whether her upcoming surgery was for a cyst drain procedure, to "remove [her] womb," or to remove an ovary.[360] According to ICDC nurse notes, Ms. Floriano Navarro presented to the ICDC medical unit the day before what she believed was her scheduled surgery date to remove a cyst and was "informed she is having a D&C scope which is a dilation of the uterus to look around and take samples as needed for testing."[361] However, Ms. Floriano Navarro still refused the surgery due to her confusion regarding which surgical procedure she would be undergoing.[362]

Ms. Floriano Navarro recalled feeling pressured by the ICDC medical unit to receive the surgery.[363] Additionally, she recalled one ICDC officer stating that she "might as well" have the

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[350] LaSalle_333435-44; LaSalle_333446; LaSalle_333450.
[351] LaSalle_334989-91.
[352] LaSalle_333616; LaSalle_333625.
[353] LaSalle_333602-15. According to Dr. Amin's request for a D&C and laparoscopy, Ms. Floriano Navarro "was seen back on Feb. 24, 2020 and was given Depo Provera injection. She follow[ed]-up a couple of times and more hormones were tried without a response. The plan is to schedule her for a D&C scope." Dr. Amin requested the outpatient surgery for July 31, 2020. LaSalle_333614.
[354] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[355] *Id.*
[356] *Id.*; ICH004869-4900; LaSalle_333646-55.
[357] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[358] *Id.*
[359] LaSalle_333700-10.
[360] LaSalle_333712.
[361] LaSalle_335569-71.
[362] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[363] *Id.*

surgery because it was "already paid for," and that she could go back to her home country and "start fresh."[364] In medical requests submitted on August 20, 2020, Ms. Floriano Navarro wrote, "I did speak with the ICE agents, I was a bit scared, I do remember the period I had for about 3 weeks" and asked if the D&C procedure could be rescheduled because she was "cramping more now."[365] On September 14, 2020, Ms. Floriano Navarro was taken to see Dr. Amin once more, and he again diagnosed her with an ovarian cyst and questioned Ms. Floriano Navarro's decision to reject the surgery.[366] Ms. Floriano Navarro was rescheduled for a D&C procedure on September 18, 2020.[367] On September 16, 2020, Ms. Floriano Navarro was deported to Mexico, where she currently resides.[368]

iii. Wendy Dowe

Ms. Dowe—a 51-year-old mother of four children—arrived in the United States in 1997 on a visitor visa and ultimately overstayed that visa.[369] She was detained for one and a half years following an arrest for possession of marijuana and providing a false information to a law enforcement officer.[370] Ms. Dowe described ICDC as a "nightmare" and stated that she "would not even put dogs in ICDC."[371] She further stated that "I can't give you the words for it," and she "does not like to relive or remember" her time at ICDC.[372]

While at ICDC, Ms. Dowe requested an appointment with an OB-GYN specialist because she had experienced heavy and painful menstrual cycles.[373] On December 21, 2018, Ms. Dowe had an initial appointment with Dr. Amin.[374] As with the other women, Ms. Dowe said that Dr. Amin performed a vaginal ultrasound and told her that she had ovarian cysts.[375] Ms. Dowe stated that she asked Dr. Amin to explain what he meant by "cyst," but he refused to answer her question.[376] Instead, Ms. Dowe said that Dr. Amin told her that the explanation would be provided in writing and forwarded to ICDC nurses because he "was not authorized" to give Ms. Dowe that information.[377] Ms. Dowe said that she did not "know what was going on."[378]

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[364] *Id.*
[365] LaSalle_333723; LaSalle_333725; *see also* LaSalle_335656-58.
[366] LaSalle_333658-67; LaSalle_333747.
[367] LaSalle_333753-62.
[368] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[369] Email from Counsel for Ms. Dowe to the Senate Permanent Subcommittee on Investigations (Apr. 25, 2022).
[370] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); Email from Counsel for Ms. Dowe to the Senate Permanent Subcommittee on Investigations (Nov. 18, 2021).
[371] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[372] *Id.*
[373] *Id.*; *see* LaSalle_323784 (December 12, 2018 sick call request from Ms. Dowe stating, "I'm on my cycle now for two weeks and bleeding heavily and I'm week [sic] and dizzy."); LaSalle_323943 (December 20, 2018 sick call request from Ms. Dowe stating, "I have pain in my abdomen.").
[374] LaSalle_323830-42; LaSalle_323897-901.
[375] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); ICH000972-1058.
[376] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[377] *Id.* A review of Ms. Dowe's medical records indicate a diagnosis of "multiple uterine fibroids and ovarian cyst," but did not describe what a cyst was.
[378] *Id.*

According to ICDC nurse notes after Ms. Dowe returned from her visit, Dr. Amin had provided "new written orders, [] order for labs, [] order for [a] transvaginal pelvic sonogram, and a follow-[up] appointment" for an "[abdominal] mass" diagnosis.[379]

On January 10, 2019, medical records indicate that Ms. Dowe received a transvaginal ultrasound at ICH as requested by Dr. Amin.[380] The ultrasound report's impressions included "multiple uterine leiomyomata" and "[n]ormal ovaries with cysts present bilaterally."[381] The next day, Ms. Dowe had a follow-up visit with Dr. Amin.[382] At this visit, Dr. Amin determined that Ms. Dowe needed a D&C scope based on his impressions that Ms. Dowe was suffering from chronic pelvic pain, metrorrhagia, menorrhagia, and dysmenorrhea.[383] Ms. Dowe told the Subcommittee that on the day of her surgery, the ICDC medical unit staff called her to the medical unit to be transported to an "outside appointment."[384] Ms. Dowe recalled that the medical unit staff did not tell her what doctor she was going to see, nor was it explained that she was to have surgery that day.[385] Ms. Dowe received surgery on January 29, 2019.[386] It was only when she arrived at the hospital that she learned she was scheduled for surgery.[387]

Ms. Dowe said she was shackled at her feet and waist and "physically was not able to argue" with the ICH nursing staff about the surgery.[388] She recalled "it was too much for me at the time."[389] Ms. Dowe also told the Subcommittee that she did not recall signing any consent forms prior to this surgery.[390] After the surgery, Ms. Dowe said she awoke in the ICDC medical unit with pain in her lower abdomen.[391] She said she felt the bandages on her abdomen, and she had to ask the nursing staff about what had occurred.[392] The ICDC nurses stated that they could not answer her questions because they had not received paperwork from Dr. Amin.[393]

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[379] LaSalle_323885-86; *see also* LaSalle_323899-323900.
[380] LaSalle_324222-29; LaSalle_324286.
[381] LaSalle_324286.
[382] LaSalle_324213-14.
[383] *Id.*; LaSalle_324285. Menometrorrhagia is the medical term for excessive, prolonged and/or irregular bleeding unrelated to menstruation. Cleveland Clinic, *Abnormal Uterine Bleeding* (my.clevelandclinic.org/health/diseases/15428-uterine-bleeding-abnormal-uterine-bleeding) (accessed Nov. 13, 2022). Mennorhagia is the medical term for menstrual periods with abnormally heavy or prolonged bleeding. Mayo Clinic, *Menorrhagia (Heavy Menstrual Bleeding)* (https://www.mayoclinic.org/diseases-conditions/menorrhagia/symptoms-causes/syc-20352829) (accessed Nov. 13, 2022). Dysmenorrhea is the medical term for menstrual cramps. Mayo Clinic, *Menstrual Cramps* (www.mayoclinic.org/diseases-conditions/menstrual-cramps/symptoms-causes/syc-20374938) (accessed Nov. 13, 2022).
[384] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[385] *Id.*
[386] ICH000972-1058; LaSalle_324488-507; LaSalle_324913-14; LaSalle_325088-92.
[387] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[388] *Id.*
[389] *Id.*
[390] *Id.* The Subcommittee found a signed consent form for a D&C with laparoscopy in Ms. Dowe's medical records from ICH. ICH000991-92.
[391] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[392] *Id.*
[393] *Id.*

Ms. Dowe told Subcommittee staff that she learned a week later that she had undergone a cyst removal procedure.[394] Following the procedure, Ms. Dowe continued to have pain in her stomach and was referred to Dr. Amin for a follow-up visit.[395] On March, 19, 2019, Ms. Dowe went back to Dr. Amin. At this visit, like Ms. Floriano Navarro, Ms. Dowe received a Depo-Provera injection.[396] Ms. Dowe also recalled that Dr. Amin told her she needed another surgery—a hysterectomy.[397] Ms. Dowe stated that when she asked why, Dr. Amin said it was for a cancerous tumor in her ovary and stated it was the "size of a cantaloupe."[398] She explained that Dr. Amin asked her how many children she had, and after she answered, he stated, "Okay, you're good, you don't need no more [children]."[399] Dr. Amin requested the hysterectomy be scheduled April 11-13, 2019, and in his request for a hysterectomy summarized his care for Ms. Dowe as the following:

> The patient is a 47 year old female … [Patient] recently had surgery D&C scope on 01-29-19. Operative findings were leiomyoma of the uterus 16 week size, pelvic endometriosis. Pathology was benign. [Patient] came in for another [appointment] 03-19-19 chief complaints were vaginal pain and abdominal pain. [Patient] was still bleeding since February 2019. Depo Provera injection was given. The plan is to admit for a hysterectomy.[400]

On April 10, 2019, the day before her scheduled hysterectomy surgery, Ms. Dowe refused to undergo the procedure.[401] According to ICDC nurse notes, Ms. Dowe stated, "I'm not going to no appointment for a hysterectomy" and added "I will get it done when I get out of here" and signed a refusal of treatment form.[402] After Ms. Dowe declined the hysterectomy, she said she was subjected to pressure from ICDC staff.[403] Ms. Dowe stated that ICDC staff told her she was "crazy" for refusing medical treatment and attempted to force her to see a psychiatrist several times.[404]

According to a May 7, 2019 sick call request, Ms. Dowe continued to experience gynecological issues writing, "bleeding for the past three weeks now and it can't stop I [am] feeling very week [sic]."[405] On May 28, 2019, Ms. Dowe was referred back to Dr. Amin.[406] Dr.

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[394] *Id.*
[395] *See* LaSalle_324737 (February 17, 2019 sick call request from Ms. Dowe stating, "I still have the swelling and the pain in my stomack [sic] and left side of my back is swollen and hurts alot [sic].").
[396] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); LaSalle_325086.
[397] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); LaSalle_325087.
[398] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[399] *Id.*
[400] LaSalle_325085.
[401] LaSalle_325361; LaSalle_325364.
[402] *Id.*
[403] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[404] *Id.*
[405] LaSalle_325749.
[406] LaSalle_325846-54; LaSalle_326062-63.

Amin's notes from this appointment stated that Ms. Dowe needed to have surgery—a hysterectomy—as "soon as possible" and noted that she had been approved for the procedure.[407] On June 7, 2019, Ms. Dowe again refused the hysterectomy.[408]

On August 8, 2019, Ms. Dowe submitted a sick call request asking for a "second opinion" because her ovary was "hurting" and she had been "bleeding over a month."[409] According to ICDC medical records, an order for a provider visit was put into the system stating that Ms. Dowe wanted "to discuss getting a second opinion with another OB/GYN on problems she is having."[410] By October 2019, Ms. Dowe still had not received a second opinion. ICDC medical unit notes for an encounter with Ms. Dowe on October 30, 2019 states, "Mrs. Dowe has been referred to mental health for stress. She does not want to have surgery [a hysterectomy] because she is afraid. She wants a second opinion for the surgery. Will try to find another OB/GYN for consulting."[411]

Based on documents reviewed by the Subcommittee, there is no record that Ms. Dowe received a second opinion. In fact, Ms. Dowe was referred back to Dr. Amin in February 2020 for "stomach and vaginal pain."[412] Dr. Amin's notes indicate that his impression for Ms. Dowe's pain was due to "fibroids" and noted to follow up yearly or as needed.[413] A few weeks after that appointment, Ms. Dowe submitted a sick call request stating that she was "still in terrible pain in my ovary."[414] She was seen in the medical unit the next day, and the nurse notes for the visit included instructions for a provider visit noting that Ms. Dowe "still wants second opinion."[415]

In March 2020, due to continuing pain in her lower abdomen which was "getting worse," Ms. Dowe was scheduled to see Dr. Amin again despite requesting a second opinion.[416] A March 4, 2020 outside provider referral order for Ms. Dowe stated, "Referral to Dr. Amin to discuss option of fibroid biopsy/Total Hysterectomy."[417] However, the order was canceled due to Ms. Dowe's scheduled release from the facility a few weeks later.[418] Ms. Dowe was ultimately deported to Jamaica in April 2020. Since leaving ICDC, Ms. Dowe says she has seen a doctor who confirmed that she does not have a cancerous tumor.[419]

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[407] LaSalle_326062-63.
[408] LaSalle_326174-75; LaSalle_326178.
[409] LaSalle_319164.
[410] LaSalle_319161-62.
[411] LaSalle_320169.
[412] LaSalle_322136-37; LaSalle_322785.
[413] LaSalle_322785.
[414] LaSalle_322419.
[415] LaSalle_322421-23.
[416] LaSalle_322511.
[417] LaSalle_322528-29.
[418] *Id.*
[419] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).

iv. Maribel Castaneda-Reyes

Ms. Castaneda-Reyes—a 30-year-old mother to three children—was brought to the United States from Mexico when she was ten years old by her parents.[420] Ms. Castaneda-Reyes is a rape and domestic abuse survivor.[421] Ms. Castaneda-Reyes was detained at ICDC from June to December 2020 following a May 2020 arrest for possession of a controlled substance.[422] She recalled that she was "shocked" by the living conditions when she first arrived at ICDC.[423] She said there were spider webs covering the surfaces at ICDC, and when she arrived, staff provided her with dirty, used underwear.[424] Like others, she described the water as discolored and "not drinkable."[425]

While at ICDC, Ms. Castaneda-Reyes originally sought medical treatment for a hernia; however, she began "spotting" and the ICDC medical unit referred her to Dr. Amin.[426] On August 12, 2020, Ms. Castaneda-Reyes had her first appointment with Dr. Amin.[427] According to Dr. Amin's notes, Ms. Castaneda-Reyes presented with "irregular menstrual cycle" and had been bleeding for three weeks intermittently.[428] Ms. Castaneda-Reyes told Subcommittee staff that at her first appointment with Dr. Amin, he told her to lift her legs and "rammed" a camera inside of her.[429] According to medical records reviewed by the Subcommittee, Dr. Amin performed a pelvic ultrasound and his ultrasound report indicated a "right ovarian mass."[430] Ms. Castaneda-Reyes recalled that Dr. Amin told her that she had a cyst and that the best course of action would be surgery or a Depo-Provera injection.[431] Ms. Castaneda-Reyes informed Dr. Amin that she was already on birth control. However, Dr. Amin administered a Depo-Provera injection anyway.[432] Ms. Castaneda-Reyes inquired about her hernia, but Dr. Amin responded that he did not treat hernias.[433] In the same appointment, Ms. Castaneda-Reyes received a Pap smear from Dr. Amin.[434] She stated that this was the most painful Pap smear she had ever received and "the way he checks you is not how a regular doctor checks you."[435]

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[420] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021); Declaration of Jane Doe #5 – Maribel Castaneda-Reyes (Dec. 16, 2020) (on file with the Subcommittee).
[421] *Id.*
[422] *Id.*; Email from Counsel for Ms. Castaneda-Reyes to the Senate Permanent Subcommittee on Investigations (Oct. 15, 2021)
[423] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).
[424] *Id.*
[425] *Id.*
[426] *Id.;* LaSalle_281089; LaSalle_281102-04; LaSalle_281156; LaSalle_281182; LaSalle_281187-89; LaSalle_281244-45; Declaration of Jane Doe #5 – Maribel Castaneda-Reyes (Dec. 16, 2020) (on file with the Subcommittee).
[427] LaSalle_282410-20.
[428] LaSalle_282348-49.
[429] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).
[430] LaSalle_282342.
[431] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).
[432] *Id.*; LaSalle_282396-97; LaSalle_282401.
[433] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).
[434] Declaration of Jane Doe #5 – Maribel Castaneda-Reyes (Dec. 16, 2020) (on file with the Subcommittee); LaSalle_282348-49.
[435] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).

In a follow-up appointment on August 26, 2020, Dr. Amin told her that her ovarian cyst was abnormal and that surgery was the best course of action.[436] According to Dr. Amin's notes and request for surgery, Ms. Castaneda-Reyes was seen "on 08-12-20 for irregular periods for 3 weeks on [and] off. She was treated with depo provera [sic] injection, Pap smear [and] HPV was detected. The plan is to schedule for D&C, LEEP, scope."[437]

On September 4, 2020, Ms. Castaneda-Reyes arrived at ICH for surgery.[438] She recalled that the anesthesiologist made fun of her teeth, and that the nurses and the anesthesiologist did not explain the procedures, but simply handed her an electronic tablet with a document on it and a stylus to sign it—"everything was quick."[439] According to Ms. Castaneda-Reyes, she was not shown the document or given time to read it.[440] Following the surgery, Ms. Castaneda-Reyes only learned that Dr. Amin performed a D&C and a LEEP by reviewing her own medical records.[441]

Ms. Castaneda-Reyes currently resides in Gainesville, Georgia.[442] Since her release from ICDC, a physician told her that she would not be able to have any more children because her uterine lining is so thin.[443] She has also sought mental health counseling and is taking medications for her mental health to help cope with the trauma from her time at ICDC.[444] Additionally, Ms. Castaneda-Reyes says she experiences constant pain shooting down her leg that has left her unable to run, which she used to do for enjoyment, and unable to bend which forced her to leave her previous job.[445]

v. Jane Doe #1

Jane Doe #1—38-year-old mother of a 13-year-old daughter—was brought to the United States from Mexico by her grandparents at the age of three and was detained at ICDC from January to December 2020 following an arrest in South Carolina for possession of a controlled

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[436] LaSalle_282376-85; LaSalle_282341; *see also* Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations 5 (Oct. 5, 2021); Declaration of Jane Doe #5 – Maribel Castaneda-Reyes (Dec. 16, 2020) (on file with the Subcommittee).
[437] LaSalle_282340.
[438] ICH005031-99; LaSalle_282319-28; LaSalle_281403-04; LaSalle_281406-10.
[439] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021); Email from Counsel for Ms. Castaneda-Reyes to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[440] Email from Counsel for Ms. Castaneda-Reyes to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[441] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).
[442] *Id.*
[443] Email from Counsel for Ms. Castaneda-Reyes to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[444] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021); Email from Counsel for Ms. Castaneda-Reyes to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[445] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021).

substance.[446] Jane Doe #1 described the water at ICDC as not drinkable and having a yellowish tint.[447] She also stated that ICDC staff were rude and would laugh at the detainees who did not speak English.[448] While detained at ICDC, Jane Doe #1 stated that she generally felt like a "caged animal."[449]

On January 4, 2020, Jane Doe #1 requested an appointment with an OB-GYN provider to obtain a prescription for estrogen pills.[450] She said that she had previously undergone a hysterectomy and wanted medication to regulate her hormone levels.[451] On February 7, 2020, Jane Doe #1 had her first appointment with Dr. Amin.[452] Even though Jane Doe #1 explained her medical history to the nurse at Dr. Amin's office, she was still told to undress, which she thought was odd.[453]

Jane Doe #1 stated that when Dr. Amin arrived, he told her that he would be performing a vaginal ultrasound, which he described as a standard procedure.[454] Instead of gently inserting the instrument, Jane Doe #1 stated that Dr. Amin "just shoved it in there."[455] When Jane Doe #1 told Dr. Amin she was in pain, Jane Doe #1 said he responded: "it's okay; almost done."[456] He then performed a finger examination, which according to Jane Doe #1, felt like "he shoved his whole hand" inside of her.[457] She further stated that it burned and she tried to hold still, but Dr. Amin just told her to stop moving.[458] Dr. Amin ultimately prescribed the estrogen pills for her.[459]

In August 2020, Jane Doe #1 ran out of her estrogen pills and had another appointment with Dr. Amin on September 8, 2020.[460] During this visit, Jane Doe #1 stated to the Subcommittee that a nurse working with Dr. Amin encouraged her to receive a Pap smear.[461] As with the vaginal ultrasound, Jane Doe #1 stated that the Pap smear was rough, and she again told Dr. Amin that she was in pain, but he did not stop the examination.[462] Jane Doe #1 recalled that she attempted to ask questions, but Dr. Amin told her she would be notified of any abnormal

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[446] This former ICDC detainee asked to remain anonymous. Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021); Declaration of Jane Doe #1 (Dec. 18, 2020) (on file with the Subcommittee).
[447] Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021).
[448] *Id.*
[449] *Id.*
[450] *Id.*; LaSalle_443112.
[451] Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021); LaSalle_443114.
[452] Declaration of Jane Doe #1 (Dec. 18, 2020) (on file with the Subcommittee); LaSalle_443017-18; LaSalle_443067-74.
[453] Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021).
[454] *Id.*; LaSalle_443019.
[455] Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021).
[456] *Id.*
[457] *Id.*
[458] *Id.*
[459] *Id.*; LaSalle_442999.
[460] LaSalle_442629-30; LaSalle_442633; LaSalle_442636; LaSalle_443179-81.
[461] Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021); LaSalle_443172.
[462] Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021).

results and walked out of the room.[463] Jane Doe #1 stated that she never received the results of this test.[464] Dr. Amin wrote her a prescription for estrogen pills at this appointment.[465] Jane Doe #1 did not see Dr. Amin again.[466] During her interview with the Subcommittee, Jane Doe #1 stated that she is still afraid to see a doctor following her experience with Dr. Amin.[467]

Following her release from ICDC, Jane Doe #1 now resides in Jackson, South Carolina.[468] Jane Doe #1 was recently arrested again for possession of a controlled substance.[469]

vi. Jane Doe #2

Jane Doe #2—a 32-year-old mother to a 14-year-old U.S. citizen daughter—was brought to the United States from Cameroon by her parents when she was two years old.[470] Jane Doe #2 was detained at ICDC from October 2017 to February 2020, following a 2017 encounter with the police, the charge from which was later dropped.[471] Jane Doe #2 informed the Subcommittee that she actively sought medical services available to detainees, as the services were free to her.[472]

During her time at ICDC, she experienced "severe" pain in between her menstrual cycles.[473] In March 2019, Jane Doe #2 complained of pelvic pain and abnormal menstrual cycle and was referred to Dr. Amin.[474] Similar to Ms. Navarro, Jane Doe #2 said that she was told by

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[463] *Id.*
[464] *Id.*
[465] LaSalle_443170.
[466] Jane Doe #1, Interview with Senate Permanent Subcommittee on Investigations (Oct. 12, 2021).
[467] *Id.*
[468] *Id.*
[469] Email from Counsel for Jane Doe #1 to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[470] This former ICDC detainee asked to remain anonymous. Email from Counsel for Jane Doe #2 to the Senate Permanent Subcommittee on Investigations (Nov. 15, 2021).
[471] Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021); Email from Counsel for Jane Doe to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022). The dropped charge (shoplifting) arose from an incident in which she was sitting in the car outside of a gas station when her friends attempted to steal beer without her knowledge. Prior to this dropped charge, she was convicted of three non-violent misdemeanors from two incidents: shoplifting and possession of stolen goods when she was underage (2007) and misdemeanor larceny (2014). The 2014 conviction arose from her being present during a former boyfriend's criminal act. She did not participate in the criminal act herself. Although she was initially charged with conspiracy to commit robbery with a firearm or dangerous weapon, felony possession of cocaine, and felony possession of a controlled substance she was only convicted of misdemeanor larceny. Email from Counsel for Jane Doe #2 to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).
[472] Jane Doe #2 mentioned that detainees were able to receive free glasses within 90 days and get their teeth whitened within six months so she "wanted to do stuff like that." Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021).
[473] *Id.*; Email from Counsel for Jane Doe #2 to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022). *See also* LaSalle_244060 (December 21, 2017 medical request from Jane Doe #2 stating, "My menstruation cramps are causing me severe pain please help me."); LaSalle_245228 (October 29, 2018 medical request from Jane Doe #2 stating, "I am having very bad cramps, and I need something for the pain please.").
[474] LaSalle_245699; LaSalle_245701; LaSalle_245724; LaSalle_245744; LaSalle_245747-48.

other detainees that Dr. Amin was "rough," and she should not see him or allow him to treat her because he "messes people up."[475]

On April 3, 2019, Jane Doe #2 had her initial appointment with Dr. Amin.[476] She stated that Dr. Amin told her that she had an ovarian cyst and prescribed Depo-Provera injections.[477] Jane Doe #2 noted that Dr. Amin did not provide an explanation regarding the Depo-Provera injection, other than saying it would hopefully shrink the cyst, and did not explain the potential side effects.[478] Jane Doe #2 received a Depo-Provera injection at this visit.[479]

According to medical records reviewed by the Subcommittee, Jane Doe #2 had follow-up visits with Dr. Amin on April 17, 2019 and May 2, 2019.[480] At the May 2019 visit, Jane Doe #2 complained that she had not started her period.[481] According to Dr. Amin's notes for the visit, Dr. Amin prescribed another Depo-Provera injection and a follow-up appointment in one month.[482] On June 19, 2019, Jane Doe #2 returned to Dr. Amin and received a Depo-Provera injection.[483] Dr. Amin also performed a pelvic ultrasound at the appointment and found an "enlarged uterus" and "follicular cysts on both ovaries."[484]

After the June 2019 appointment, Jane Doe #2 experienced vaginal bleeding and was referred back to Dr. Amin on August 2, 2019.[485] According to Dr. Amin's visit notes, Jane Doe #2 had been bleeding "since [her] last visit [on] 6/19/19" and her menstrual cycle had been "spotting to heavy."[486] Dr. Amin's plan included prescribing Provera and Tramadol and performing a D&C scope.[487] Jane Doe #2 recalled that Dr. Amin told her that the Depo-Provera injections she received did not work and she would need a D&C.[488] Jane Doe #2 stated that Dr. Amin did not explain this procedure, but because she believed that Dr. Amin worked for a "government organization," she did not feel the need to second-guess his opinion.[489]

According to Dr. Amin's request to perform a D&C and laparoscopy, Jane Doe #2 had been seen by his office since April 3, 2019 for lower pelvic pain, bleeding with cramps, and irregular periods and was "diagnosed with cysts on both ovaries and enlarged uterus."[490] Jane Doe #2 received two Depo-Provera injections, Provera hormone tablets, and pain medication,

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[475] Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021).
[476] LaSalle_245759-68; LaSalle_245874-75.
[477] Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021).
[478] *Id.*; Email from Counsel for Jane Doe #2 to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[479] LaSalle_242761.
[480] LaSalle_245858-66; LaSalle_245976-78; LaSalle_246023-32; LaSalle_246109.
[481] LaSalle_246109.
[482] *Id.*
[483] LaSalle_246813-23; LaSalle_440128; LaSalle_440131.
[484] LaSalle_440132.
[485] LaSalle_247113-14; LaSalle_247297-98; Email from Counsel for Jane Doe #2 to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[486] LaSalle_440130.
[487] *Id.*; LaSalle_440129.
[488] Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021).
[489] *Id.*
[490] LaSalle_440125.

which all "failed."[491] As a result, Dr. Amin scheduled Jane Doe #2 for a D&C and laparoscopy and indicated that "[s]he agrees and understands the procedure."[492]

On August 23, 2019, Dr. Amin performed a D&C and laparoscopy on Jane Doe #2.[493] Following her procedure, Jane Doe #2 stated that Dr. Amin informed her that he had performed a D&C and removed a portion of her fallopian tube.[494] She said that Dr. Amin also told her that she would never be able to have children naturally again.[495] Jane Doe #2 stated to Subcommittee staff that Dr. Amin never explained that the removal of a fallopian tube was a possible risk associated with a D&C.[496]

According to medical records reviewed by the Subcommittee, Jane Doe #2 received another Depo-Provera injection on September 9, 2019.[497] A few months later in November 2019, Jane Doe #2 experienced "spotting" and was "not sure why" because she had a D&C and received a Depo-Provera injection.[498] In January 2020, Jane Doe #2 submitted a medical request for a follow up with Dr. Amin regarding her D&C and an overdue Depo-Provera injection.[499] On February 6, 2020, Jane Doe #2 returned to Dr. Amin's office for a follow-up visit. His staff administered another Depo-Provera injection at this visit and recommended a follow-up appointment in three months.[500]

Jane Doe #2 currently resides in Baltimore, Maryland.

B. Former ICDC Employees Recounted Concerns Regarding Dr. Amin to the Subcommittee

As mentioned above, Subcommittee staff spoke with three former LPNs who collectively worked at ICDC between 2016 and 2020. LPN #1 told the Subcommittee that they recalled an instance in September 2020 in which a detainee returned from an outpatient procedure performed by Dr. Amin not fully understanding the type of procedure she received and questioning whether she would be able to have children.[501] The LPN did not name this patient and the Subcommittee's document review was unable to verify this claim.

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[491] *Id.*
[492] *Id.*
[493] LaSalle_240221; LaSalle_240259-60; LaSalle_440113-23; ICH002539-2617.
[494] Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021). According to an ICDC psychiatric progress note five days after the surgery, Jane Doe #2 was "'bothered' by the fact that she went into surgery expecting a D&C and ended up having a salpingectomy x 1." LaSalle_240320.
[495] Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021).
[496] *Id.*
[497] LaSalle_242760.
[498] LaSalle_241418.
[499] LaSalle_242247.
[500] LaSalle_242759-60; Email from Counsel for Jane Doe #2 to the Senate Permanent Subcommittee on Investigations (Nov. 10, 2022).
[501] LPN #1, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (June 30, 2021).

LPN #1 also told the Subcommittee that in a previous role, they observed patients of Dr. Amin at ICH signing consent forms for surgical procedures while the patients were on the operating table.[502] That nurse stated that some of these patients "were about to drift off to sleep" from anesthesia and "were just coherent enough" to sign the forms; "that lets you know that the patients have no recollection of what they agreed to," they said.[503] The Subcommittee was unable to verify this claim. In addition, the Subcommittee interviewed two nurses that work at ICH and assist Dr. Amin in surgeries who told the Subcommittee that they were not aware of any instances where Dr. Amin or ICH staff received signatures on informed consent forms after the patient was administered anesthesia.[504]

LPN #2 stated to the Subcommittee that Dr. Amin performed "a lot" of D&C procedures.[505] That nurse stated that any detainee sent to Dr. Amin for the third time would receive a D&C, and that it was almost a "standard thing" that detainees would receive D&Cs when being treated by Dr. Amin.[506] LPN #3 was not aware of Dr. Amin performing unnecessary procedures prior to their departure from ICDC in 2018.[507] However, they said they were aware of complaints from patients outside ICDC regarding the quality of care Dr. Amin provided.[508]

C. Several Medical Experts Identified "Disturbing Patterns" in Treatment by Dr. Amin

Subcommittee staff consulted with four medical experts regarding Dr. Amin's treatment of former ICDC detainees and reviewed documents prepared by these experts regarding their evaluation of the medical records of some of these detainees. Subcommittee staff first interviewed Dr. Ted Anderson, Dr. Sarah Collins, and Dr. Margaret Mueller, members of a team ("Team") asked by attorneys and advocacy groups later representing plaintiffs in the December 2020 lawsuit to review the medical files of some ICDC detainees who were treated by Dr. Amin.[509] This Team reviewed over 3,200 pages of partial medical records for 19 ICDC

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[502] *Id.*
[503] *Id.*
[504] Ryan Lupo, Irwin County Hospital, Interview with Senate Permanent Subcommittee on Investigations (Oct. 20, 2021); Julie Harper, Irwin County Hospital, Interview with Senate Permanent Subcommittee on Investigations (Oct. 21, 2021).
[505] LPN #2, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 12, 2021).
[506] *Id.*
[507] LPN #3, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (July 19, 2021).
[508] *Id.*
[509] Dr. Anderson is the Vice Chair for Clinical Operations and Director of the Division of Gynecology at Vanderbilt University Medical Center. Vanderbilt University Medical Center, *Ted L. Anderson, MD, PhD* (https://www.vumc.org/obgyn/person/ted-l-anderson-md-phd) (accessed Nov. 13, 2022). Dr. Collins is an Assistant Professor at the Northwestern University, Feinberg School of Medicine. Northwestern Medicine, *Sarah A. Collins, MD* (https://www.nm.org/doctors/1942401948/sarah-a-collins-md) (accessed Nov. 13, 2022). Dr. Mueller is also an Assistant Professor at the Northwestern University, Feinberg School of Medicine. Northwestern Medicine, *Margaret G. Mueller, MD* (https://www.nm.org/doctors/1346570405/margaret-g-mueller-md) (accessed Nov. 13, 2022). The Team was comprised of nine board-certified OB-GYN physicians and two nursing experts. The members of the team are: Ted Anderson, MD; Haywood L. Brown, MD; Sarah Collins, MD; Caron Jo Gray, MD; Julia Geynisman-Tan, MD; Geri D. Hewitt, MD; Margaret Mueller, MD; Andrea Shields, MD; Geoffrey Schnider,

detainees. The Subcommittee received complete medical records from ICDC and partial medical records from ICH (which included the 3,200 pages of partial medical records the Team reviewed). The Subcommittee consulted its own medical expert, Dr. Peter Cherouny, an OB-GYN physician from Vermont.[510] Dr. Cherouny reviewed over 16,600 pages of medical records pertaining to approximately 94 former detainees treated by Dr. Amin to provide the most comprehensive analysis of Dr. Amin's treatment.[511] Based on all of the various medical records reviewed, all consulted experts determined that Dr. Amin did not follow current medical guidelines for patient care, and all experts determined that Dr. Amin followed a pattern of treatment for almost all patients he treated regardless of their specific diagnosis or condition.

i. OB-GYN Medical Experts Engaged by Immigration Advocacy Groups Found Alarming Surgical Patterns by Dr. Amin

In October 2020, the Team produced an executive summary of findings regarding allegations of medical abuse allegations at ICDC.[512] Two members of the Team—Dr. Ted Anderson and Dr. Haywood Brown—testified in a closed meeting of the Senate Democratic Caucus on October 26, 2020.[513]

The plaintiffs filed Drs. Anderson and Brown's testimony in support of the litigation in November 2020 and referenced the Team's executive summary in an amended complaint filed in December 2020.[514] The plaintiffs also submitted three declarations drafted by Dr. Mueller in support of their case: (1) a declaration summarizing her review of the records as a whole; (2) a

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MD; Michelle Collins, PhD, CNM; and Suzanne McMurtry Baird, DNP, RN. According to the executive summary, the records of 19 women were the "first records available and were limited by production from the facility, which appear[ed] to be incomplete." *Executive Summary of Findings by the Independent Medical Review Team Regarding Medical Abuse Allegations at the Irwin County Detention Center* (Oct. 21, 2020) (on file with the Subcommittee). As previously discussed, immigration advocacy groups and attorneys made allegations regarding Dr. Amin's treatment of ICDC detainees in a September 2020 whistleblower complaint. The complaint asked for DHS OIG, DHS CRCL, IHSC, and ICDC to conduct an investigation into these allegations. Following the filing of this complaint, an immigration attorney named Andrew Free was contacted by immigration attorneys for some of the women detained at ICDC. Mr. Free offered his assistance and ultimately obtained the medical records of some of the former ICDC detainees who were treated by Dr. Amin. Mr. Free determined that a review by medical experts, rather than a review conducted by immigration advocates, would be the most beneficial to the federal government's investigation into the allegations. Mr. Free contacted a women's health attorney, Adam Snyder, to form this medical review team. Members of the review team were not affiliated with immigration advocacy organizations nor were they compensated for their services. Andrew Free, Briefing with Senate Permanent Subcommittee on Investigations (June 11, 2021); Adam Snyder, Briefing with Senate Permanent Subcommittee on Investigations (June 24, 2021).

[510] Dr. Cherouny is a Professor Emeritus at the University of Vermont, Larner College of Medicine. Dr. Peter Cherouny Curriculum Vitae (on file with the Subcommittee).

[511] The 16,600 pages of medical records for 94 patients that Dr. Cherouny reviewed included the 3,200 pages for 19 patients reviewed by the Team.

[512] *Executive Summary of Findings by the Independent Medical Review Team Regarding Medical Abuse Allegations at the Irwin County Detention Center* (Oct. 21, 2020) (on file with the Subcommittee).

[513] *Testimony of Dr. Ted Anderson* (Oct. 26, 2020) (on file with the Subcommittee); *Testimony of Dr. Haywood Brown* (Oct. 26, 2020) (on file with the Subcommittee).

[514] Yesnia Aff. In Support re 2 Motion for Temp. Restraining Order (Nov. 19, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00244-WLS-MSH); Consolidated Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Declaratory and Injunctive Relief and for Damages (Dec. 21, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).

declaration summarizing her review of the medical records of lead plaintiff, Yanira Oldaker; and (3) a declaration summarizing her review of the records of another plaintiff, Mbeti Ndonga.[515] Dr. Collins, another member of the Team, reviewed an additional set of over 500 pages of medical records of ICDC detainees. Immigration advocacy organizations obtained these additional records in Freedom of Information Act ("FOIA") litigation, and the records are connected to the December 2020 lawsuit.[516] Subcommittee staff interviewed Dr. Anderson, Dr. Mueller, and Dr. Collins about their findings and to gain a better understanding of the medical procedures performed by Dr. Amin.

Based on the records it reviewed, the Team found that a number of women were subjected to "patterns of aggressive and unethical care," including what they believed to be inappropriate invasive procedures and diagnostic tests, such as ultrasounds, LEEPs, and Pap tests.[517] Dr. Mueller and Dr. Collins also commented on the context in which Dr. Amin subjected these women to treatment. Specifically, Dr. Mueller highlighted to the Subcommittee that Dr. Amin's patients were members of a vulnerable group undergoing painful procedures from a doctor they did not choose.[518] Dr. Collins emphasized that physicians occupy a position of power relevant to their patients, and she felt that "power was abused" in the case of Dr. Amin.[519]

ii. The Subcommittee's Medical Expert Identified Concerning Treatment Patterns by Dr. Amin

The Subcommittee provided over 16,600 of pages of medical records pertaining to approximately 94 ICDC female detainees to Dr. Peter Cherouny, a medical expert the HHS OIG relied upon to perform a medical record review for one of its previous studies.[520] Like Drs.

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[515] *See* Declaration of Margaret Mueller, MD, FACS, FACOG for Yanira Oldaker (Nov. 18, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH); Declaration of Margaret Mueller, MD, FACS, FACOG for Jane Doe # 1 (Mbeti Ndonga) (Dec. 14, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH); Medical Care Provided to Women in Detention at Irwin County Detention Center: Declaration of Margaret Mueller, MD, FACS, FACOG (Dec. 20, 2020), *Oldaker v. Giles*, M.D. GA (No. 7:20-cv-00224-WLS-MSH).

[516] Dr. Sarah Collins, Interview with Senate Permanent Subcommittee on Investigations (Oct. 19, 2021). According to counsel representing former ICDC detainees in the *Oldaker* litigation and in a FOIA lawsuit against ICE, Dr. Collins reviewed 518 pages not included in the original 3,200 pages of records the Independent Medical Review Team received. Email from Counsel for the National Immigration Project of the National Lawyers Guild to the Senate Permanent Subcommittee on Investigations (Oct. 22, 2021).

[517] *Executive Summary of Findings by the Independent Medical Review Team Regarding Medical Abuse Allegations at the Irwin County Detention Center* (Oct. 21, 2020) (on file with the Subcommittee). Dr. Mueller explained that a LEEP is an excisional procedure in which the surgeon "excises or removes" a portion of a woman's cervix. In general, a LEEP is only used if pre-cancerous cells are detected. The short-term implications for a LEEP include extensive bleeding that could become extensive enough to require a hysterectomy. A LEEP can also result in long-term implications, including reproductive consequences. In addition, the removal of a significant portion of the cervix can often create cervical insufficiency, which can lead to the pre-term loss of pregnancies. Dr. Mueller explained that if there is no indication for a particular procedure and no identifiable benefit, performing this procedure is "only exposing a woman to a risk." Dr. Margaret Mueller, Interview with Senate Permanent Subcommittee on Investigations (July 27, 2021).

[518] Dr. Margaret Mueller, Interview with Senate Permanent Subcommittee on Investigations (July 27, 2021).

[519] Dr. Sarah Collins, Interview with Senate Permanent Subcommittee on Investigations (Oct. 19, 2021).

[520] *See* U.S. Department of Health and Human Services, Office of Inspector General, *Instances of IHS Labor and Delivery Care Not Following National Clinical Guidelines or Best Practices* (OEI-06-19-00190) (Dec. 2020)

Anderson, Mueller, and Collins, Dr. Cherouny determined that Dr. Amin followed a "boiler plate approach to care" for almost all patients he treated.[521] This "algorithm" Dr. Amin employed was generally used for a patient presenting with abnormal bleeding and/or pelvic pain.[522] Dr. Amin would first perform a transvaginal ultrasound, where he would often diagnose patients with ovarian cysts that required treatment. Dr. Amin would then prescribe Depo-Provera injections to treat the cysts. He would not allow the Depo-Provera to take effect, and would instead declare the treatment a failure and proceed to surgery. In one interview with the Subcommittee, Dr. Cherouny summarized Dr. Amin's care as "pretty good medicine for the 1980s, but we're not there anymore."[523] The sections below discuss what Dr. Cherouny saw in the medical records and Dr. Amin's treatment patterns.

a. Dr. Amin's Flawed Use of Transvaginal Ultrasounds

Dr. Amin generally performed transvaginal ultrasounds in response to patients presenting with menstrual abnormalities, such as heavy bleeding and/or pelvic pain. The Subcommittee learned that a transvaginal ultrasound is not usually the first step in an evaluation for menstrual abnormalities.[524] Instead, the first step for a patient with abnormal bleeding would be to conduct a pregnancy test and compile a thorough patient history to determine how long the bleeding has occurred.[525]

Of the approximately 94 patient records he reviewed, Dr. Cherouny determined that Dr. Amin performed transvaginal ultrasounds on 36 of the women he treated.[526] Dr. Cherouny commented that generally, "the documentation of these ultrasounds was limited and appeared incomplete."[527] He added that the records he reviewed show that Dr. Amin generally had "[p]oor performance and documentation of transvaginal ultrasound evaluation."[528] Dr. Cherouny further explained that Dr. Amin is "clearly not skilled in ultrasound of the female pelvis" and that he "appears to frequently confuse normal findings for pathology and uses these indications for surgery."[529] Dr. Cherouny also stated that it was likely that Dr. Amin's ultrasound practices were not in compliance with the American Institute of Ultrasound in Medicine guidelines.[530]

(https://oig.hhs.gov/oei/reports/OEI-06-19-00190.pdf). Dr. Cherouny reviewed LaSalle medical records, ICH medical records, the files reviewed by the Team, and the additional set of over 500 pages of records Dr. Collins reviewed.

[521] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[522] Dr. Sarah Collins, Interview with Senate Permanent Subcommittee on Investigations (Oct. 19, 2021).
[523] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Sept. 8, 2022).
[524] Dr. Sarah Collins, Interview with Senate Permanent Subcommittee on Investigations (Oct. 19, 2021).
[525] *Id.*
[526] Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[527] *Id.*
[528] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[529] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[530] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022).

b. Dr. Amin's Misuse of Depo-Provera Injections

Dr. Cherouny found that Dr. Amin administered Depo-Provera injections, at least once, to 40 women in what appeared to be an attempt to manage abnormal uterine bleeding.[531] The Subcommittee learned that physicians generally "shy away" from using" these injections because side effects may complicate a diagnosis.[532]

Dr. Cherouny determined that in most of the cases he reviewed, Dr. Amin deviated from the standard of care and the Depo-Provera "was not given adequate time to affect a clinical response" in these women.[533] He explained that the "adequate time" for a response to Depo-Provera was six months. Dr. Cherouny noted that Dr. Amin generally used 2-6 weeks of clinical response time before declaring that the Depo-Provera medication failed and proceeded to surgery.[534] Dr. Cherouny added that Depo-Provera is not the preferred treatment for management of abnormal uterine bleeding because it causes unwanted side effects, including menstrual cycle irregularity.[535]

c. Dr. Amin's Aggressive Surgical Approach

Dr. Cherouny identified that Dr. Amin performed a D&C with laparoscopy on 40 patients out of the approximately 94 patient files he reviewed.[536] The Subcommittee learned that a D&C is not a first step of action, and it is not indicated as necessary in the treatment for chronic pelvic pain.[537] Furthermore, a D&C is generally only indicated after an endometrial biopsy if the doctor did not obtain enough tissue after an endometrial biopsy, if a post-pregnancy patient is bleeding, or for acute management purposes if a woman comes into an emergency room bleeding.[538]

Dr. Cherouny found that Dr. Amin's use of these procedures were "too aggressive."[539] Dr. Cherouny stated to the Subcommittee that Dr. Amin often did not follow standard practice, which would have been to escalate from a transvaginal ultrasound to advanced imaging, like an MRI or a CT scan.[540] Instead, for the vast majority of patients, Dr. Amin proceeded directly from an ultrasound to a D&C and operative laparoscopy, using these procedures as diagnostic

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[531] Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[532] Dr. Margaret Mueller, Interview with Senate Permanent Subcommittee on Investigations (July 27, 2021).
[533] Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[534] Letter from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[535] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022). Dr. Cherouny stated that most patient records he reviewed were premenopausal or perimenopausal women. The initial treatment recommendation for women at this age includes oral progestin, like Provera, a levonorgestrel-containing IUD or combination birth control rather than Dr. Amin's use of Depo-Provera injections. *Id.*
[536] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[537] Dr. Margaret Mueller, Interview with Senate Permanent Subcommittee on Investigations (July 27, 2021).
[538] *Id.*
[539] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022).
[540] *Id.*

tools.[541] Dr. Cherouny added that the "vast majority [of cases where Dr. Amin performed a D&C] appear to be manageable with imaging and appropriate hormone therapy."[542]

Dr. Cherouny also found that during the previously mentioned surgeries, Dr. Amin removed or aspirated ovarian cysts in 40 women.[543] The Subcommittee learned that the general standard of care for simple, or functional, ovarian cysts would have been to do nothing and repeat an ultrasound in six weeks.[544] Dr. Cherouny stated that these cysts were "benign in every case," and the "majority were functional ovarian cysts in normally cycling ovaries" that would "generally resolve without surgical intervention."[545] Out of the 40 patients who underwent cyst removals or aspirations, Dr. Cherouny only identified one patient whose pathology reports indicated the removal was reasonable.[546]

In addition, Dr. Cherouny identified seven patients who underwent a LEEP—a procedure used to further assess abnormalities identified by a Pap smear and colposcopy—and found that the records he reviewed suggest Dr. Amin has "limited knowledge and/or skill in Pap smear management."[547] He explained that the "point of the [LEEP] procedure is to get tissue for diagnostic purposes and in each case [Dr. Amin] failed this outcome."[548] Dr. Cherouny attributed these failures to Dr. Amin's "technique" in performing the procedure.[549] For example, one patient who underwent a LEEP had a negative Pap smear and positive HPV test. In this case, the appropriate management would have been a follow-up Pap smear and HPV test one year later, but Dr. Amin performed a LEEP.[550] Dr. Cherouny stated this was "well outside of the guidelines."[551] For two other patients who received a LEEP, Dr. Cherouny found that no abnormal tissue was detected and there was no indication of a colposcopy before the LEEP.[552] Dr. Cherouny stated that Dr. Amin skipped "certainly a few" steps in the diagnostic process before performing a LEEP.[553]

d. Dr. Amin's Questionable Informed Consent Practices and Lack of Board Certification

Dr. Cherouny explained to the Subcommittee that informed consent requires the patient to have "adequate, accurate, and useful information."[554] Based on the records he reviewed, Dr. Cherouny stated that Dr. Amin did not provide specific information regarding surgical

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[541] *Id.*
[542] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[543] Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[544] Dr. Ted Anderson, Interview with Senate Permanent Subcommittee on Investigations (July 20, 2021).
[545] Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[546] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022).
[547] Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[548] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[549] *Id.*
[550] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022); Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[551] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022).
[552] *Id.*; Letter from Dr. Peter Cherouny to the Senate Permanent Subcommittee on Investigations (Feb. 1, 2022).
[553] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022).
[554] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Apr. 13, 2022).

procedures with detainee patients and there was "no documentation of discussions regarding options for care."[555]

Dr. Cherouny flagged that Dr. Amin "does not appear to be board certified" and "likely does no or limited continuing education to stay current" on up-to-date medical practices in these areas.[556] He explained further that it appears there are board certified OB-GYN providers in the area of ICDC and that he was "concerned" with how and why Dr. Amin was selected to treat this population.[557] He noted that the American College of Obstetricians and Gynecologists requires annual continuing medical education, which helps OB-GYN physicians stay current in their training.[558] Dr. Cherouny stated that it was likely that Dr. Amin would have pursued different treatment methods had he been board certified.[559]

Dr. Cherouny also noted that "[i]t appears there was, likely, no oversight of the care provided to these patients. The repetitive nature of some of the issues, like inadequate cervical tissue after a LEEP procedure, would seem to prompt a review in many hospitals."[560]

D. Response from Dr. Amin Concerning ICDC Allegations

Following the public allegations in the September 2020 whistleblower complaint and December 2020 lawsuit, Dr. Amin filed two defamation lawsuits against NBCUniversal Media, LLC and the author Don Winslow.[561] In these complaints, Dr. Amin stated that he performed only two hysterectomies on ICDC detainees.[562] According to the complaints, for both hysterectomies "the patients were informed and consented to the procedures."[563] In addition, Dr. Amin claimed that ICE "conducted an independent review of the treatment plans and approved the [hysterectomies]," which "confirms that the procedures were medically necessary."[564]

The complaints also stated that Dr. Amin "never performed" a procedure on an ICDC detainee without obtaining ICE approval and was supervised by at least one other person when he treated ICDC detainees, which "was a matter of protocol."[565] Dr. Amin further claimed that he "always obtains" informed consent, uses interpreters for non-English speaking patients, and "has never treated any patient roughly or inappropriately."[566] Both lawsuits are ongoing.

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[555] *Id.*; Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[556] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[557] *Id.*
[558] Dr. Peter Cherouny, Interview with Senate Permanent Subcommittee on Investigations (Jan. 26, 2022).
[559] *Id.*
[560] Memorandum from Dr. Peter Cherouny to Senate Permanent Subcommittee on Investigations (Oct. 27, 2022).
[561] *Amin v. NBCUniversal Media*, No. 5:21-cv-00056 (S.D. Ga. Sept. 9, 2021); *Amin v. Winslow*, No. 3:21-cv-01635 (S.D. Cal. Sept. 17, 2021).
[562] *Id.*
[563] *Id.*
[564] *Id.*
[565] *Id.*
[566] *Id.*

When allegations against Dr. Amin first emerged in September 2020 regarding his treatment of ICDC detainees, he sent a letter to a LaSalle employee, obtained by the Subcommittee that stated, in part:

> Recently, allegations have been made regarding my treatment of ICDC detainees. To be clear, I vigorously deny these allegations, and am confident that a full review will demonstrate that the care that I provided to all of my patients, including those housed at ICDC, was medically necessary and appropriate, and always done with the full informed consent of the patient.[567]

The Subcommittee tried on multiple occasions to obtain voluntary testimony from Dr. Amin regarding his treatment of female ICE detainees at ICDC. Dr. Amin declined the Subcommittee's requests for a voluntary interview. On February 7, 2022, the Subcommittee served Dr. Amin with a subpoena for deposition. Dr. Amin submitted an affidavit to the Subcommittee stating that he was innocent of the allegations and that he declined to provide testimony pursuant to his Fifth Amendment privilege against self-incrimination.[568] His attorney also mentioned the ongoing criminal investigation into Dr. Amin at the time in a cover letter accompanying the affidavit.[569] The Subcommittee is unaware of whether the criminal investigation is still ongoing.

V. DR. AMIN WAS A CLEAR OUTLIER IN THE VOLUME OF CERTAIN OB-GYN PROCEDURES HE PERFORMED ON ICDC DETAINEES

Despite housing a low percentage of the total population of female ICE detainees (4%), ICDC and Dr. Amin accounted for a substantial number of OB-GYN procedures overall (over one-third), a large total of invasive procedures performed on ICE detainees, and a sizeable proportion of all taxpayer money spent on OB-GYN procedures for ICE detainees. The Subcommittee's data analysis revealed that Dr. Amin was an outlier in the number of invasive procedures performed and how much money he billed the government for these procedures. While the Subcommittee could not account for every variable of the ICE female population (e.g. ICE does not track and does not know the health histories of the female populations across ICE detention centers) the data the Subcommittee received from ICE shows potentially alarming differences in the treatment patterns of ICDC detainees compared to female detainees housed at other ICE detention centers across the country.

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[567] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Oct. 22, 2021) (Tranche 18, 11144).
[568] Letter from Counsel for Dr. Amin to the Senate Permanent Subcommittee on Investigations (Feb. 21, 2022).
[569] *Id.* PSI contacted Dr. Amin's counsel during the Subcommittee's errata review process and did not receive a response. Email from the Senate Permanent Subcommittee on Investigations to Counsel for Dr. Amin (Nov. 10, 2022).

A. Despite Housing a Low Number of ICE Detainees, ICDC and Dr. Amin Accounted for a Large Percentage of OB-GYN Referrals, Visits, and Procedures Within the ICE System

ICE data provided to the Subcommittee shows that ICDC housed roughly 4% of female ICE detainees between 2017 and 2020.[570] (See Figure 4.) The Subcommittee also received data from ICE concerning the total number of OB-GYN referrals, visits, and procedures for all ICE facilities from 2017 to 2020.[571] These statistics show that OB-GYN referrals from ICDC, as a percentage of total annual OB-GYN referrals across the ICE system, increased from 9% in 2018 to nearly 17% in 2020.[572] Between 2017 and 2020, OB-GYN referrals for ICDC female detainees accounted for 14% of OB-GYN referrals for all ICE female detainees.[573] (See Figure 5).

Figure 4: FY 2017-2020 Female ADP Percentage at ICDC vs All ICE Facilities[574]

Fiscal Year	ICE Female Average Daily Population (ADP)	ICDC Female ADP	ICDC Female ADP as a Percentage of Total ICE Female ADP
2017	5,716	196	3.43%
2018	6,224	210	3.37%
2019	7,552	269	3.56%
2020	4,997	218	4.36%

[570] U.S. Immigration and Customs Enforcement, *HSGAC/PSI Interviews with ICE Health Service Corps (IHSC) Personnel Get-backs* (Nov. 5, 2021) (response on file with the Subcommittee); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 8, 2022) (Tranche 4, 1073-95).

[571] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; *Sept. 1, 2021 ICE Q&A Paper*, *supra* note 12; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 2, 2022). As explained above, referrals for off-site care from a detention facility will include referrals for initial treatment after facility staff has evaluated a detainee, as well as later referrals for surgical procedures that the off-site provider has recommended. Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3037-42); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01255).

[572] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 2, 2022).

[573] *Id.*

[574] U.S. Immigration and Customs Enforcement, *HSGAC/PSI Interviews with ICE Health Service Corps (IHSC) Personnel Get-backs* (Nov. 5, 2021) (response on file with the Subcommittee); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 8, 2022) (Tranche 4, 1073-95). In an internal memorandum from October 2020, ICE noted that the female population of ICDC increased in 2019 "due to the closure of other detention facilities" in the Atlanta area of responsibility. Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3037-42).

Figure 5: 2017-2020 Total Number of ICE OB-GYN-Related Referrals and ICDC OB-GYN-Related Referrals[575]

Fiscal Year	Total ICE OB-GYN Referrals	ICDC OB-GYN Referrals	ICDC OB-GYN Referrals as a Percentage of Total ICE OB-GYN Referrals
2017	783	126	16.09%
2018	1,127	103	9.14%
2019	1,652	240	14.53%
2020	1,703	288	16.91%
Totals	**5,265**	**757**	**14.38%**

From 2017 to 2020, ICE detainees had 2,567 OB-GYN specialist visits system wide.[576] ICE paid approximately $191,812 for these visits.[577] (See Figure 6.) Between 2017 and 2020, Dr. Amin performed the fourth-most visits (167) of OB-GYN providers treating ICE detainees, which accounted for roughly 6.5% of total OB-GYN visits for that time period and 7.3% of the total ICE paid for these visits.[578] (See Figure 7.)

Figure 6: Total Number of OB-GYN Specialist Visits by ICE Detainees for 2017-2020[579]

Fiscal Year	2017	2018	2019	2020	Total
Total Count	281	643	829	814	**2,567**
ICE Payment Amount	$17,177.38	$47,792.88	$66,421.87	$60,419.95	**$191,812.08**

[575] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 2, 2022). ICE noted that "[w]hile several other practitioners served ICDC over [the 2017 to 2020] time period, most OB-GYN patients were being seen by Dr. Amin." *June 23, 2021 ICE Q&A Paper*, *supra* note 14. In September 2021, ICE provided initial data regarding the number of OB-GYN referrals for ICE detainees. Specifically, ICE provided the following totals for ICDC OB-GYN referrals: 209 (FY17), 178 (FY18), 526 (FY19), 648 (FY20), 1,561 (total FY17-20). ICE explained that these totals were part of ICE's "initial data reporting" and its "referral analyst was still determining the best methods for data analysis." In addition, the earlier data was a "combination of claims and referral data" and "[a]s a result multiple counts […] were included which significantly inflated the totals." *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Feb. 10, 2022).

[576] *Sept. 1, 2021 ICE Q&A Paper*, *supra* note 12.

[577] *Id.*

[578] *Id.* According to ICE, this total refers only to billing by Dr. Amin for office visits. As mentioned below, Dr. Amin submitted claims for treatment for 313 detainees in total between 2014 and 2020, which would have included billing for "care and services he would have provided in the Emergency Room and inpatient at the local hospitals." U.S. Immigration and Customs Enforcement, *November 4, 2021 HSGAC/PSI Additional Follow-Up Questions* (Nov. 16, 2021) (response on file with the Subcommittee).

[579] *Sept. 1, 2021 ICE Q&A Paper*, *supra* note 12.

Figure 7: Top Five Providers of OB-GYN Visits for ICE Detainees for 2017-2020[580]

Top Five Specialists/Providers	Total Visit Count	Billed Charges	ICE Payment Amount
Top Provider 1	231	$55,360.00	$25,405.00
Top Provider 2	205	$35,545.00	$16,466.59
Top Provider 3	173	$39,755.00	$9,216.88
Dr. Mahendra Amin	**167**	**$22,050.00**	**$14,002.77**
Top Provider 5	155	$32,050.00	$10,576.38
Total	**931**	**$184,760.00**	**$75,667.62**

B. Dr. Amin Accounted for At Least One in Three OB-GYN Procedures and Received Nearly Half of All ICE Payments for OB-GYN Procedures Between 2017 and 2020

In September 2021, ICE produced statistical information to the Subcommittee regarding certain OB-GYN procedures Dr. Amin performed for ICE detainees between 2017 and 2020, as well as data on the frequency and cost of these OB-GYN procedures across the ICE detention system.[581] The Subcommittee determined that Dr. Amin accounted for at least one out of three OB-GYN procedures and received nearly half of all payments from ICE for 10 OB-GYN services between 2017 and 2020 despite the fact the average daily female population at ICDC accounted for roughly 4% of the average daily female population in all ICE detention facilities.[582] Specifically, from 2017 to 2020, physicians performed 1,201 of these OB-GYN procedures on ICE detainees.[583] The procedures cost ICE over $120,416.[584] (See Figure 8.)

[580] *Id.*
[581] *Id.* These procedures include: hysterectomies, tubal ligations, BX/curett of cervix with scope; conization of cervix; cryocautery of cervix; D&C; injection, medroxyprogesterone acetate, 100 mg; laparoscopy, excise lesions; laparoscopy, lysis; transvaginal US, obstetric; US exam, pelvic complete; and US exam, pelvic, limited. According to ICE, no tubal ligations were performed by any OB-GYN provider on ICE detainees from 2017 to 2020. *Id.*
[582] *See id.*; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 8, 2022) (Tranche 4, 1073-95). The 10 procedures are: BX/curett of cervix with scope; conization of cervix; cryocautery of cervix; dilation and curettage; injection, medroxyprogesterone acetate, 100 mg; laparoscopy, excise lesions; laparoscopy, lysis; transvaginal US, obstetric; US exam, pelvic complete; and US exam, pelvic, limited. *Sept. 1, 2021 ICE Q&A Paper*, *supra* note 12.
[583] *Sept. 1, 2021 ICE Q&A Paper*, *supra* note 12.
[584] *Id.*

Figure 8: Total Number of Ten OB-GYN Procedures Performed on ICE Detainees and Related Costs for 2017-2020[585]

Fiscal Year	2017	2018	2019	2020	Total
Total Count	99	238	388	476	**1,201**
Payment Amount	$5,673.96	$15,738.35	$46,024.38	$52,979.45	**$120,416.14**

The Subcommittee found that Dr. Amin was a clear outlier among physicians providing specialist OB-GYN care to ICE detainees and performed significantly more invasive procedures than other OB-GYN providers treating ICE detainees between 2017 and 2020 despite having the fourth-most visits from ICE detainees over the same time period. According to the data, Dr. Amin ranked first among physicians performing D&C procedures on female detainees between 2017 and 2020—with 53 procedures during this time compared to three procedures for the second-ranked physician.[586] Similarly, Dr. Amin also ranked first for Depo-Provera injections, having administered 102 injections during the same time period (and the "Hospital Authority of Irwin County" administered another two), compared to two shots for the next-highest provider.[587] Dr. Amin also ranked first for laparoscopies and limited pelvic exams. Dr. Amin performed 44 laparoscopies to excise lesions, compared to only one procedure for the second-ranked provider, and 163 limited pelvic exams, compared to four exams for the second-ranked provider.[588]

Overall, in ten categories of OB-GYN procedures, Dr. Amin was among the top five providers for eight of those ten procedures—and for seven out of these eight procedures, Dr. Amin was among the top two providers.[589] Dr. Amin accounted for almost one-third—392—of 1,201 total procedures performed by OB-GYN providers on ICE detainees between 2017 and 2020.[590] He was paid approximately $60,000 for these services—nearly half of all payments ($120,400) from ICE for these services.[591] (See Figure 9.) In addition, the payout rate for Dr. Amin for these ten procedures was 31% compared to the payout rate of 27% for the 1,201 total number of procedures performed by all OB-GYN providers treating ICE detainees.[592]

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[585] *Id.* As indicated above, the 10 procedures are: BX/curett of cervix with scope; conization of cervix; cryocautery of cervix; dilation and curettage; injection, medroxyprogesterone acetate, 100 mg; laparoscopy, excise lesions; laparoscopy, lysis; transvaginal US, obstetric; US exam, pelvic complete; and US exam, pelvic, limited. *Id.*
[586] *Id.*
[587] *Id.*
[588] *Id.*
[589] The figure does not include the two procedures in which Dr. Amin was not among the top five providers—"BX of cervix w/scope, LEEP" and "US exam, pelvic, complete." *Id.*
[590] Subcommittee staff calculated the 392 gynecological or obstetrical procedures based on the following information regarding certain procedures performed by Dr. Amin from 2017 to 2020: conization of cervix (4); D&C (53); cryocautery of cervix (7); injection, medroxyprogesterone acetate, 100 MG (102); laparoscopy, excise lesions (44); laparoscopy, lysis (6); transvaginal US, obstetric (13); and US exam, pelvic, limited (163). *Id.*
[591] *Id.* In addition to the $59,967.05 ICE paid for the eight procedures, ICE paid $1,160 for the two hysterectomies Dr. Amin performed from 2017 to 2020. *Id.*
[592] *Id.* According to ICE data, Dr. Amin billed $193,100 for these procedures and was paid $59,967. For the 1,201 total number of these procedures, OB-GYN providers billed $441,708 and were paid $120,416. *Id.*

Figure 9: Top Five Providers for Eight OB-GYN Procedures for ICE Detainees for 2017-2020[593]

Top 5 Providers: Laparoscopy, Excise Lesions			
#	Provider Name	Total Count (47)	Payment Amount ($28,862.04)
1	**Mahendra G Amin MD PC**	**44 (93.6%)**	**$27,960.34 (96.9%)**
2	Top Provider 2	1	$113.27
3	Top Provider 3	1	$788.43
4	Top Provider 4	1	$0.00
Top 5 Providers: Injection, Medroxyprogesterone Acetate			
#	Provider Name	Total Count (110)	Payment Amount ($8,647.98)
1	**Mahendra G Amin MD PC**	**102 (92.7%)**	**$8,608.98 (99.5%)**
2	Top Provider 2	2	$0.00
3	Top Provider 3	2	$0.00
4	Top Provider 4	1	$0.00
5	Top Provider 5	1	$0.00
Top 5 Providers: US Exam, Pelvic, Limited			
#	Provider Name	Total Count (179)	Payment Amount ($7,348.51)
1	**Mahendra G Amin MD PC**	**163 (91%)**	**$6,941.12 (94.5%)**
2	Top Provider 2	4	$162.99
3	Top Provider 3	2	$0.00
4	Top Provider 4	2	$23.36
5	Top Provider 5	2	$50.09
Top 5 Providers: Dilation and Curettage			
#	Provider Name	Total Count (65)	Payment Amount ($12,511.14)
1	**Mahendra G Amin MD PC**	**53 (81.5%)**	**$10,736.45 (85.8%)**
2	Top Provider 2	3	$440.83
3	Top Provider 3	2	$445.37
4	Top Provider 4	2	$239.02
5	Top Provider 5	2	$218.58
Top 5 Providers: Laparoscopy, Lysis			
#	Provider Name	Total Count (8)	Payment Amount ($3,356.75)
1	**Mahendra G Amin MD PC**	**6 (75%)**	**$2,677.10 (79.8%)**
2	Top Provider 2	2	$679.65

[593] ICE stated that certain procedures did not have "Top 5" providers and only had a "Top 2" or "Top 3." *Id.* Additionally, as discussed above, of the approximately 94 patient records he reviewed, Dr. Cherouny determined that Dr. Amin performed transvaginal ultrasounds on 36 of the women he treated. However, the information provided by ICE indicated that Dr. Amin performed only 13 transvaginal ultrasounds. When asked to explain this discrepancy, ICE stated that it provided the Subcommittee with "medical claims data." According to ICE, if the ultrasounds were performed in Dr. Amin's office, he may not have billed for the ultrasounds separately by Current Procedural Terminology (CPT) code. In addition, if the ultrasounds were performed at a hospital, the hospital would have billed for the ultrasound and possibly bundled into other coding/billing and not billed as separate CPT codes. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Apr. 27, 2022).

Top 5 Providers: Cryocautery of Cervix			
#	Provider Name	Total Count (13)	Payment Amount ($1,854.65)
1	**Mahendra G Amin MD PC**	**7 (53.8%)**	**$958.68 (51.7%)**
2	Top Provider 2	3	$429.11
3	Top Provider 3	2	$316.99
4	Top Provider 4	1	$149.87
Top 5 Providers: Conization of Cervix			
#	Provider Name	Total Count (15)	Payment Amount ($3,230.43)
1	Top Provider 1	6	$1,237.32
2	**Mahendra G Amin MD PC**	**4 (26.7%)**	**$1,000.29 (31%)**
3	Top Provider 3	1	$277.63
4	Top Provider 4	1	$243.19
5	Top Provider 5	1	$238.39
Top 5 Providers: Transvaginal US, Obstetric			
#	Provider Name	Total Count (209)	Payment Amount ($10,580.18)
1	Top Provider 1	33	$2,968.76
2	Top Provider 2	18	$454.63
3	Top Provider 3	16	$457.65
4	**Mahendra G Amin MD PC**	**13 (6.2%)**	**$1,084.09 (10.2%)**
5	Top Provider 5	11	$820.33
		Total Count of Procedures for Dr. Amin: 392	**Total Payment Amount to Dr. Amin: $59,967.05**

According to information from ICE, Dr. Amin submitted referrals for four hysterectomies, but he performed only two hysterectomies—one on June 14, 2017 and the other on August 9, 2019.[594] ICE stated to the Subcommittee that "medical records show that both procedures were medically necessary."[595] Regarding the other two hysterectomies, one detainee refused the procedure and the other detainee was released from ICE custody before the surgery.[596] In total, ICE approved 14 hysterectomies between 2017 and 2020, and ICE was billed $31,843 in professional fees for these services and paid $8,731.[597] For the two hysterectomies Dr. Amin performed, ICE paid Dr. Amin $1,160.[598] No other provider treating ICE detainees performed more than one hysterectomy during this period.[599]

[594] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[595] *Id.*
[596] *Id.*
[597] According to ICE, "[m]edical services are reimbursed at the lesser of billed charges or the Medicare allowable, therefore the initial charges to ICE will generally not be the same as the amount paid out to the provider." *Sept. 1, 2021 ICE Q&A Paper*, *supra* note 12.
[598] *Id.*
[599] From 2017 to 2020, the number of hysterectomies approved by ICE annually included: 2017 (6), 2018 (2), 2019 (5), and 2020 (1). *Id.*

VI. ICE FAILED TO EFFECTIVELY OVERSEE OR INVESTIGATE DR. AMIN

During the period in which Dr. Amin performed the services described in Section IV above, ICE, ICDC, and ICH all had responsibilities related to ensuring ICDC detainees received appropriate medical treatment. As the sections below describe, ICE, in particular—and other DHS components and federal contractors—maintains a complex oversight system designed to monitor detainee healthcare and general conditions inside detention facilities. ICE, however, engaged in limited efforts to vet Dr. Amin, monitor or review the treatment he provided, ensure he obtained informed consent or used language translation services, or investigate the public allegations against him.

A. Current ICE Oversight Mechanisms to Review Detention Centers and Medical Care

IHSC Field Medical Coordinators ("FMCs") typically conduct at least one site visit per year at non-IHSC facilities to evaluate their adherence to detention standards and quality of care indicators.[600] FMCs will also conduct a general overview of the layout of facilities, identify any safety concerns related to medical care, assess the quality of health services, and follow up on previous findings from other DHS auditors or private contractors.[601] In preparation for site visits, FMCs will review trends regarding complaints from detainees concerning medical care.[602] FMCs will also review a sample of medical records at each facility and conduct further investigations if they detect any deviations.[603] In addition, FMC site visits will include a review of a sample of sick call requests at each facility.[604] FMCs will document the results of their site visits and include any recommendations and facility actions and share the site visit reports with the facility and appropriate ICE Field Office Director.[605]

To the extent that systemic issues arise with medical care at detention centers, IHSC will work with these entities to draft a corrective action plan, which will often link recommendations to specific detention standards.[606] Local and regional FMCs will review facility responses to

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[600] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); *see also* Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 7, 2022) (Tranche 3, 01014-27). IHSC provides direct medical care at 21 facilities in the United States and, in FY 2021, "oversaw health care for over 169,000 detainees housed in 150 non-IHSC staffed facilities." U.S. Immigration and Customs Enforcement, ICE Health Service Corp Focused on Best Patient Outcomes (https://www.ice.gov/features/health-service-corps) (accessed Nov. 13, 2022).

[601] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01256).

[602] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).

[603] *Id.*

[604] *Id.*

[605] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01256).

[606] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).

corrective action plans and close any addressed recommendations.[607] As with ICE oversight generally, FMC efforts will often overlap with inspections and investigations from ODO, CRCL, the American Correctional Association, NCCHC, and the Nakamoto Group.[608]

IHSC employees known as Regional Clinical Directors ("RCDs") are physicians with oversight responsibilities for all IHSC-staffed and non-IHSC-staffed facilities. RCDs report to IHSC's Deputy Medical Director.[609] These employees supervise facility clinical directors and ensure facilities comply with IHSC medical policies.[610] RCDs will also perform the duties of a clinical director for facilities without a clinical director and supervise clinical staff, lead quality control meetings, establish weekly facility plans, and meet with department heads and providers.[611] As previously noted, RCDs are also responsible for identifying unusually frequent referrals to a certain provider or insufficient justifications for referrals.[612]

The Veterans Affairs Financial Services Center ("VAFSC") processes medical claims for reimbursement by ICE in response to claims from off-site healthcare providers, including the receipt of requests through the MedPAR system and the provision of lists of billed treatments or procedures to IHSC.[613] IHSC staff will then review and verify these treatments and procedures before VAFSC issues reimbursements to providers.[614] Starting in 2020, the Health Plan Management Unit ("HPMU") inside IHSC has overseen all medical claims, and IHSC has also acquired national care guidelines—effective June 2021—to support reviews of medical care for potential waste or fraud.[615]

The IHSC officials the Subcommittee interviewed explained that IHSC plays a role in monitoring and investigating complaints from individuals that receive medical care while in detention. Detainees can raise concerns verbally with facility employees, through a written complaint, or by calling a hotline.[616] At IHSC-staffed facilities, staff will investigate any complaints that are received; for non-IHSC facilities, the FMC will conduct an investigation.[617]

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[607] *Id.*
[608] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[609] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[610] *Id.*
[611] *Id.*
[612] *Id.*; U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[613] *Id.* ICE noted to the Subcommittee that medical records are not uploaded to MedPAR because this functionality does not exist. FMCs or RCDs may, however, request these requests and upload them to a detainee's referral in the IHSC electronic health record. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[614] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[615] *Id.*; *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01254).
[616] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[617] *Id.*; Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).

The IHSC investigative unit will also investigate complaints submitted to the ICE Office of Professional Responsibility ("OPR").[618] For these OPR cases, IHSC staff will conduct interviews, review relevant medical records, and present findings to the IHSC Medical Director.[619] Upon finding that the investigation has substantiated a complaint, the Medical Director will forward the findings to the IHSC Health Care Compliance Division, which will establish a corrective action plan for the relevant facility and monitor compliance.[620]

Detainees receiving medical treatment from an off-site healthcare provider can raise concerns regarding their care in a follow-up visit with detention facility staff.[621] Detainees can also raise concerns through the same procedures applicable to complaints regarding on-site medical care, and IHSC will respond in the same way—with the addition of outreach to the off-site provider for discussions or interviews.[622] If IHSC receives a particularly egregious complaint—or frequent complaints—against an off-site provider, IHSC will attempt to identify a replacement provider in the community with similar expertise.[623] An IHSC official noted to the Subcommittee, however, that because detention facilities often operate "in the middle of nowhere," no comparable specialists may be available.[624] In addition, an October 2021 DHS OIG report similarly noted that "[r]emote locations and reluctance among some medical specialists to treat detainees reduce access to specialty care."[625] In this case, IHSC will recommend that ICE transfer the complaining detainee to another facility near another specialist who can provide the same treatment, if medically indicated.[626]

Finally, as explained in more detail in Section B below, IHSC has begun to engage in limited vetting efforts for physicians providing off-site care, including a review of board certifications, records of adverse actions, and the HHS OIG List of Excluded Individuals/Entities.[627]

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[618] Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[619] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[620] *Id.*
[621] *Id.*
[622] *Id.*
[623] *Id.*
[624] *Id.*
[625] U.S. Department of Homeland Security, Office of Inspector General, *Many Factors Hinder ICE's Ability to Maintain Adequate Staffing at Detention Facilities* (OIG-22-03) (Oct. 29, 2021) (https://www.oig.dhs.gov/reports/2022/many-factors-hinder-ices-ability-maintain-adequate-medical-staffing-detention-facilities/oig-22-03-oct21).
[626] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[627] *Id.* HHS OIG possesses the authority to exclude individuals and entities from federally funded health care programs for various reasons, including for Medicare or Medicaid fraud. HHS OIG maintains a list of these individuals and entities and routinely updates this list on its website. U.S. Department of Health and Human Services, Office of Inspector General, *Exclusions Program* (oig.hhs.gov/exclusions/).

B. ICE Had Limited Capabilities to Vet Off-Site Medical Providers or Monitor Their Medical Practices

As part of its investigation into the role ICE could or should have played in preventing alleged medical abuses against ICDC detainees, the Subcommittee conducted three interviews with a group of senior IHSC officials, interviewed senior officials from the ICE Atlanta Field Office, interviewed the IHSC employee responsible for approving surgical procedures at ICDC, received narrative responses and statistics from the agency, and reviewed nearly 17,000 pages of medical records, complaints, and other internal ICE materials. The Subcommittee's review suggests that ICE lacked—and continues to lack—key tools to detect or deter any off-site provider performing unnecessary or excessive medical treatments for ICE detainees.

The only vetting ICE performed on Dr. Amin before he began treating ICDC detainees was to confirm that he was a licensed doctor and affiliated with an accredited hospital. ICE also failed to identify any treatment by Dr. Amin as potentially excessive or unnecessary and did not maintain a utilization review process to detect high numbers of medical procedures by off-site physicians that might indicate medical waste, fraud, or abuse.[628] ICE was also unaware of any detainee complaints against Dr. Amin before the public allegations emerged in September 2020.[629] IHSC officials explained to the Subcommittee that ICE policies do not require detention facilities to forward all medical grievances to ICE. Instead, FMCs will review grievances during their site visits to facilities.

The FMC assigned to ICDC, however, did not conduct a site visit between January 2018 and October 2020—a period in which Dr. Amin billed ICE for hundreds of procedures. Finally, ICE does not maintain policies and procedures to monitor the use of language translation services by off-site providers, ensure off-site providers obtain informed consent from detainees, or review the appropriateness of medical care at hospitals providing off-site services.

i. ICE Did Not Have a Thorough Process in Place to Vet Dr. Amin Before He Began Treating ICDC Detainees

In a statement to the Subcommittee, ICE explained that "[a]t the time Dr. Amin became a provider for detainees at ICDC in 2014, ICE did not have an independent vetting process for licensed medical providers in the community, though it has since begun implementing such a process."[630] IHSC officials told the Subcommittee that ICE authorized physicians to treat

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[628] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[629] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.

[630] *Id.* By comparison, the Centers for Medicare & Medicaid Services ("CMS") Center for Program Integrity ("CPI") screens providers for enrollment into the Medicare program, and states are required to screen providers for enrollment into their Medicaid programs. (States may utilize CMS's screening of providers in lieu of conducting state screenings for providers enrolling in both Medicare and Medicaid.) CMS utilizes contractors to conduct the screening of providers. Contractor screening procedures include checking the provider's licensure status, site visits, fingerprint checks, reviewing the HHS OIG Exclusion List, and reviewing other databases for felony convictions and other adverse actions. Providers may be disqualified from Medicare enrollment for not having a valid license, failing the site visit, having a felony conviction, being on the HHS OIG Exclusion List, or other grounds specified in regulation pertaining to program integrity or non-compliance. CMS also has established a Preclusion List, which is

detainees if the provider had a valid license and hospital credentials.[631] As a result, IHSC did not maintain an independent vetting process for off-site medical providers or otherwise require a review of these providers before they treated detainees.[632]

IHSC officials stated to the Subcommittee, however, that in October 2019, it began a credentialing process that involves a review of a provider's board certification, records of adverse actions like license suspensions or revocations in the federal National Practitioner Data Bank ("NPDB"), and a check against the List of Excluded Individuals/Entities the HHS OIG maintains.[633] In addition, IHSC started conducting NPDB queries "intermittently" on providers "when there were concerns raised regarding the provision of care."[634] IHSC officials also explained that IHSC might also perform additional research to supplement information in the NPDB.[635]

IHSC officials further explained that in the event IHSC finds a past complaint or investigation, officials will investigate; if the concern was previously adjudicated and resolved in favor of the provider, and the provider is the only provider in a particular community, IHSC will proceed with the provider for a trial period.[636] Officials also stated that IHSC will not use providers who have had their licenses suspended by a medical licensing board or have an extensive history of misconduct, fraud, or malpractice leading to an adverse outcome, such as death or loss of limb.[637] They explained, however, that the reviews IHSC conducts do not

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a list of providers who are precluded from receiving payment for Medicare Advantage items and services and prescribers where pharmacy claims for Medicare Part D drugs prescribed by them to Medicare beneficiaries are to be rejected or denied. Medicare Advantage plans are required to deny payment for a healthcare item or service furnished by an individual or entity on the Preclusion List and Part D sponsors are required to reject a pharmacy claim (or deny a beneficiary request for reimbursement) for a Part D drug that is prescribed by an individual on the Preclusion List. Providers on the HHS OIG Exclusion List will also appear on CMS's Preclusion List, but some providers on the CMS Preclusion List may not appear on the HHS OIG Exclusion List due to different criteria. Centers for Medicare & Medicaid Services, Briefing with Senate Permanent Subcommittee on Investigations (May 25, 2021); *see also* Centers for Medicare & Medicaid Services, *Preclusion List Frequently Asked Questions (FAQs)* (Dec. 16, 2020) (www.cms.gov/Medicare/Provider-Enrollment-and-Certification/MedicareProviderSupEnroll/Downloads/Preclusion_List_FAQs.pdf); Joe Stefansky, *CMS Preclusion v. OIG Exclusion*, Streamline Verify (Feb. 8, 2021) (www.streamlineverify.com/cms-preclusion-vs-oig-exclusion/).

[631] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[632] *June 23, 2021 ICE Q&A Paper*, *supra* note 14. In addition, although IHSC enters into Letters of Understanding with hospitals providing medical care to detainees, it does not engage in vetting efforts for these facilities beyond verifying their accreditation. *Id.*

[633] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); U.S. Immigration and Customs Enforcement, *HSGAC/PSI Interviews with ICE Health Service Corps (IHSC) Personnel Get-backs* (Nov. 5, 2021) (response on file with the Subcommittee); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01258-60).

[634] Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Apr. 27, 2022).

[635] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).

[636] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).

[637] *Id.*; U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).

involve obtaining data on claims a provider may have submitted to Medicare and a review of this data for potentially unusual patterns.[638]

The new recruitment process IHSC has instituted is retrospective, meaning that IHSC has focused on off-site providers with no previous Letter of Understanding ("LOU") with IHSC or a prior credentialing review.[639] IHSC has also established LOUs with certain new providers.[640] As part of this process, IHSC has phased in a requirement that providers submit a "provider packet" to ICE that includes a LOU, recruitment letter, and forms needed for reimbursement.[641]

As of June 28, 2021, 5,044 off-site specialty providers treated detainees in ICE custody, and IHSC completed retrospective reviews for only 96 providers, reviews were in progress for 55 providers, and reviews were pending for 70 providers.[642] According to IHSC, no providers had been disqualified under the new independent vetting system as of September 2021.[643] IHSC has noted that it will increase the amount of LOUs processed each year as it expands its staffing.[644]

ICE had not completed the process described above for Dr. Amin at the time of the public allegations against him in September 2020.[645] A December 30, 2020, email to a senior IHSC official noted that the LOU process was not started for Dr. Amin "due to the back log of 100+ recruitment requests pending for LOU's [sic] and 100+ in progress. [...] The credentialing process was not completed either."[646]

After learning of the September 2020 allegations, however, ICE searched for information concerning Dr. Amin in the HHS OIG List of Excluded Individuals/Entities and did not find any information indicating he had been excluded or debarred.[647] ICE found that Dr. Amin held an active license from the Medical Board of Georgia and did not discover any public board actions

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[638] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021). ICE noted to the Subcommittee that the credentialing process includes a check of the HHS OIG List of Excluded Individuals/Entities, which is a "list of 'bad actors.'" Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

[639] U.S. Immigration and Customs Enforcement, *PSI Briefing Get Backs* (July 26, 2021).

[640] *Id.* An LOU will explain that the provider will accept Medicare rates, provide IHSC with access to medical records, and perform an agreed set of services. U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).

[641] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 7, 2022) (Tranche 3, 01072).

[642] U.S. Immigration and Customs Enforcement, *PSI Briefing Get Backs* (July 26, 2021) (response on file with the Subcommittee).

[643] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[644] U.S. Immigration and Customs Enforcement, *PSI Briefing Get Backs* (July 26, 2021) (response on file with the Subcommittee).

[645] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.

[646] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 17, 2021) (Tranche 7, 2010).

[647] *June 23, 2021 ICE Q&A Paper*, *supra* note 14; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3041).

against him.[648] ICE also found that Dr. Amin held privileges at Coffee Regional Hospital and ICH and was a board eligible OB-GYN.[649] Finally, ICE noted that it reviewed documents related to prior medical malpractice settlements paid by Dr. Amin and his 2015 settlement with DOJ—but again, this occurred *after* the September 2020 allegations.[650]

According to IHSC, under the new independent vetting process, these adverse actions would be reviewed but would only be "red flags" if any allegations were substantiated.[651] Therefore, if the new vetting system had been applied to Dr. Amin, based on IHSC's assessment that the information in the NPDB were only allegations and not substantiated as the claims were "settled" without a determination of liability, and the fact that the state of Georgia had never restricted Dr. Amin's license or otherwise intervened at any point, ICE would not necessarily have disqualified him from treating ICE detainees.[652]

An IHSC official also explained to the Subcommittee that in no scenario would an off-site provider undergo a peer review.[653] ICE later noted that community-based providers are not ICE employees or contractors and therefore not subject to ICE's peer-review requirements.[654] An IHSC official told the Subcommittee that because peer reviews are standard practice in the medical community, IHSC made a "reasonable assumption" that ICH and its treatment oversight board reviewed Dr. Amin's treatment and charts.[655]

ii. ICE Never Identified Any Treatment by Dr. Amin as Potentially Excessive or Unnecessary and Lacked a Utilization Review Process to Identify Trends in Off-Site Medical Treatment

IHSC never identified any treatment by Dr. Amin as potentially excessive or unnecessary. When asked about the fact that the volume of procedures Dr. Amin performed on ICDC detainees was substantially out of proportion to the number of OB-GYN procedures performed by any other OB-GYN treating ICE detainees, IHSC officials explained that the disparity alone was not reason for alarm and that the surgeries were approved on a case-by-case basis by IHSC.[656]

In addition, before September 2020, IHSC never sought to determine whether any of the OB-GYN procedures Dr. Amin performed were medically necessary beyond the initial approval

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[648] *Id.*
[649] *Id.* "Board eligible" refers to a physician who has completed the requirements necessary before undergoing a board examination, but who has not taken or passed the examination. MedicineNet, *Medical Definition of Board Eligible* (www.medicinenet.com/board_eligible/definition.htm) (accessed Nov. 13, 2022).
[650] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[651] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[652] *Id.*
[653] IHSC officials told the Subcommittee that it conducts peer reviews of its staff at IHSC facilities. *Id.*
[654] Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[655] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[656] *Id.*

process.[657] ICE further noted to the Subcommittee that because "Dr. Amin is a community provider who owns and operates his own private practice and he is not an ICE employee or contractor," no corrective actions in response to allegations concerning his treatment were available during the period in which he treated ICDC detainees.[658]

In interviews with the Subcommittee, IHSC officials explained that until recently, IHSC did not maintain a real-time or automated system to detect high numbers of medical procedures by off-site physicians that might be indicative of waste, fraud, or abuse.[659] As ICE stated to the Subcommittee in November 2021, "IHSC does not have a utilization review process in place to identify overutilization of medical procedures."[660] Although the VAFSC—the entity responsible for processing claims from off-site providers—has certain limited capabilities to detect suspicious activity, IHSC officials noted to the Subcommittee that these functions are "not impressive," and VAFSC does not automatically screen or report claims to ICE for waste, fraud, or abuse.[661] Essentially, VAFSC currently focuses only on the existence of an authorization for a particular medical procedure.[662]

Because IHSC has not obtained satisfactory "deep dive" metrics on waste, fraud, and abuse from its current arrangement with VAFSC, it has recently worked to transition to an electronic claims management system—the Electronic Claims Adjudication Management System ("eCAMS")—from VAFSC to more efficiently adjudicate claims.[663] IHSC officials estimated that IHSC could begin using eCAMS in fiscal year 2022.[664]

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[657] *Id.*
[658] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[659] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021); U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). In contrast, the CMS Center for Program Integrity utilizes contractors to conduct various reviews at different points during the Medicare payment process. According to CMS officials, CMS receives over 1.2 billion Medicare claims a year, and CMS reviews less than 1 million. Medical Review Contractors conduct primarily prepayment reviews and prior authorizations and Recovery Audit Contractors conduct post-payment reviews. All payment reviews are informed by data analytics. CMS review contractors must adhere to statute, regulations, and the Medicare Program Integrity Manual, and CMS conducts oversight of its contractors to ensure they make accurate decisions. Centers for Medicare & Medicaid Services, Briefing with Senate Permanent Subcommittee on Investigations (May 25, 2021).
[660] U.S. Immigration and Customs Enforcement, *HSGAC/PSI Interviews with ICE Health Service Corps (IHSC) Personnel Get-backs* (Nov. 5, 2021) (response on file with the Subcommittee).
[661] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[662] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).
[663] *Id.;* U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[664] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Permanent Subcommittee on Investigations (June 23, 2021).

The current IHSC system is around 20 years old.[665] This new claims processing system "will support fraud, waste, and abuse [] reviews related to medical claims."[666] In June 2021, IHSC procured national care guidelines from Milliman Care Guidelines and has begun using a web-based application from this entity for utilization review of ICE medical claims, beginning with a retrospective review of these claims.[667]

According to IHSC, the Milliman Care Guidelines "will be used for [utilization review] in retrospective, concurrent, and prospective formats when used in its fullest potential."[668] Although IHSC has not established the criteria and process for investigations regarding instances of suspected waste, fraud, or abuse flagged by the new system, the investigations will be conducted by "trained [Certified Professional Medical Auditors] based on established criteria, national care guidelines [Milliman Care Guidelines], as well as related CMS and Title 18 regulations."[669]

Although IHSC is unable to identify trends using VAFSC, IHSC officials explained to the Subcommittee that RCDs may report unusually frequent numbers of referrals to a certain provider.[670] In an interview with the Subcommittee, an IHSC official with first-hand knowledge of RCD practices confirmed that reporting a high number of referrals was part of the RCD's responsibilities.[671]

However, in an interview with the RCD specifically responsible for approving surgical referrals for ICDC detainees, the RCD stated to the Subcommittee that they did not track the total number of referrals to off-site providers or referrals by types of surgical procedures and, in fact, did not "track referrals at all."[672] Instead, to determine whether the number of referrals was unusual, the ICDC RCD would review factors such as the population at a facility. The ICDC

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[665] *Id.*
[666] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[667] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01254).
[668] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01254).
[669] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01256).
[670] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021). ICE noted to the Subcommittee that even if an outlier was identified, it would require a review of medical records and consultation with an expert physician to make a determination of over-utilization and/or inappropriate medical services. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021); U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[671] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (May 17, 2021).
[672] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).

RCD stated that they did not compare off-site providers in question to other off-site providers or facilities to determine a high number of referrals.[673]

The ICDC RCD stated that they did not flag any referrals for Dr. Amin.[674] The ICDC RCD stated to the Subcommittee that they were not concerned with the disparities in procedures between Dr. Amin and the other off-site providers as discussed above because some facilities housed a larger female population than other facilities, and questioned "why should I be concerned."[675] Furthermore, the RCD stated that RCDs in general are not required to provide regular reports relating to referrals to IHSC.[676]

IHSC stated that it intends to provide nationally-recognized steps for RCDs to follow before approving referrals for medical procedures.[677] As mentioned above, IHSC does not currently provide guidance to RCDs regarding the referral approval process.[678] For example, IHSC does not provide guidance to RCDs for determining the medical necessity of a D&C procedure, and the review process for a hysterectomy is the same for a hernia.[679] The ICDC RCD stated to the Subcommittee that they considered the detainee's needs and factored in the psychological impact of undergoing surgery while detained.[680] This RCD stated that they relied mainly on their medical training and expertise when evaluating referrals.

In an interview with the Subcommittee, however, the ICDC RCD stated they had no additional training specific to the OB-GYN specialty since residency rotations in the 1980s and 1990s.[681] IHSC explained to the Subcommittee that while this review process "previously relied on clinical judgment of individual medical experts, the new system will combine clinical judgment with an approach that includes nationally recognized community standards of care based on evidence-based practice (EBP) and will also allow IHSC to collect more information and facilitate more efficient and effective reviews."[682]

iii. ICE Performed a Limited Investigation Following the Public Allegations Against Dr. Amin

Dr. Amin stopped seeing ICE detainees in September 2020, after the publication of the whistleblower allegations.[683] IHSC conducted a limited review of medical records for his

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[673] *Id.*
[674] *Id.*; *see also* Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01255).
[675] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[676] *Id.*
[677] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021).
[678] *Id.*
[679] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[680] *Id.*
[681] *Id.*
[682] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[683] *Id.*

patients, but IHSC officials explained to the Subcommittee that they did not undertake a deeper dive because they were told by ICE ERO leadership to "stand down" and await the completion of the DHS OIG investigation.[684] IHSC officials stated a more extensive evaluation would have required an "in-depth review of the record," which IHSC did not have due to incomplete records from ICDC.[685] IHSC officials informed the Subcommittee that ICH refused to provide additional records to IHSC due to the ongoing DHS OIG investigation.[686]

ICE explained that IHSC conducted a "comparative analysis of medical referrals and claims completed after receiving allegations about Dr. Amin."[687] IHSC did not compare services performed by Dr. Amin to services by other providers for ICDC detainees, "as Dr. Amin saw the majority of OB/GYN patients from 2014 to 2020 and such a comparison would not have been helpful."[688] IHSC did "conduct an analysis of referral and claims data at ICDC compared to other ICE detention facilities housing females and determined that the number of referrals and claims was not abnormal."[689]

More than one year after the public allegations regarding Dr. Amin emerged, IHSC staff expressed uncertainty to the Subcommittee as to why significant disparities existed between the volume of OB-GYN procedures he performed and procedures by other off-site physicians treating detainees.[690] IHSC staff, for example, speculated that ICDC might have had a higher percentage of female detainees than other facilities.[691] Those explanations do not explain the fact that Dr. Amin performed more than 90% of particular OB-GYN procedures when compared to the entire ICE detention network across the United States, and yet the ICDC facility housed just 4% of the female population.

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[684] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01257). ICE noted that it is standard practice across DHS components to cease investigations while DHS OIG moves forward with its investigation to mitigate the risk of interfering with the OIG investigation. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021). Similarly, the decision to "stand down" here was "done to preclude potential interference and/or duplication of effort with DHS OIG." ICE stated that the DHS OIG's investigation "takes precedence over ICE investigations." Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01257).

[685] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). ICE also reported to the Subcommittee that DHS CRCL has opened numerous investigations into inappropriate medical care provided to female detainees at ICDC, including translation issues, general conditions, and alleged retaliation in response to grievances. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).

[686] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[687] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.

[688] *Id.*

[689] *Id.* Information ICE used in this analysis is discussed in more detail in Section IV above.

[690] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[691] *Id.*

IHSC officials also suggested that other factors affecting the number of OB-GYN claims for ICDC detainees could include whether ICDC referred all OB-GYN specialty care off-site, in contrast to policies and capabilities at other detention facilities that might perform routine gynecological exams and treatments on-site.[692] ICE later noted to the Subcommittee, however, that *no* detention facilities would have the capacity to perform D&C procedures or laparoscopies on-site, "as those are [operating room] procedures that need to be performed in an ambulatory surgical center or hospital by [an] OB-GYN."[693]

Relatedly, IHSC officials mentioned anecdotal evidence that in-house ICDC medical staff might have been uncomfortable performing certain procedures like administering Depo-Provera injections, leading to a higher volume of shots administered by Dr. Amin.[694] ICE later explained, however, that IHSC did not review whether facilities administered Depo-Provera shots or pelvic exams on-site and may not have been able to make this determination, given that non-IHSC-run detention centers would not have reported this care to IHSC.[695] IHSC also identified other factors relevant to an analysis of OB-GYN claims, including age, pregnancy and birth history, previous pelvic and birth history, previous pelvic infections, and surgical history for female detainee populations.[696]

However, IHSC officials did not take the factors described above into account when analyzing the data it compiled for Dr. Amin's treatments because it would have involved "a huge undertaking," and IHSC had discontinued its efforts due to the DHS OIG investigation.[697]

As mentioned above, IHSC found that Dr. Amin only performed two hysterectomies,[698] and ICE stated to the Subcommittee that "medical records show that both procedures were medically necessary."[699] According to IHSC officials, substantial intramural fibroids and cervical cancer were the medical indications for the two procedures.[700] IHSC further determined that "Dr. Amin performed total hysterectomies on less than 1% of those detainees to whom he provided OB/GYN services," which it described as "not excessive" given hysterectomy rates among the U.S. female population.[701]

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[692] *Id.*
[693] U.S. Immigration and Customs Enforcement, *HSGAC/PSI Interviews with ICE Health Service Corps (IHSC) Personnel Get-backs* (Nov. 5, 2021) (response on file with the Subcommittee).
[694] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[695] U.S. Immigration and Customs Enforcement, *HSGAC/PSI Interviews with ICE Health Service Corps (IHSC) Personnel Get-backs* (Nov. 5, 2021) (response on file with the Subcommittee).
[696] Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[697] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[698] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3039).
[699] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.
[700] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[701] *June 23, 2021 ICE Q&A Paper*, *supra* note 14.

After the conclusion of its limited review, IHSC produced an internal summary memorandum for DHS headquarters dated October 5, 2020, which included recommendations regarding prior authorization and concurrence utilization review—a review of medical services while the patient receives these services—as well as continuing the LOU process with off-site providers and related credentialing process.[702] IHSC further recommended working with ICDC and LaSalle staff to secure community OB-GYN services for ICDC detainees and suggested that the FMC assigned to ICDC conduct a site visit as soon as possible.[703] These recommendations have been implemented throughout all contract facilities with IHSC, including ICDC prior to September 2021 when the contract ended.

iv. ICE Personnel Failed to Conduct Site Visits to ICDC Between January 2018 and October 2020

As noted above, ICE policies state that FMCs should conduct at least one site visit per year at non-IHSC facilities to ensure these facilities have complied with contractual detention standards.[704] However, an investigation that former DHS Acting Deputy Secretary Ken Cuccinelli began into ICDC allegations in the fall of 2020 found that the FMC responsible for ICDC had not visited the facility in several years.[705] Mr. Cuccinelli stated that he was alarmed by the prospect of involuntary hysterectomies and formed a three-person team to inspect the ICDC facility, review detainee medical records, and interview female detainees over the course of approximately one week in the fall of 2020.[706]

Mr. Cuccinelli told the Subcommittee finding that the FMC had not visited the facility in several years "was not a favorable discovery" and stated: "You would think the people responsible for medical care would get to the … facility."[707] After his team's initial review, in which they tentatively determined that involuntary hysterectomies were not occurring, Mr. Cuccinelli stated he was primarily concerned with the FMC's lack of visits to ICDC.[708]

The October 5, 2020, IHSC memorandum mentioned above confirmed this finding from the Cuccinelli investigative team. The memorandum explained that the last FMC site visit to

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[702] According to ICE, the agency is in the process of implementing these recommendations. Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3037-42) (notes on file with the Subcommittee); U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021); Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Feb. 11, 2022).
[703] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3037-42) (notes on file with the Subcommittee).
[704] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[705] Ken Cuccinelli, Interview with Senate Permanent Subcommittee on Investigations (Sept. 20, 2021).
[706] *Id.*; *see also* Natalie Andrews and Michelle Hackman, *U.S. Opens Investigation into Claims of Forced Hysterectomies on Detained Migrants*, The Wall Street Journal (Sept. 16, 2020) (www.wsj.com/articles/lawmakers-seek-investigation-into-allegations-of-mass-hysterectomies-on-detained-migrants-11600291610).
[707] Ken Cuccinelli, Interview with Senate Permanent Subcommittee on Investigations (Sept. 20, 2021).
[708] *Id.*

ICDC was conducted on January 8, 2018, and no site visit occurred in 2019 "due to the government shut down at the beginning of the year and [temporary staffing] requirements for FMCs which made scheduling and completing the ICDC site visit difficult."[709] The memorandum further explained that the FMC "prioritized" site visits to facilities that had major findings and non-compliance with standards during the 2018 site visits.[710] An IHSC official told the Subcommittee that IHSC prioritizes facilities that have had serious medical concerns in the past, and "ICDC was not one of those facilities."[711] In addition, the FMC completed a site visit to Stewart Detention Facility in Lumpkin, Georgia, instead of ICDC in 2019 because "Stewart had recently transitioned to an IGSA."[712] A site visit was scheduled for ICDC in March 2020, but that visit did not occur due to the COVID-19 pandemic, and the FMC "prioritized ICDC for an onsite visit in October 2020."[713]

According to an IHSC official, the October 2020 ICDC site visit did, in fact, occur and no significant medical deficiencies were identified.[714] ICE also noted to the Subcommittee that ICDC received site visits from the Nakamoto Group in June 2018, June 2019, and September 2020, as well as an ODO visit in March 2020, and that ICE CMD had a DSCO assigned to ICDC.[715]

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[709] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3038). An IHSC official explained that IHSC clinical staff is required to support ITOS (IHSC Temporary Duty On-call Schedule) efforts for 30 days each year to address staffing shortages. Another IHSC official stated that IHSC staff is constantly pulled into activities such as COVID-19 testing for U.S. Customs and Border Protection, making site reviews difficult. This official told Subcommittee staff that ICE leadership is aware that other activities will "fall off" as a result. U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). A recent DHS OIG report noted that "FMC resources are…limited; approximately 40 FMCs are responsible for oversight of 148 non-IHSC staffed ICE detention facilities." In response, ICE noted that it had analyzed FMC staffing levels and "concluded that it was necessary to add FMC positions. ICE officials stated that formal presentation of the evaluation and staffing recommendations is pending, but that some new positions were created." U.S. Department of Homeland Security, Office of Inspector General, *Many Factors Hinder ICE's Ability to Maintain Adequate Staffing at Detention Facilities* (OIG-22-03) (Oct. 29, 2021) (https://www.oig.dhs.gov/reports/2022/many-factors-hinder-ices-ability-maintain-adequate-medical-staffing-detention-facilities/oig-22-03-oct21).

[710] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3038).

[711] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). This official also stated that complications due to ITOS responsibilities—a temporary duty on-call schedule for the IHSC clinical workforce—was a reasonable explanation for the absence of a site visit to ICDC in 2019. *Id.*

[712] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Sept. 27, 2021) (Tranche 10, 3038).

[713] *Id.*

[714] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). The 2020 ICDC site visit report found the facility compliant with the standards and noted that "[t]here were no areas of concern noted during reviews of medical records, facility processes, procedures, and policy." Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 14, 2022) (Tranche 5, 01095).

[715] Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021). ICDC received a "Meets Standard" rating from the Nakamoto Group for each inspection from 2018 to 2020 and met the ICE PBNDS. The Nakamoto Group did not identify significant medical deficiencies. Information on the March 2020 ODO site visit is discussed in more detail in Section II above.

v. ICE Is Not Required to Monitor the Use of Language Translation Services by Off-Site Medical Providers

IHSC does not monitor the use of language translation services by non-IHSC facilities, such as ICDC, although it tracks the use of these services in IHSC-staffed facilities on a yearly basis and audits invoices to the translation vendor.[716] Similarly, IHSC does not monitor use of language translation services by off-site providers even though it provides a phone number and code for a "language line translator" with a referral to an off-site specialist.[717] IHSC officials stated to the Subcommittee that they believe each provider has a professional responsibility to provide language services to ensure their patients understand each proposed treatment—and neither IHSC nor the relevant detention facility plays a role in ensuring a provider meets this responsibility.[718]

Internal ICE emails appear to confirm that ICE does not monitor the use of language translation services by off-site medical providers. In a September 17, 2020, email to ICE officials, a *New York Times* reporter asked whether ICE had records of Dr. Amin's use of translation or interpretation services for ICDC detainees.[719] An ICE Atlanta Field Office official later sent an internal email stating that Dr. Amin "uses a language line service," but "we do not track his usage."[720]

vi. ICE Is Not Required to Ensure Off-Site Medical Providers Obtain Informed Consent

ICE detention standards define informed consent as: "An agreement by a patient to a treatment, examination, or procedure after the patient receives the material facts about the nature,

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Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (June 8, 2021) (668-703); Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Jan. 31, 2022) (Tranche 2, 00295-893).

[716] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). According to IHSC officials, ICE ODO and DHS CRCL monitor the use of language services in non-IHSC facilities and will indicate any deficiencies related to these services in their reports. U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[717] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). Documents reviewed by the Subcommittee showed that off-site referrals included a phone number and code for a translator. *See, e.g.,* LaSalle_333444; LaSalle_333490; LaSalle_333516.

[718] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[719] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Oct. 27, 2021) (Tranche 17, 11058).

[720] Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Oct. 27, 2021) (Tranche 17, 11057).

consequences, and risks of the proposed treatment, examination or procedure; the alternatives to it; and the prognosis if the proposed action is not undertaken."[721]

As with language translation services, ICE does not monitor off-site providers to ensure they obtain informed consent from detainees before providing medical services.[722] Instead, IHSC officials explained to the Subcommittee that providers have a professional responsibility to obtain informed consent and include consent forms with medical records, and hospitals have an incentive to obtain consent to avoid risking their accreditation.[723] As a result, neither IHSC officials—including RCDs—nor detention facilities like ICDC have a role in ensuring providers fulfill these responsibilities.[724] In fact, the ICDC RCD had "no idea" what the process was for obtaining consent for a surgical procedure from a detainee.[725]

During its limited investigation into allegations concerning Dr. Amin, IHSC searched for consent forms related to certain detainee patients and found that forms were missing in some cases.[726] According to IHSC, this was "not best practices,"[727] and IHSC officials reinforced to ICDC the importance of maintaining full records for all off-site medical procedures.[728] Mr. Cuccinelli identified a major concern related to female ICDC detainees who indicated they did not understand or consent to treatments Dr. Amin performed.[729] Mr. Cuccinelli also stated that "there was definitely a disconnect" in the patient-doctor relationship, and detainees were not in a position to understand the procedures that occurred, "which is in itself inadequate."[730]

Internal communications also appear to confirm that ICE relied on off-site providers to meet their professional obligation to obtain consent instead of verifying that detainees provided consent or auditing consent documents after treatments. For example, in an email exchange from

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[721] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *Performance-Based National Detention Standards 2011*, at 469-470 (Revised December 2016) (https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf).
[722] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[723] *Id.;* U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021). IHSC officials and medical staff at randomly selected facilities stated to the Government Accountability Office that "ICE expects community providers, as licensed medical professionals, to execute all aspects of informed consent when providing care to detained noncitizens," and that "it is the responsibility of the off-site community provider to obtain and document informed consent." Government Accountability Office, *Immigration Detention: ICE Needs to Strengthen Oversight of Informed Consent for Medical Care*, 15 (GAO-23-105196) (Oct. 2022) (https://www.gao.gov/products/gao-23-105196).
[724] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (June 23, 2021); U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021); U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[725] U.S. Immigration and Customs Enforcement Health Service Corps Official Regional Clinical Director, Interview with Senate Permanent Subcommittee on Investigations (Feb. 14, 2022).
[726] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).
[727] *Id.*
[728] *Id.*
[729] Ken Cuccinelli, Interview with Senate Permanent Subcommittee on Investigations (Sept. 20, 2021).
[730] *Id.*

September 2020, an official from the Consulate General of Mexico stated that the medical file for Y.J.—a Mexican national who was subject to gynecological procedures by Dr. Amin while detained at ICDC—was missing consent forms and asked an ICE Atlanta Field Office official "how consent is obtained from detainees and if there are any forms they have to sign to submit themselves to invasive procedures."[731] This ICE official replied by stating that "[c]onsent forms are obtained by the surgeon" and that "files are maintained at his office and at the hospital."[732]

Recently, the Government Accountability Office ("GAO") conducted a review of 48 medical files from six ICE detention facilities across the country.[733] GAO determined that these facilities generally documented informed consent for care provided within the facility's medical unit.[734] Like ICDC, however, GAO determined that most facilities reviewed did not include consent documentation in medical records for off-site medical care.[735] GAO highlighted that ICE policies do not require detention facilities to obtain documentation of informed consent for off-site medical care.[736] GAO recommended: (1) ICE should establish and communicate a policy requiring IHSC-staffed facilities to collect informed consent documentation for medical care from community providers; (2) ICE should require non-IHSC-staffed detention facilities to collect informed consent documentation for medical care from community providers; and (3) ICE should include a review of these policies in its oversight mechanisms once they are established.[737]

vii. ICE Conducts Limited Oversight of Hospitals Providing Off-Site Services for Non-IHSC Detention Facilities

ICE conducts limited oversight of hospitals providing off-site care to ICE detainees. IHSC, for example, did not maintain a written agreement or contract with ICH while ICDC housed detainees, and IHSC officials indicated that any agreement with the hospital would be at the "local level."[738] Although ICE has begun entering into LOUs with hospitals, as mentioned above, it never concluded an LOU with ICH.[739] However, according to ICE, an LOU is not a contract or agreement that directs hospitals on how to provide medical care and other services to

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[731] Citizens for Responsibility and Ethics in Washington, National Immigration Project of the National Lawyers Guild, and Project South, *Deliberate Indifference: Records Show ICE's Systemic Failures at Georgia Detention Facility at the Center of Gynecological Abuse Investigations* (June 2021) (nipnlg.org/PDFs/2021_03June_ICE-ICDC-Report.pdf).
[732] *Id.*
[733] Government Accountability Office, *Immigration Detention: ICE Needs to Strengthen Oversight of Informed Consent for Medical Care* (GAO-23-105196) (Oct. 2022) (https://www.gao.gov/products/gao-23-105196).
[734] *Id.*
[735] *Id.*
[736] *Id.*
[737] *Id.*
[738] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021). As noted above, ICDC detainees received OB-GYN services at ICH due to Dr. Amin's affiliation with the hospital.
[739] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

detainees.[740] Before ICH began treating ICDC detainees, IHSC also did not conduct any reviews to determine whether the hospital had been the subject of previous allegations concerning medical waste, fraud, or abuse.[741]

IHSC officials said they intend to review inpatient hospital admissions using the Milliman Care Guidelines as part of IHSC's new utilization review process, but no reviews have been performed to date.[742] IHSC also has not required hospitals to submit regular reports or other information concerning the treatment of detainees, with the exception of clinical updates regarding in-patient care, and it does not provide guidance or policies to hospitals regarding appropriate treatment.[743]

VII. ICDC HAD LIMITED OBLIGATIONS TO CONDUCT OVERSIGHT OF OFF-SITE CARE FOR DETAINEES

LaSalle, the contractor who operated the ICDC facility, says it played a very limited role in vetting off-site physicians treating detainees from ICDC, reviewing the medical care they administered, or ensuring that detainees provided informed consent in connection with these procedures. LaSalle and ICDC employees were also unaware of any review by ICDC staff prior to the September 2020 complaint that revealed abuse, waste, or fraud in connection with care Dr. Amin provided or any complaints or grievances from ICDC detainees concerning Dr. Amin.

Finally, LaSalle and ICDC conducted a limited review of medical records for ICDC detainees who had received gynecological surgical procedures from Dr. Amin following the public allegations against him. LaSalle Medical Director Dr. Hearn could not make a conclusive determination regarding the appropriateness of the gynecological care Dr. Amin provided. LaSalle representatives stated to the Subcommittee that no ICDC employee had authority or responsibility related to the quality or nature of care off-site physicians provided—only the duty to negotiate and maintain arrangements with these physicians.

A. LaSalle Had Minimal Contractual Obligations Concerning Off-Site Medical Care at ICDC

In interviews with the Subcommittee, ICDC officials described limited efforts to vet Dr. Amin before he provided care to ICDC detainees or review the care he eventually provided. For example, ICDC Warden Paulk, Deputy Warden Frank Albright, and Medical Director Dr.

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[740] ICE noted to the Subcommittee that LOUs are only intended to describe the services the provider can offer and to ensure the provider agrees to accept Medicare reimbursement rates. Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).

[741] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

[742] *Id.*; Production from U.S. Immigration and Customs Enforcement to the Senate Permanent Subcommittee on Investigations (Feb. 22, 2022) (Tranche 7, 01254); Email from U.S. Immigration and Customs Enforcement Staff to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022). *See also* Milliman Care Guidelines, *Industry-Leading Evidence-Based Care Guidelines* (https://www.mcg.com/care-guidelines/care-guidelines/) (accessed Nov. 13, 2022).

[743] U.S. Immigration and Customs Enforcement Health Service Corps, Briefing with Senate Permanent Subcommittee on Investigations (Sept. 29, 2021).

McMahan were unaware of the 2015 settlement between Dr. Amin and other parties and DOJ or the previous malpractice lawsuits against Dr. Amin.[744] Dr. McMahan also stated that he was not aware of any efforts by ICDC to vet Dr. Amin before he began treating ICDC detainees.[745]

LaSalle representatives explained to the Subcommittee that the company plays no role in vetting off-site medical providers for detainees.[746] Dr. Hearn, Medical Director for LaSalle, also confirmed that LaSalle employees play no role in vetting off-site providers.[747] All current ICDC and LaSalle employees the Subcommittee interviewed indicated they became aware of recent allegations against Dr. Amin only through the public disclosures in September 2020.[748]

LaSalle explained to the Subcommittee that the IGSA between ICDC and ICE required only that ICDC "ensure…access to an offsite emergency medical provider at all times."[749] Moreover, according to LaSalle's contract with ICE, the only obligation of the HSA related to this issue was, in collaboration with ICE, to "negotiate[] and maintain[] agreements with nearby medical facilities or health care providers to provide required health care not available within the facility."[750]

Regarding oversight of medical care by Dr. Amin, Dr. McMahan explained that the HSA, in accordance with her general oversight concerning access to care, and the DON might have become aware of certain aspects of care by off-site providers and would consult with him, as the facility's Medical Director, on occasion.[751] Dr. McMahan, however, could not recall any particular circumstances in which these officials referred a patient who had seen Dr. Amin to him for further oversight.[752]

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[744] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021).
[745] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021).
[746] Counsel for LaSalle, Briefing with Senate Permanent Subcommittee on Investigations (May 19, 2021).
[747] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).
[748] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021); Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).
[749] LaSalle_048633-89; Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[750] LaSalle_027934-37; Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[751] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); LaSalle_027935.
[752] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021).

Former HSA Brown confirmed that she did not recall any instance in which she asked Dr. McMahan to review care Dr. Amin provided.[753] She also stated that she was not aware which ICDC employees were able to monitor or review the treatment Dr. Amin provided to ICDC detainees.[754] Additionally, Dr. Hearn stated to the Subcommittee that she was not aware of any efforts at the detention center level, in general, to oversee the care detainees receive from off-site providers.[755] She did recall, however, instances in which she had reviewed the volume of referrals to off-site providers from detention centers for signs of waste, fraud, or abuse, pursuant to her authority to make decisions regarding "the deployment of health resources" to "support the delivery of health care services."[756]

In addition, former HSA Brown did not recall undertaking any analysis of medical treatment by Dr. Amin prior to the public allegations against Dr. Amin.[757] Warden Paulk and Deputy Warden Albright were not aware of any review of Dr. Amin by ICDC staff, prior to September 2020, that revealed irregularities or indications of waste, fraud, and abuse in the treatment Dr. Amin provided to detainees.[758] Dr. Hearn was similarly unaware of any review of this kind taking place before the public allegations against Dr. Amin.[759] In addition, none of the ICDC employees the Subcommittee interviewed were aware of efforts to review trends related to detainees refusing to receive treatment from Dr. Amin.[760] In an interview with the Subcommittee, former HSA Brown recalled one complaint from a detainee in November 2018 refusing to see Dr. Amin because she "felt uncomfortable" and requested a different provider.[761]

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[753] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022). According to LaSalle, former HSA Brown did not have "access to sufficient records to enable such a review." Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

[754] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[755] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).

[756] *Id.*; LaSalle_027935; Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).

[757] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022). According to LaSalle, former HSA Brown did not have "access to records sufficient to undertake" any analysis of medical treatment by Dr. Amin. Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

[758] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021).

[759] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).

[760] *Id.*; Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021); Amber Hughes Strout, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 22, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[761] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

Dr. McMahan also explained to the Subcommittee that he was unaware of any issues with Dr. Amin failing to obtain informed consent from detainee patients, and Warden Paulk was similarly unaware of any concerns that detainees may not have provided informed consent.[762] Former HSA Brown told the Subcommittee that off-site providers were responsible for obtaining informed consent from the detainee in the language understood by the detainee.[763] She did not recall ICDC medical unit staff having access to detainees' records from an off-site visit to review for a record of consent or having the ability to monitor off-site providers to ensure consent procedures were followed.[764]

Dr. Hearn explained to the Subcommittee that detention center staff play no role in ensuring off-site providers obtain informed consent from detainees.[765] Similarly, LaSalle representatives stated that responsibility for obtaining informed consent for off-site treatment lies with the relevant healthcare provider.[766] Relatedly, Dr. Hearn also stated that staff would play no role in verifying that detainees receive language translation services during off-site care.[767] Former HSA Brown confirmed that ICDC medical unit staff could not verify off-site providers' use of translation services and stated that it is the responsibility of the off-site provider to obtain consent and ensure that an interpreter is utilized.[768]

ICDC officials were also unaware of the existence of any complaints or grievances by ICDC detainees concerning Dr. Amin and no records of complaints or grievances concerning his care were discovered by ICDC, with the exception of the complaint former HSA Brown recalled discussed above and an email that Warden Paulk stated he received in November 2018 from the

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[762] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021).

[763] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022). This was in accordance with ICE 2011 PBNDS, Section 4.3 V.D ("Informed consent shall be obtained prior to providing treatment (absent medical emergencies)."). Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

[764] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[765] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).

[766] Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021); Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022); *see also* 2011 PBNDS, Section 4.3 V.D ("Health care practitioners should explain any rules about mandatory reporting and other limits to confidentiality in their interactions with detainees. Informed consent shall be obtained prior to providing treatment (absent medical emergencies)." LaSalle's own Medical Request and Consent for Treatment Form, for procedures inside its detention facilities, grants LaSalle "authority to administer and perform routine examinations, treatments of minor illnesses and injuries, medications and diagnostic procedures which may be necessary to address my above medical complaint." LaSalle_014225-26.

[767] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).

[768] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022). In documents reviewed by the Subcommittee, off-site referral packets from ICDC to the off-site provider included the IHSC MedPAR authorization and had information for a "language line translator." *See, e.g.,* LaSalle _323835; LaSalle_324227; LaSalle_324493.

Southern Poverty Law Center.[769] The email discussed an ICDC detainee who had suffered a miscarriage while in custody and was still suffering from "debilitating pain."[770] According to the email, the detainee was seen by Dr. Amin at least twice, but her pain returned and worsened.[771] The email further stated that the detainee's "experience with Dr. Amin was so painful and traumatic that she did not want to be sent back to him."[772] According to subsequent emails, ICDC responded to this complaint by sending the detainee to a different off-site provider "unassociated with Dr. Amin."[773]

With the exception of the one complaint discussed above, former HSA Brown was unaware of any complaints from detainees or staff regarding Dr. Amin.[774] Dr. McMahan also was unaware of any complaints from detainees or staff regarding Dr. Amin, and apart from an email containing a memorandum regarding Dr. Amin that Deputy Warden Albright viewed shortly after joining ICDC, Deputy Warden Albright learned of no complaints regarding Dr. Amin.[775] Dr. Hearn was similarly unaware of any complaints against Dr. Amin.[776]

As explained in Section III above, however, all of the women the Subcommittee interviewed concerning their treatment by Dr. Amin recalled submitting grievances to ICDC, ICE, or both, expressing their concerns to ICDC staff, or requesting second opinions. Ms. Dowe, for example, stated that she requested a second opinion after Dr. Amin recommended a hysterectomy following her cyst removal.[777] However, Ms. Dowe recalled that an ICDC nurse informed her that ICE would not pay for a second opinion.[778]

Ms. Castaneda-Reyes recalled that she shared concerns about her interaction with Dr. Amin with a mental healthcare provider at ICDC, but this individual then downplayed these concerns.[779] She also recalled that she shared her concerns with ICDC guards about infertility

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[769] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); LaSalle_2573-77; Email from Paralegal to Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations Staff (Sept. 24, 2021); Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).
[770] LaSalle_2574.
[771] *Id*.
[772] *Id*.
[773] LaSalle_2573.
[774] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022). No complaints from detainees or staff regarding Dr. Amin were later located by LaSalle. Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).
[775] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021). Deputy Warden Albright could not further recall the specific content of this email or memorandum in his interview with the Subcommittee.
[776] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).
[777] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); *see also* LaSalle_319164; LaSalle_320169.
[778] Wendy Dowe, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021).
[779] Maribel Castaneda-Reyes, Interview with Senate Permanent Subcommittee on Investigations (Oct. 5, 2021). This encounter was not reflected in Ms. Castaneda-Reyes' medical records.

following treatment by Dr. Amin, but one guard dismissed her concerns because Ms. Castaneda-Reyes already had three children.[780]

Jane Doe #2 also stated that she told multiple nurses at ICDC regarding her experiences with Dr. Amin. She recalled that "none of them were shocked," and they told her that she was not the first one Dr. Amin had "messed up."[781] Ms. Floriano Navarro remembered submitting grievances to obtain more information about the procedures Dr. Amin performed.[782] The Subcommittee was only able to substantiate Ms. Floriano Navarro's recollections.

B. LaSalle Conducted a Limited Investigation of Abuse Allegations

Following the public allegations against Dr. Amin, Dr. Hearn conducted a review of medical records for ICDC detainees who had received gynecological surgical procedures since 2016.[783] Former HSA Brown told the Subcommittee that she, along with other medical unit staff, pulled the charts for all female detainees who were referred to Dr. Amin over the past few years.[784] Over three days, Dr. Hearn reviewed referrals from ICDC to Dr. Amin and verified that the referrals were appropriate and had been approved by IHSC.[785] Due to the limited and incomplete patient records ICDC had access to, she could not, however, make a conclusive determination regarding the appropriateness of the gynecological care detainees received.[786]

According to LaSalle representatives, the company "does not have access to hospital records other than those provided to detainees or sporadically provided to ICDC staff."[787] Dr. Hearn also reviewed ICDC grievance logs, and she informed the Subcommittee that she did not find any material raising concerns regarding off-site gynecological services.[788] She did not interview detainees—most of whom were no longer at ICDC—or speak to Dr. Amin—who was represented by legal counsel—during her review.[789] Former HSA Brown stated that she was interviewed by LaSalle headquarters.[790] She also stated that she was not presented with the findings of Dr. Hearn's review.[791]

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[780] *Id.*
[781] Jane Doe #2, Interview with Senate Permanent Subcommittee on Investigations (Oct. 4, 2021). These encounters were not reflected in Jane Doe #2's medical records.
[782] Jaromy Jazmin Floriano Navarro, Interview with Senate Permanent Subcommittee on Investigations (June 25, 2021); LaSalle_333712; LaSalle_335569-71.
[783] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).
[784] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).
[785] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).
[786] *Id.*; Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[787] Letter from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[788] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021).
[789] *Id.*; Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).
[790] Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).
[791] *Id.*

Dr. McMahan also reviewed the past five years of gynecological procedures performed on ICDC detainees, including procedures Dr. Amin performed.[792] Specifically, he reviewed medical charts and the "number of procedures done and justifications for doing them."[793] He stated that his analysis was a "broad review," and he found "very few surgical interventions in the realm of the allegations."[794] For example, Dr. McMahan found only three hysterectomies had been performed over the last five years for ICDC detainees.[795] Dr. McMahan stated that he focused on hysterectomies and laparoscopies, in contrast to the wider evaluation he understood LaSalle conducted.[796] His review also did not include interviews of detainees—most of whom were no longer at ICDC—nor ICDC or ICH staff.[797]

Dr. McMahan recalled that the review process only took "one afternoon."[798] He reviewed medical charts and the "number of procedures done and justifications for doing them."[799] He told the Subcommittee that he was "concerned about the allegations," but found "nothing alarming at all" in the medical files and that his review of those files confirmed that there "was nothing out of line, nothing egregious."[800] Although he had not received a formal briefing on the LaSalle investigation, he spoke with Dr. Hearn in the course of her review, and he understood from that conversation that his findings were similar to the results from her inquiry.[801]

In his interview with the Subcommittee, Warden Paulk was unaware of the specific scope of the LaSalle investigation or the medical review Dr. McMahan conducted, but stated that he was aware that Dr. Hearn and Dr. McMahan had reviewed certain medical files.[802] He also explained that he had not received a briefing concerning any findings from the two investigations and had not seen any written product summarizing these findings.[803] Warden Paulk was also unaware of any ICDC investigative efforts involving ICH or interviews with ICDC employees.[804] Similarly, Deputy Warden Albright was unaware of any investigative efforts regarding Dr. Amin.[805]

Finally, prior to the removal of ICE detainees from the facility, all ICDC employees the Subcommittee interviewed were unaware of ICDC implementing any new policies or procedures

[792] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021).
[793] *Id.*
[794] *Id.*
[795] *Id.*
[796] *Id.*
[797] *Id.*
[798] *Id.*
[799] *Id*; Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).
[800] *Id.*
[801] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021).
[802] David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021).
[803] *Id.*
[804] *Id.*
[805] Frank Albright, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 21, 2021).

specifically in response to the allegations concerning Dr. Amin.[806] In addition, Warden Paulk, Dr. McMahan, and former HSA Brown were unaware of any investigative efforts that identified particular ICDC employees as failing to exercise an appropriate standard of care in overseeing detainee treatment.[807] Dr. Hearn was also unaware of LaSalle identifying any employees who had failed to exercise this standard of care.[808]

LaSalle representatives stated to the Subcommittee that no ICDC employee has authority or responsibility related to the quality or nature of care off-site physicians provide—only the duty to negotiate and maintain arrangements with these physicians.[809] Specifically, LaSalle representatives stated that "LaSalle staff are not contracted or otherwise allowed to be present for medical procedures [like] hysterectomies."[810]

VIII. ICH DECLINED TO IDENTIFY EFFORTS TO INVESTIGATE DR. AMIN AND DID NOT IDENTIFY ANY CHANGES TO POLICIES AND PROCEDURES FOLLOWING THE 2020 ALLEGATIONS

Dr. Amin continues to serve as the Chief Medical Officer and exercises a broad leadership role at ICH.[811] The current ICH executives the Subcommittee interviewed were not aware of the initial vetting process for Dr. Amin when he first joined the hospital staff but mentioned he was re-credentialed in 2021.[812] The executives further explained that the current ICH re-credentialing process involves checking a physician's license, running a background check, checking for exclusion from Medicare and Medicaid programs, and reviewing any medical malpractice cases, which are relevant but not determinative for this process.[813] While an

[806] *Id.*; Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Amber Hughes Strout, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 22, 2021); Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022).

[807] Howard McMahan, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 15, 2021); David Paulk, Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 16, 2021); Lakeysa Brown, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Jan. 5, 2022); *see also* Amber Hughes Strout, formerly of Irwin County Detention Center, Interview with Senate Permanent Subcommittee on Investigations (Sept. 22, 2021). According to LaSalle, no ICDC employees have authority or responsibility for medical care provided by off-site providers. Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

[808] Pamela Hearn, LaSalle Corrections, Interview with Senate Permanent Subcommittee on Investigations (Nov. 9, 2021). According to LaSalle, "[n]o LaSalle employees are authorized or are allowed to review the quality of nature of care provided by off-site medical providers." Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 11, 2022).

[809] Email from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021); *see also* LaSalle_027934-37.

[810] Letter from Counsel for LaSalle to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).

[811] Paige Wynn, Irwin County Hospital, Interview with Senate Permanent Subcommittee on Investigations (Aug. 25, 2021).

[812] *Id.*

[813] *Id.*

ICH representative noted that Dr. Amin had been accused of medical malpractice, the representative also noted he was "cleared by multiple jury trials."[814] ICH executives also explained to the Subcommittee that under the CIA with HHS OIG, an outside auditor reviewed all ICH agreements, including the agreement with Dr. Amin, as discussed above.[815]

ICH CEO Paige Wynn stated she had not received any complaints against Dr. Amin from patients or staff since she joined the hospital in 2015.[816] Ms. Wynn also stated that she was not aware of any instances in which ICH identified waste, fraud, and abuse related to Dr. Amin—and apart from the 2015 DOJ settlement, she was not aware of any such issues related to Dr. Amin.[817]

The Subcommittee reviewed at least one medical file from ICH in which a nurse noted that she had questioned a detainee patient of Dr. Amin about the type of surgery she was having. According to the notes, the patient "didnt [sic] know she was having surgery" and spoke "very little English."[818] Using a language translation service, the nurse confirmed that the patient "wasnt [sic] aware of having surgery" that day.[819] The notes also indicate that the patient "is refusing surgery at this time" and will "wait and have it done in her country."[820] The notes further state that the surgery was not performed and the patient left the hospital.[821] According to ICH representatives, there is no indication that Ms. Wynn had seen this note.[822]

Ms. Wynn, explained that she first learned about the allegations against Dr. Amin from public reporting in September 2020.[823] ICH officials declined to provide any information to the Subcommittee concerning any investigative actions the hospital took in response to the public allegations against Dr. Amin.[824] Ms. Wynn stated that ICH had not changed any policies or procedures in response to the allegations and does not have "any plans" to implement new policies.[825] ICH has also not implemented any new policies or procedures designed to monitor Dr. Amin, specifically, and ICH officials explained he was subject to the same rules as other medical staff. [826]

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[814] *Id.* Counsel for ICH also stated to the Subcommittee that Dr. Amin has not had any disciplinary actions brought against him during his tenure at ICH. Email from Counsel for Irwin County Hospital to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[815] Paige Wynn, Irwin County Hospital, Interview with Senate Permanent Subcommittee on Investigations (Aug. 25, 2021).
[816] *Id.*
[817] *Id.*
[818] ICH004737.
[819] *Id.* The medical file indicates the scheduled surgeries were a D&C, laparoscopy, and LEEP. ICH004734.
[820] ICH004737.
[821] *Id.*
[822] Email from Counsel for Irwin County Hospital to the Senate Permanent Subcommittee on Investigations (Nov. 17, 2021).
[823] Paige Wynn, Irwin County Hospital, Interview with Senate Permanent Subcommittee on Investigations (Aug. 25, 2021).
[824] *Id.*
[825] *Id.*
[826] *Id.*

IX. CONCLUSION

Anyone held in the custody of the U.S. government should receive proper medical care. The Subcommittee's investigation into ICDC found that was not always the case for the female ICE detainees at that facility. Additionally, for years, deficiencies in detainee medical care that were identified by multiple DHS oversight components went unaddressed.

Gaps in policies and procedures concerning off-site medical services and a weak vetting process of off-site medical experts limited ICE's ability to obtain insight into the professional conduct of Dr. Amin. ICDC accounted for a small percentage of the total female ICE detainee population, yet Dr. Amin performed more medical procedures on female detainees than all other ICE off-site medical providers providing OB-GYN care. ICE failed to recognize or adequately explain the vast discrepancy of medical procedures that Dr. Amin performed on ICDC female detainees compared to other providers treating ICE detainees. The agency has still not provided any clear explanation for this disparity. Even now, senior ICE officials can only speculate about why Dr. Amin performed a significantly higher volume of certain OB-GYN procedures compared to his peer physicians.

Although ICE has promised reforms in response to many of these deficiencies, Congress should continue to exercise aggressive oversight over medical care at ICE facilities. ICE and DHS should consider implementing the following recommendations:

1. ICE should expedite efforts to improve the vetting of off-site medical providers for detainees and should consider expanding criteria for excluding providers.

2. ICE should expedite efforts to identify trends in off-site medical procedures for detainees for potential waste, fraud, or abuse and should conduct regular audits of physicians, hospitals, or other facilities providing off-site care.

3. ICE should institute policies and procedures to ensure off-site providers obtain informed consent in connection with their treatment of detainees.

4. ICE should ensure it reviews all detainee complaints regarding medical treatment independently of site visits from Field Medical Coordinators.

5. Federal immigration policy should support and allow for the swifter adjudication of immigration cases without undermining the procedural due process rights of immigrants.

Number of OB-GYN Medical Procedures Performed on ICE Detainees and Percentage Nationwide of Dr. Amin's Procedures for FY 2017-2020

Medical Procedure	Dr. Mahendra Amin	Second Highest-Ranking ICE Physician	Total Number of Procedures on ICE Detainees Nationwide
Limited pelvic exam	163 (92%)	4	179
Depo-Provera injection	102 (93%)	2	110
D&C	53 (82%)	3	65
Laparoscopy	44 (94%)	1	47
Total Procedures	**362 (90%)**	**10**	**401 (100%)**

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Written Statement for the Record

by

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for the

Senate Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations

November 15, 2022 Hearing On Medical Mistreatment of Women in ICE Detention

Submitted: November 29, 2022

Dear Subcommittee Members:

Thank you for the opportunity to submit written comments in support of your hearing, "Medical Mistreatment of Women in ICE Detention."

I serve as Senior Counsel for Government Accountability Project, a national non-profit whistleblower protection and advocacy organization. My organization currently represents several Department of Homeland Security (DHS) whistleblowers who have raised serious concerns about a range of issues plaguing the Immigration and Customs Enforcement (ICE) detention system, including the harmful impact of detention on

children,[1] the spread of COVID-19 in immigration detention facilities,[2] and the widespread use of solitary confinement on immigrants in civil detention.[3]

On November 15, 2022, this Subcommittee conducted a hearing on Mistreatment of Women in ICE Detention.[4] Most relevant to the hearing, we represent nurse Dawn Wooten, who in September 2020 made public whistleblower disclosures to the Department of Homeland Security and Congress about failures at the Irwin County Detention Center (ICDC) to protect against the spread of COVID and, more horrifically, that immigrant women in detention were undergoing nonconsensual, unnecessary, invasive gynecological procedures.[5]

Ms. Wooten's whistleblowing helped open the door for multiple women survivors, including Karina Cisneros Preciado who testified at this hearing, to come forward with their stories of medical mistreatment they experienced while detained at ICDC. The courageous truth-telling of Ms. Wooten and the accounts of the women survivors not only forced ICE to end its immigration contract with ICDC but were vital to prompting this Subcommittee's investigation and the November 15th hearing.[6]

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[1] See Government Accountability Project, "Press Release: Department of Homeland Security Medical Experts Call Upon Congress to Address Ongoing and Future Harm to Migrant Children and Families From Detention," (May 24, 2021), https://whistleblower.org/press-release/press-release-department-of-homeland-security-medical-experts-call-upon-congress-to-address-ongoing-and-future-harm-to-migrant-children-and-families-from-detention/; Scott Allen, Pamela McPherson, and Josiah Rich, "Op-Ed: We were whistleblowers for family separation back in 2018. It's happening again," USA Today (July 20, 2020) https://www.usatoday.com/story/opinion/2020/07/20/zero-tolerance-immigration-policy-family-ice-covid-19-column/5437873002/; Government Accountability Project, "Press Release: Government Accountability Project Raises Ongoing Concerns about Treatment of Unaccompanied Immigrant Children at HHS Emergency Intake Sites," (April 5, 2022), https://whistleblower.org/press-release/press-release-government-accountability-project-raises-ongoing-concerns-about-treatment-of-unaccompanied-immigrant-children-at-hhs-emergency-intake-sites/

[2] See Government Accountability Project, "Press Release: Department of Homeland Security Medical Experts Blow the Whistle on Ongoing Dangers from COVID-19 in Immigration Detention Settings," (June 25, 2021), https://whistleblower.org/press-release/press-release-department-of-homeland-security-medical-experts-blow-the-whistle-on-ongoing-dangers-from-covid-19-in-immigration-detention-settings/

[3] Dana Gold, "Statement for the Record, Senate Committee on the Judiciary Hearing on Oversight of the Department of Homeland Security," (November 16, 2021), https://whistleblower.org/wp-content/uploads/2021/11/110921-dhs-oversight-hrg-Statement-for-Record_Fin.pdf

[4] Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations Hearing on Medical Mistreatment of Women in ICE Detention (November 15, 2022), https://www.hsgac.senate.gov/subcommittees/investigations/hearings/mistreatment-of-women-in-ice-detention

[5] Letter to Congress from Government Accountability Project and Project South Re: Whistleblower Disclosures on Medical Care in ICE Detention/Irwin County Detention Center (September 17, 2020), https://whistleblower.org/wp-content/uploads/2020/09/ICE-ICDC-Whistleblower-Disclosure-to-Congress-091720-1.pdf

[6] United States Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Medical Mistreatment of Women in ICE Detention," Staff Report (November 15, 2022), https://www.hsgac.senate.gov/imo/media/doc/2022-11-15%20PSI%20Staff%20Report%20-%20Medical%20Mistreatment%20of%20Women%20in%20ICE%20Detention.pdf ("The allegations stemmed from a September 2020 whistleblower complaint ('September 2020 complaint') filed by immigration advocacy groups and attorneys…"). Staff Report, p. 3.

The results of the Subcommittee's investigation, shared at the November 15th hearing, validated and expanded on the reports of Nurse Wooten from 2020, including that disturbingly, ICE contracted medical provider for ICDC, Dr. Mahendra Amin, was responsible for more than 90% of four types of invasive gynecological procedures performed on the detained ICE population nationwide though ICDC held only 4% of the entire female population in ICE custody.[7] Chairman Ossoff noted the gravity of the abuses, stating, "It's hard for me to think of anything worse […] than the federal government subjecting incarcerated women to needless gynecological surgery. It's one of the most appalling things the Subcommittee has seen in the past two years." [8]

Furthermore, the Assistant Director of the ICE Health Service Corps (IHSC), Dr. Stewart Smith, indicated that from at least 2017-2020, the IHSC had virtually no oversight systems in place to vet contracted off-site medical providers or review the medical care they provided to people in ICE custody.[9] Indeed, this exchange between Chairman Ossoff and Dr. Smith demonstrated that but for Nurse Wooten's whistleblowing, women would still be suffering medical mistreatment at ICDC:

> Chairman Ossoff: "Why did your agency fail? How did you allow this to happen? How did you allow dozens if not hundreds of women to be subjected to unnecessary gynecological surgery? How did that happen?"
>
> Dr. Smith: "Well we weren't aware of these complaints until we…we weren't aware of them until we received those…the whistleblower complaint, so we just didn't have access to that information."
>
> Chairman Ossoff: "Why were you not aware? Why were you not aware that one doctor was performing nine-tenths of gynecological procedures but only seeing six percent of patients?"
>
> Dr. Smith: "We didn't have the proper systems in place to detect that information […]"[10]

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[7] Ibid., p. 5.
[8] Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations Hearing on Medical Mistreatment of Women in ICE Detention, (November 15, 2022), https://www.hsgac.senate.gov/subcommittees/investigations/hearings/mistreatment-of-women-in-ice-detention (2:00:04 to 2:01:04).
[9] Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations Hearing on Medical Mistreatment of Women in ICE Detention, Testimony of Dr. Stewart Smith (November 15, 2022), https://www.hsgac.senate.gov/subcommittees/investigations/hearings/mistreatment-of-women-in-ice-detention; also see Subcommittee Staff Report, pp. 80-86.
[10] Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations Hearing on Medical Mistreatment of Women in ICE Detention, Testimony of Dr. Stewart Smith (November 15, 2022),

We have long highlighted the vital role whistleblowers play in exposing serious problems that otherwise would be undiscovered and unaddressed by the systemically weak oversight mechanisms of the opaque ICE detention system.[11] Indeed, the medical mistreatment that occurred at ICDC and the apparent lack of medical oversight that the Subcommittee's investigation exposed further evidences those weaknesses, and puts a fine point on why DHS whistleblowers are so important to promoting legal compliance and protecting the uniquely vulnerable population of immigrants in detention from medical harm.

Of course, whistleblowers notoriously suffer great costs for raising concerns—the risk of retaliation is real, thus the enforcement and administration of laws meant to protect whistleblowers from reprisal must be effective to both deter employers from engaging in unlawful retaliation and to ensure that other workers who witness wrongdoing are not chilled from speaking up.

There may be no more graphic example than Dawn Wooten's case of the justice advanced by a whistleblower's disclosures being matched only by the unjust costs suffered for blowing the whistle. While DHS acted quickly to address the shocking problems Ms. Wooten's disclosures helped expose—announcing the decision over a year ago to end immigration detention at ICDC[12]—the DHS OIG Whistleblower Protection Unit asked for multiple extensions beyond the 180-day statutory deadline for issuing findings in Ms. Wooten's whistleblower retaliation complaint, which remains open more than two years after filing her complaint with DHS OIG.[13] Meanwhile, Ms. Wooten continues to suffer enormous costs from her whistleblowing, from being demoted by LaSalle Corrections after raising concerns internally, to being explicitly blacklisted from

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https://www.hsgac.senate.gov/subcommittees/investigations/hearings/mistreatment-of-women-in-ice-detention (1:59:16 to 2:00:04).

[11] Government Accountability Project, "Letter to Congressional oversight committees requesting investigation into weak oversight accountability by DHS Office of Inspector General (OIG), DHS Office for Civil Rights and Civil Liberties (CRCL) and Office of Special Counsel (OSC)," (June 27, 2019), https://www.whistleblower.org/wp-content/uploads/2019/06/Congressional-Letter-OIG-CRCL-Failures.pdf; Dana Gold, "Written Statement for the Record, House Homeland Security Hearing on Oversight of ICE Detention Facilities: Is DHS Doing Enough? (Hearing Date: September 26, 2019)," (September 24, 2019), https://www.whistleblower.org/wp-content/uploads/2019/09/092419-written-comments-for-HHS-hearing-on-DHS-Oversight-of-ICE-Detention-Facilities-Government-Accountability-Project-FINAL.pdf

[12] Department of Homeland Security, "ICE to Close Two Detention Centers," (May 20, 2021), https://www.dhs.gov/news/2021/05/20/ice-close-two-detention-centers

[13] On October 4, 2022, Project South and Government Accountability Project, along with 73 organizations as signatories, sent a letter to Inspector General Cuffari seeking a status report on the ongoing investigations of the DHS OIG, noting that two years had passed since the OIG became aware of reports of abuses at ICDC in September of 2020. Government Accountability Project and Project South, "Re: Status of Investigations into September 2020 Disclosures of Whistleblower Dawn Wooten and Immigrant Women Detained at Irwin County Detention Center," (October 4, 2022), https://whistleblower.org/wp-content/uploads/2022/10/100422-Letter-to-DHS-OIG-from-Government-Accountability-Project-Project-South-re-open-investigations-at-ICDC-1.pdf

securing nursing jobs in her local community, to suffering ongoing security threats to herself and her children.

DHS and Congress both, by exercising their oversight authority and responsibility to address the medical mistreatment exposed by Ms. Wooten, have a responsibility to ensure that she is protected rather than punished for blowing the whistle on that mistreatment.

Without Dawn Wooten's Disclosures, Harm to Detained Immigrants at ICDC Might Continue Today

In 2020, Ms. Wooten was employed as a nurse at the ICE-contracted ICDC, located in rural Georgia and owned and operated by LaSalle Corrections (LaSalle), one of the largest private prison companies in the country. Ms. Wooten began to raise concerns in the Spring and Summer of 2020 internally to supervisors and management about failures at ICDC to prevent the spread of COVID-19, as well as concerns that numerous immigrant women were receiving unnecessary, nonconsensual hysterectomies and other gynecologic procedures.[14] In response to her raising these important issues internally, in July of 2020, Ms. Wooten was demoted from full-time to on-call status. No further work opportunities were provided to Ms. Wooten by LaSalle at ICDC.

Government Accountability Project, along with Project South, a grassroots organization based in Georgia with a long history of fighting abuses on behalf of immigrants detained in ICDC, filed a whistleblower retaliation complaint on Ms. Wooten's behalf with the DHS Office of Inspector General (OIG) on September 8, 2020, alleging that LaSalle unlawfully retaliated against Ms. Wooten her for disclosure of information she reasonably believed evidenced gross mismanagement and dangers to public health and safety in violation of 41 U.S.C. § 4712. Notice was provided to LaSalle management of this filing, noting Ms. Wooten's protected legal status as a whistleblower.

On September 14, 2020, Project South along with other immigration advocacy organizations filed a second, public disclosure with DHS OIG, DHS's Office for Civil Rights and Civil Liberties, the ICE Atlanta Field Office, and ICDC's warden on behalf of

[14] Whistleblowers are protected when they report abuse and misconduct they reasonably believe to be true. 41 U.S.C. § 4712(a). Ms. Wooten, as described in the September 14, 2020 complaint, reported her reasonable belief that there may have been mass hysterectomies performed on detained immigrant women at ICDC after hearing such concerns from multiple women and receiving no alternative explanation from management. *See infra* Fn. 15. Though the PSI investigation did not find that Dr. Amin performed "mass hysterectomies," the Subcommittee nonetheless confirmed that hundreds of women were subjected to excessive and unnecessary gynecological procedures which led to sterilization or damaged reproductive health on numerous detainees—including D&C (dilation and curettage) procedures to remove uterine tissue, and laparoscopic surgeries—all without their informed consent. Permanent Subcommittee Staff Report, https://www.hsgac.senate.gov/imo/media/doc/2022-11-15%20PSI%20Staff%20Report%20-%20Medical%20Mistreatment%20of%20Women%20in%20ICE%20Detention.pdf, (pp. 4-17).

both detained immigrants at ICDC and Ms. Wooten, incorporating by reference Ms. Wooten's previous disclosures and further documenting concerns regarding the deliberate lack of medical care provided to immigrants in detention, unsafe work practices, the absence of adequate protection against COVID-19, and invasive gynecological procedures performed on several women with dubious consent.[15]

This latter disclosure, first reported by The Intercept, went viral in the press after Law & Crime published an explosive headline focusing on Ms. Wooten's disclosures about the medical mistreatment of immigrant women at ICDC.[16] Widespread media coverage about Ms. Wooten's disclosures of the abuses at ICDC catalyzed profound and necessary

[15] Project South, Georgia Detention Watch, Georgia Latino Alliance for Human Rights, and South Georgia Immigrant Support Network, "Administrative complaint filed with DHS Office of the Inspector General, DHS Office for Civil Rights and Civil Liberties, U.S. ICE Atlanta Field Office, and Warden of Irwin County Detention Center Re: Lack of Medical Care, Unsafe Work Practices, and Absence of Adequate Protection Against COVID-19 for Detained Immigrants and Employees Alike at the Irwin County Detention Center," (September 14, 2020), https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf.

[16] José Olivares and John Washington, "'A Silent Pandemic': Nurse at ICE Facility Blows the Whistle on Coronavirus Dangers," The Intercept (September 14, 2020), https://theintercept.com/2020/09/14/ice-detention-center-nurse-whistleblower/; Jerry Lambe, "'Like an Experimental Concentration Camp': Whistleblower Complaint Alleges Mass Hysterectomies at ICE Detention Center," Law & Crime (September 14, 2020), https://lawandcrime.com/high-profile/like-an-experimental-concentration-camp-whistleblower-complaint-alleges-mass-hysterectomies-at-ice-detention-center/. Dozens of media outlets reported this story, including ABC News, BBC News, Business Insider, CBS News, CNN, Forbes, FOX News, The Guardian, MSNBC, the New York Times, USA Today, Wall Street Journal, and the Washington Post.

accountability by prompting multiple Congressional[17] and agency investigations,[18] inquiries from entities of the United Nations,[19] a class action lawsuit[20] seeking justice for

[17] Rep. Pramila Jayapal, "Press Release: Jayapal Leads 173 Members in Calling For Investigation Into Hysterectomies Performed on Immigrants," (Sept. 16, 2020), https://jayapal.house.gov/2020/09/16/investigation-into-hysterectomies/; Letter from U.S. Senate Committee on the Judiciary to DHS Inspector General Cuffari, (September 18, 2020), https://www.feinstein.senate.gov/public/_cache/files/7/6/767a6171-8482-4edf-b48e-361b63229409/33A94EA7438B9DDDF46F6761B42F10C9.2020.09.18-dhs-oig-letter.pdf (signed by thirty-seven senators urging IG Cuffari to investigate Ms. Wooten's whistleblower disclosures); Letter from U.S. House Committee on Homeland Security, U.S. House Committee on Oversight and Reform, U.S. House Subcommittee on Border Security, Facilitation, and Operations, and U.S. House Subcommittee on Civil Rights and Civil Liberties to ICE, La Salle Corrections, and ICDC, (Sept. 21, 2020), https://homeland.house.gov/imo/media/doc/ICDC%20investigation%20letter.pdf (requesting responsive documents for Congressional Investigation); Congressional Hispanic Caucus, "Press Release: Congressional Hispanic Caucus Statement on Investigation of Irwin County Detention Center," (Sept. 26, 2020), https://chc.house.gov/media-center/press-releases/congressional-hispanic-caucus-statement-on-investigation-of-irwin-county (noting visit by eleven members of the Congressional Hispanic Caucus and the U.S. House Committee on the Judiciary who traveled to investigate the situation at ICDC); Letter from Eight Members of Congress to the United Nations High Commissioner for Human Rights, (October 23, 2020), https://tlaib.house.gov/sites/tlaib.house.gov/files/Final%20Final%20%20-%20Letter%20to%20OHCHR%20on%20DHS%20Human%20Rights%20Abuses.pdf; Rep. Pramila Jayapal, "Press Release: House Passes Jayapal Resolution Condemning Unwanted, Unnecessary Medical Procedures Performed On Immigrant Women Without Their Consent at the Irwin County Detention Center," (October 20, 2020), https://jayapal.house.gov/2020/10/02/house-condemns-forced-medical-procedures/ (House of Representatives passes H.Res. 1153 with 225 congressional co-sponsors condemning unwanted, unnecessary medical procedures performed on immigrant women at ICDC and calling on DHS to immediately comply with all investigations); Letter from 105 Members of Congress to ICE, DHS IG, FBI, and DOJ, (November 19, 2020), https://www.merkley.senate.gov/imo/media/doc/STOP%20Removal%20of%20potential%20witnesses%20at%20ICDC_%20Bi-Cameral%20Letter.pdf (Directing ICE to stop the removal of witnesses in the investigations of medical abuse at ICDC); Letter from U.S. House Committee on Homeland Security, U.S. House Committee on Oversight and Reform, U.S. House Subcommittee on Border Security, Facilitation, and Operations, and U.S. House Subcommittee on Civil Rights and Civil Liberties to DHS Secretary Mayorkas, (December 3, 2021), https://homeland.house.gov/imo/media/doc/Letter-DHS%20ICDC%20Update.pdf (detailing concerns with medical treatment by Dr. Mahendra Amin to immigrant women detained at the ICDC and requesting a briefing on actions being taken by DHS to ensure that migrants in ICE custody receive appropriate medical care); and this Subcommittee's hearing and investigation, Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations Hearing on Medical Mistreatment of Women in ICE Detention, https://www.hsgac.senate.gov/subcommittees/investigations/hearings/mistreatment-of-women-in-ice-detention and Staff Report, https://www.hsgac.senate.gov/imo/media/doc/2022-11-15%20PSI%20Staff%20Report%20-%20Medical%20Mistreatment%20of%20Women%20in%20ICE%20Detention.pdf (November 15, 2022).

[18] *See*, e.g., DHS Office of the Inspector General, "Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center," January 3, 2022, https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf (noting that two other investigations are forthcoming from DHS OIG, one focused on the gynecological procedure approval process at ICDC, the other being an audit focused on how surgical procedures are authorized and approved across ICE detention facilities). DHS's Office for Civil Rights and Civil Liberties also conducted an investigation into the complaints about medical care at ICDC. *See* Daniel Kronenfeld, "U.S. Response to UN Joint Urgent Appeal Regarding Alleged Human Rights Abuses at the Irwin County Detention Center," The Permanent Mission of the United States of America to the United Nations and Other International Organizations in Geneva (May 10, 2021), https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=36224 (noting that "Over the past three U.S. Federal Government Fiscal Years (from October 1, 2017 to September 30, 2020), CRCL has also received many additional complaints about the medical care at ICDC, including the medical treatment of detainees with HIV, as

the women survivors' mistreatment, and ultimately, DHS Secretary Alejandro Mayorkas's decision in May 2021 to order ICE to end its immigration contract with ICDC, stating "We will not tolerate the mistreatment of individuals in civil immigration detention or substandard conditions of detention."[21] In September 2021, a year after Ms. Wooten's disclosures gripped the country with the horrific enormity of what was then transpiring at the ICDC facility, the last people held in immigration custody were transferred out of ICDC.[22]

Rarely has a whistleblower helped catalyze such profound change so quickly. Ms. Wooten has been recognized and valorized for her truth-telling: she was named a Giraffe Hero by the nonprofit Giraffe Heroes Project,[23] was chosen as a subject for the *Americans Who Tell the Truth* portrait series,[24] and has been the recipient of several national awards, including the 2021 Joe Callaway Award for Civic Courage,[25] the Feleta Wilson award from the Public Health Nursing Section of the American Public Health Association,[26] the 2022 Physicians for Human Rights (PHR) Award,[27] and the 2022

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well as complaints about legal access, access to ICE deportation officers, language access, and most recently, COVID-19 protocol and practices. During this current Fiscal Year (October 1, 2020 to September 30, 2021), CRCL plans to conduct an onsite investigation at ICDC to follow-up on the implementation of our prior recommendations and to investigate the more recent complaints."). The Department of Justice is also reportedly investigating ICE and its contractors as well. *See* Rep. Jamie Raskin, "Press Release: Oversight and Homeland Security Committees Demand ICE Cease Deportations of Victims and Witnesses Alleging Medical Mistreatment at Detention Facilities," (November 12, 2020), https://raskin.house.gov/2020/11/oversight-and-homeland-security-committees-demand-ice-cease-deportations

[19] Letter from United Nations Special Rapporteurs and working groups to David Paulk, (Jan. 15, 2021), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25836; Letter from United Nations Special Rapporteurs and working groups to U.S. Government (Jan. 15, 2021), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25835

[20] Government Accountability Project, "Press Release: Government Accountability Project and Project South Stand Behind Detained Immigrants' Class Action Lawsuit Against ICE," (December 22, 2020), https://whistleblower.org/federal-whistleblowers/press-release-government-accountability-project-and-project-south-stand-behind-detained-immigrants-class-action-lawsuit-against-ice/

[21] Department of Homeland Security, Press Release, ICE to Close Two Detention Centers (May 20, 2021), https://www.dhs.gov/news/2021/05/20/ice-close-two-detention-centers

[22] Lautaro Grinspan, "For immigration advocates, end of ICE detention in Irwin County is bittersweet victory," The Atlanta-Journal Constitution (September 23, 2021), https://www.ajc.com/news/for-immigration-advocates-end-of-ice-detention-in-irwin-county-is-a-bittersweet-victory/YQPE3XUHBZFJ7HIN3OPNLEUAGE/.

[23] Giraffe Heroes Project, "Wooten, Dawn," http://giraffeheroes.org/1545/DawnWooten (last visited November 10, 2022)

[24] Americans Who Tell the Truth, "Dawn Wooten," https://americanswhotellthetruth.org/portraits/dawn-wooten/ (last visited November 2, 2022)

[25] 2021 Winner, "The Thirty-Second Annual Joe A. Callaway Award for Civic Courage is Hereby Presented to Dawn Wooten, Nurse and Courageous Whistleblower," https://callawayawards.org/ (last visited November 10, 2022)

[26] American Public Health Association, Awards, "2021 Award Recipients," https://www.apha.org/apha-communities/member-sections/public-health-nursing/who-we-are/awards (last visited April 27, 2022)

[27] Physicians for Human Rights, "A Celebration of Health and Human Rights Heroes," May 15, 2022 Virtual Gala, https://phr.org/gala-2022/ (last visited November 9, 2022)

HMH Foundation First Amendment Award[28] for her commitment to truth-telling and human rights.

Ms. Wooten's revelations demonstrate the crucial role of whistleblowers in exposing abuses to prompt oversight and accountability. Indeed, but for Ms. Wooten's whistleblowing, the horrific abuses against immigrant women at ICDC might have continued unabated.

DHS Whistleblowers Need Better Protection from Retaliation

DHS has taken concrete, affirmative steps in direct response to its decision to investigate Ms. Wooten's whistleblowing disclosures, filed individually with the Department on September 8, 2020 and more expansively with accounts of detained immigrants on September 14, 2020. Secretary Mayorkas ordered an end to the detention of immigrants in ICE custody at ICDC in September 2021,[29] DHS OIG issued a report in January 2022[30] largely validating Ms. Wooten's disclosures regarding failures to protect workers and immigrants from COVID-19 and inadequate medical care, and this Subcommittee's investigation validated the volume of nonconsensual and unnecessary gynecological procedures conducted on women detained at ICDC.[31]

But DHS OIG's delay in issuing investigative findings related to the medical mistreatment of immigrant women as well as in Ms. Wooten's whistleblower retaliation complaint, however, reflects an utter failure of the oversight system within DHS.

Notably, at an April 21, 2021 hearing of the U.S. House Committee on Homeland Security, Representative Sheila Jackson Lee specifically asked Inspector General Cuffari about the status of the investigative reports that 173 members of congress called for and were waiting on into the abuses at ICDC and the retaliation of Ms. Wooten for her

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[28] HMH Foundation, "The 2022 First Amendment Awards," https://www.hmhfoundation.org/first-amendment-awards/ (last visited November 2, 2022)
[29] Department of Homeland Security, "ICE to Close Two Detention Centers," (May 20, 2021), https://www.dhs.gov/news/2021/05/20/ice-close-two-detention-centers
[30] Department of Homeland Security Office of Inspector General, "Medical Processes and Communication Protocols Need Improvement at Irwin County Detention Center," January 3, 2022, https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf; Government Accountability Project, "Press Release: OIG Report Confirms Whistleblower Claims of Wrongdoing at Irwin County Detention Center," (January 7, 2022), https://whistleblower.org/press-release/press-release-oig-report-confirms-whistleblower-claims-of-wrongdoing-at-irwin-county-detention-center/
[31] United States Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Medical Mistreatment of Women in ICE Detention," Staff Report (November 15, 2022), https://www.hsgac.senate.gov/imo/media/doc/2022-11-15%20PSI%20Staff%20Report%20-%20Medical%20Mistreatment%20of%20Women%20in%20ICE%20Detention.pdf

whistleblowing.[32] Dr. Cuffari testified, "we are getting to the point where we are completing that work."[33]

Yet nearly 19 months since that hearing, Ms. Wooten's retaliation case remains unresolved, and at least two DHS OIG investigations remain open: an investigation into the approval process for gynecological procedures at ICDC referred to the OIG Office of Investigations, and an audit focusing on how surgical procedures are authorized and approved for detained immigrants across all ICE detention facilities.[34] Indeed, at this Subcommittee's November 15th hearing, Dr. Cuffari could not provide a response as to when he expected his office to complete the OIG's investigation at ICDC.[35] Meanwhile, various NGOs and Congressional committees have issued reports from their own investigations documenting violations at Irwin County Detention Center, raising further questions about DHS's commitment to its duty to protect both the whistleblowers it relies on for oversight and the immigrants in its custody.[36]

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[32] Rep. Pramila Jayapal, "Press Release: Jayapal Leads 173 Members in Calling For Investigation Into Hysterectomies Performed on Immigrants," (Sept. 16, 2020), https://jayapal.house.gov/2020/09/16/investigation-into-hysterectomies/

[33] House Committee on Homeland Security, Hearing on Oversight of the Department of Homeland Security's Office of Inspector General (April 21, 2021) (Testimony of Inspector General Cuffari), https://www.congress.gov/event/117th-congress/house-event/LC66636/text?s=1&r=88

[34] Government Accountability Project and Project South, "Re: Status of Investigations into September 2020 Disclosures of Whistleblower Dawn Wooten and Immigrant Women Detained at Irwin County Detention Center," (October 4, 2022), https://whistleblower.org/wp-content/uploads/2022/10/100422-Letter-to-DHS-OIG-from-Government-Accountability-Project-Project-South-re-open-investigations-at-ICDC-1.pdf

[35] Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations Hearing on Medical Mistreatment of Women in ICE Detention (November 15, 2022) (Testimony of Inspector General Cuffari), https://www.hsgac.senate.gov/subcommittees/investigations/hearings/mistreatment-of-women-in-ice-detention

[36] See Citizens for Responsibility and Ethics in Washington (CREW), National Immigration Project of the National Lawyers Guild, Project South, "Deliberate Indifference: Records show ICE's systemic failures at Georgia detention facility at the center of gynecological abuse investigations," (June 3, 2021), https://projectsouth.org/wp-content/uploads/2021/06/ICE-ICDC-Report.pdf (finding through FOIA documents that an outside gynecologist billed ICE for at least 71 invasive procedures from 2015 to 2020, violations of ICE detention standards for medical care and vetting medical providers, recurring deficiencies relating to healthcare, detention conditions, and mistreatment of people detained at the facility, and a history of complaints lodged with ICE by the Mexican Consulate and advocates, with claims of abuse and neglect at ICDC going back as far as 2018); Project South, Georgia Detention Watch, Georgia Latino Alliance for Human Rights, South Georgia Immigrant Support Network, Harvard Immigration and Refugee Clinic, and Harvard Law School Immigration Project, "Violence & Violation: Medical Abuse of Immigrants Detained at the Irwin County Detention Center," (Sept. 14, 2021), https://projectsouth.org/wp-content/uploads/2021/09/IrwinReport_14SEPT21.pdf (report featuring firsthand testimonies from 14 immigrant women formerly detained at ICDC who underwent gynecological procedures without their full knowledge and consent); Letter from the House Committees on Homeland Security and Oversight and Reform to Secretary Mayorkas (Dec. 3, 2021), https://homeland.house.gov/imo/media/doc/Letter-DHS%20ICDC%20Update.pdf (letter to Secretary Mayorkas referencing the conclusions of an independent medical expert who reviewed medical records created by the primary physician involved in complaints at ICDC and found that the doctor "did not meet acceptable standards" of care and that the doctor "performed evaluation and treatment that 'did not address [the patient's] primary issue' but 'instead he did a variety of tests and surgery that did them little or no good, and potentially caused harm.'")

We are concerned that DHS's decision in May 2021 to end the ICE contract at ICDC based on unreleased findings from investigations catalyzed in substantial part by Ms. Wooten's disclosures has had the unintended but real effect of exacerbating the costs of the retaliation she has experienced by making her more vulnerable to ongoing threats and blacklisting. Widely recognized in her local community as "The Whistleblower" responsible for bringing scrutiny to ICDC, she, rather than those responsible for the medical mistreatment, is blamed for the economic fallout to the community from DHS's decision to end immigrant detention.[37] Further, by ending the contract before issuing findings, DHS may have impeded access to documents and witnesses relevant to the investigation of Ms. Wooten's whistleblower retaliation claim.

Ms. Wooten, while waiting for DHS OIG to issue findings in her case, continues to demonstrate profound resilience as she carries the emotional, physical, and financial burden of her whistleblowing. She has experienced serious threats to her and her children's security with references made to her whistleblowing. She has experienced overt blacklisting by dozens of employers, largely unable to secure or retain work as a nurse despite the high demand in the profession during the pandemic.[38] And while she has not actually been fired from ICDC, she has never been called back to work there since she was demoted from a full-time to an "as-needed" nursing position after raising concerns internally about conditions at the facility, even as LaSalle continues to be "urgently hiring" for nurses at ICDC.[39]

While we applaud the concrete actions the Department has taken in response to Ms. Wooten's disclosures, the agency has a simultaneous legal and ethical duty of care to Ms. Wooten that it has neglected. Its deferral of justice flies in the face of the intent and spirit of whistleblower protection laws. Worse, it has likely deterred other workers from coming forward about abuses in immigration detention, rightly fearful about the risk of devastating retaliation without meaningful recourse.

We will never know how many more individuals held in immigration custody or detention facility staff would have fallen gravely ill or even perished as a result of

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[37] Jeremy Redmon and Lautaro Grinspan, "Closing an ICE jail in South Georgia would cheer activists but harm a rural community's economy: Threat of closure follows whistleblower complaint alleging deplorable conditions," Atlanta Journal Constitution (September 23, 2021), https://www.ajc.com/news/closing-an-ice-jail-in-south-georgia-would-cheer-activists-but-harm-a-rural-communitys-economy/Q3X45AORGFBO7O3IT52KMOLRNU/

[38] Sarah Stillman, "The Trials of A Whistle-blower," The New Yorker Radio Hour (January 21, 2022), https://www.newyorker.com/podcast/the-new-yorker-radio-hour/the-trials-of-a-whistle-blower; Miranda Bryant, "'I'm back on food stamps': Nurse who exposed 'uterus collector' still faces consequences," The Guardian (October 17, 2022), https://www.theguardian.com/us-news/2022/oct/17/whistleblower-uterus-collector-repercussions-ice-detained-immigrant-women

[39] Indeed.com, Lasalle Corrections Jobs in Ocilla, GA, https://www.indeed.com/jobs?q=lasalle+corrections&l=Ocilla%2C+GA&vjk=d380b5e8ac400523&advn=1826795687370317 (last visited November 9, 2022).

inadequate medical and hygiene protocols during the pandemic, or how many more women would be rendered unable to reproduce as a result of unnecessary gynecological procedures performed without informed consent, but for Ms. Wooten's cataclysmic disclosures. Ms. Wooten's whistleblowing is a cautionary tale of what society stands to gain by whistleblowers and, conversely, what we stand to lose when employees stay silent rather than speak up about wrongdoing.

We applaud Chairman Ossoff's past advocacy on behalf of detained immigrants[40] and deeply appreciate the Subcommittee's commitment to investigating the horrific medical misconduct experienced by the immigrant women formerly detained at the ICDC. We urge the Subcommittee to consider the critical role that whistleblowers like Dawn Wooten play in shedding light on dangerous conditions and abuses within the ICE detention system, and to investigate the DHS OIG's failure to prioritize the issuance of findings in her retaliation claim.

Thank you for the opportunity to contribute written testimony in support of this hearing.

Dana L. Gold, Esq.

[40] *See, e.g.,* Senate Committee on Homeland Security and Governmental Affairs Hearing on DHS Actions to Address Unaccompanied Minors at the Southern Border (May 13, 2021), https://www.hsgac.senate.gov/hearings/dhs-actions-to-address-unaccompanied-minors-at-the-southern-border (Chairman Ossoff questioning DHS Secretary Alejandro Mayorkas more than a year ago about the Department's expansive and problematic use of private detention and the abuses perpetrated against immigrant women at a Senate oversight hearing).

Chicago, 1 diciembre de 2022

-Señor senador, **JON OSSOFF**

Reciba un cordial saludo, yo, GLAYSDE DANIELA MEZA MEDINA, VENEZOLANA, me dirijo a usted respetuosamente para expresar mi preocupación y presentar peticiones en relación al proceso de investigación sobre mi caso de abuso sexual, con el ánimo de manifestar El ataque sobre mi integridad física y sexual al cual fui víctima, ataque que tuvo suceso el día 31 de diciembre del año 2021. En las instalaciones del CORECIVIC STEWART DETENTION CENTER, por un enfermero empleado del departamento médico, mientras yo permanecía en dicho centro en custodia de ICE, El cual no me prestó resguardo ni protección después de haber sido víctima de abuso sexual y haberlo denunciado dentro de las instalaciones y bajo su custodia.

Solicito por medio de esta carta, con carácter urgente el que sea investigado mi caso de abuso sexual, el cual hasta la fecha de hoy ha sido ignorado y burlado por diferentes instituciones capaces y responsables de investigar con el fin de hacer justicia ha dicho acto de abuso sexual en contra de mi persona. Añado también la existencia y evidencia de que no he sido la única victima de abuso por parte del mismo enfermero, el cual ha abusado sexualmente de las mujeres adjuntamente mencionadas en esta carta.

Confiando en que la colaboración de la amplia investigación de su departamento de gobierno nos llevará a la condena de los responsables anteriormente expuestos y aún no descubiertos en esta carta mediante la cual me permite denunciar ante usted el ataque de abuso sexual hecho hacia mi persona el mencionado día pasado 31 de diciembre del 2021 y los días que siguieron a los ataques psicológicos a mi integridad dentro del CORECIVIC, STEWART DETENTION CENTER.

Sin más nada que agregar, le anexo a esta carta las firmas de mis compañeras VICTIMAS del ataque de Abuso sexual, así como también la queja de los hechos la cual fue presentada el 12 de Julio de 2022

Anexo también mi declaración de los hechos ocurridos el mencionado día del ataque.

Espero su pronta respuesta en apoyo a mi caso.

ATENTAMENTE

GLAYSDE DANIELA MEZA MEDINA (AKA “MARIA DOE”)

Chicago, December 1, 2022

-Mr. Senator, **JON OSSOFF**

Cordial greetings. I, GLAYSDE DANIELA MEZA MEDINA, VENEZUELAN, write this letter to respectfully express my concern and make requests related to the process of investigation about my sexual abuse case, with the intention of declaring that the attack on my physical and sexual integrity, of which I was victim, an attack that took place on December 31, 2021, at the CORECIVIC STEWART DETENTION CENTER, by a nurse employee in the medical department, while I remained detained at said center in ICE custody, which did not afford me safety or protection after having been victim of sexual abuse and having denounced it while detained at the facility and in its custody.

Through this letter, I urgently request that my sexual abuse case be investigated, which to date has been ignored and mocked by different institutions capable and responsible for investigating with the goal of seeking justice for the said act of sexual abuse against me. I also add the existence and evidence that I was not the only victim of abuse by the same nurse, who has sexually abused the women whose names are attached to this letter.

Trusting that your collaboration and a full investigation by your department will lead us to the conviction of the aforementioned responsible parties who are still held unaccountable, this letter allows me to present my complaint before you regarding the attack of sexual abuse against me on the date of December 31, 2021, and the psychological attacks against my integrity on the days that followed at CORECIVIC, STEWART DETENTION CENTER.

Without more to add, I enclose with this letter the signatures of my fellow VICTIMS of the sexual abuse attack, as well as the complaint with the facts presented on July 12, 2022.

I also attach my declaration of the events that occurred on the aforementioned day of the attack.

I look forward to your prompt response in support of my case.

SINCERELY,

GLAYSDE DANIELA MEZA MEDINA (AKA “MARIA DOE”)

FIRMAS EN APOYO / SIGNATURES IN SUPPORT:

BELKIS CHACON (AKA “LAURA DOE”)

DECLARATION OF GLAYSDE DANIELA MEZA MEDINA

I hereby make the following declaration regarding my medical treatment in ICE detention:

1. My name is Glaysde Daniela Meza Medina.

2. I was born on September 22, 1999 in Venezuela.

3. I crossed the United States border on December 20, 2021. I arrived at the Core Civic detention center in Georgia, Stewart Detention Center, on December 30, 2021, in the evening at approximately 9-10 pm. First, some female nurses gave me a COVID test. I had been given several medical examinations and COVID tests since I had come into immigration custody.

4. On December 31, 2021, in the afternoon, I was called with some other women to be examined by medical staff at Stewart Detention Center. I understood the appointment was to take our weight, measurements, help us, and ask if we were okay.

5. I was called in from the waiting room, and a female nurse started taking my measurements and weight. A male nurse interrupted her, and I understood through their body language that he told her he would take it from there. The male nurse received me. He did not identify himself. He was white, bearded, tattooed on his arm, wore rings, chubby, not that tall, approximately 5.7 feet tall. He was wearing a blue nurse's uniform. Outside of the room with him was a female nurse and she motioned that she was going to do the exam. Although they were speaking English, it seemed from their body language that the male said he would take care of it alone and the female nurse left. He ushered me into his office and closed the door. He acted normal, smiling, friendly. I thought he was a good person and that he would treat me well.

6. The first question this man asked me was: "Do you have any surgery on your body?" and I answered: only a medical breast prosthesis. And the expression on his face changed quickly. His eyes widened and he became much more interested in me. He looked at me from head to toe and asked if I had any pain in my body or if I felt bad. I replied to him that obviously, I feel bad about the situation I'm experiencing. I told him that the only thing aside from being detained in this place was that I was having problems with my stomach. I told him that I had not gone to the bathroom in more than 8 days. I also shared that before entering the consultation I had tried to go to the bathroom, but it had been a bit difficult.

7. He told me that he could check me better on the examination table and instructed me to lie on it. The moment I lay down on the stretcher, he laid his penis on my left hand and rubbed it several times on my hand. It made me uncomfortable and I got nervous, and I tried to get my hand out and he just looked at me and smiled naturally as if nothing was happening. While I kept trying to get my hand out, he was touching my stomach and asking me if I was in any pain or if I had had any surgery on my abdomen. I kept answering no so that he would stop touching me. It felt like he was inventing reasons to keep touching my abdomen. He kept touching my abdomen and lowered his hands more and more and asked me to lower my pants as much as possible. I was so uncomfortable and I told him that it was good enough, but he kept insisting until I lowered my pants a little more and he tried to touch my private parts with his hands. I quickly got up and told him, "Enough!" I said that I felt fine and asked if we were done, if I could leave.

8. He told me that my heart still needs to be examined, so he took his stethoscope and put his hand and his stethoscope between my chest and in a very improper way he began to touch my breasts. I felt very uncomfortable and told him to please stop, but he insisted on listening to my heart that way. I told him that if what he wanted was to listen to my pulse, then he should take my pulse from my wrist or some other part of my body and that I didn't want him to keep touching me.

9. He insisted that I had to let him do it and that we couldn't finish if he didn't listen to my heart. He asked me to lift my shirt so that he could put the stethoscope on my chest. I just wanted to be allowed to leave, so I lifted my shirt and he touched my breasts again. He didn't even listen to my heart, so I quickly lowered my shirt and got him off of me. I asked what was missing and if I could go now and he told me that I still needed to sit down. I sat down in a chair by his desk and he started holding my hand and talking about my nails, telling me that they were long. He talked to me about my self-esteem and he told me that on a scale from 1 to 10, I was an 11, that I was very pretty.

10. He told me that he needed to see my "scar" but I didn't understand the word he was using, so I told him he should call in an interpreter. I understood his Spanish, but I also believed that the calls using interpreters were recorded and I wanted what he was doing to be registered somewhere. Instead, he used the computer to look up the word in Google translate and told me using different words, "please I need to check your scar." I told him I don't have a scar and he kept insisting. I believe he was trying to get me to show him the scars from my breast surgery.

11. During the time I had been in the room with him, someone had knocked on the door about 3 times. He had just looked out the door and said that he had not finished. After he had asked me to show him my scar, someone knocked on the door again. He told me that we

needed to leave that room and I had to wait in the hallway before going to another office. I just smiled and asked him “but what's missing, can I leave?” He told me to wait for him in the hallway and that he still needed to finish my examination.

12. He ushered me into a second medical office and told me to sit down. The office was smaller, but also had medical equipment and chairs. When I sat down, he covered my legs with his to prevent me from leaving and kept insisting on seeing my scars. I started crying and asked him why? I told him to please let me out. He thought I was asking to be released from the detention center and he told me that he couldn’t let me out because I had only a few days in that place and there were people who had been there much longer. I told him that I just wanted to go back with the other women, not leave the detention center. He just responded by telling me that I was crazy like him. He kept telling me to take off my mask. I asked him why I had to take it off and he told me that to see my dental health. When I took it off, he touched my face, hands, legs and told me that I was very beautiful and that he liked me a lot. The whole time, he kept telling me about my lack of self-esteem and how pretty I was.

13. He talked to me about his family and his life and even told me that he had a daughter my age. I asked him if he would like his daughter to be treated the way he was treating me. He ignored my question. He even offered me chocolates. I told him that he would get in trouble for that, but he told me he would not get in any trouble. He asked me to eat the chocolates.

14. I kept insisting that he let me out of the room, so he told me that he was going to go get me some medicine so he could let me out. He left the room for only a moment. When he came back in, he told me to please take the medicine. I told him that I didn’t want to because I didn’t like the water in that place. He insisted strongly that I take the medicine right then and there and I even told him that I did not want to. He told me that he would drink the water to show me that it was OK to drink. When he got up, he dropped some things on the desk. He told me that he was nervous because he was enchanted by me.

15. I asked him again if I could leave and asked him what else was missing so that I could be done. He told me that he needed to see how my menstrual cycle was doing and I told him not to worry because I had a device in my arm which prevented me from menstruating, so I was fine. He responded by insisting on seeing my vaginal discharge. I told him no. In order to get him to let me leave, I told him that one of the other women had vaginal discharge that she wanted a doctor to check out. I asked him if he would bring her into the room so he could talk to her her and he said yes. After a couple of minutes of him talking to me and touching me, he finally told me that I could leave if I sent the other woman in. And that’s how I managed to get out from there.

16. As soon as I got out of the room, one of my fellow detainees took me by the hand and asked me if something was wrong. And I told her that I didn't know and she told me "go and call your family."

17. I remember seeing another male nurse who was blond, tall, thinner. He never attended to me.

18. When I left the office, they took me to the dorm area and I called my boyfriend and I told him what happened. He told me to scream and ask for help since in detention centers there is zero tolerance for sexual abuse, which I discovered is a total lie because after reporting the sexual abuse with the guards in my hallway, what I experienced was even more traumatic.

19. I initially reported the abuse to the officers outside the housing area. They were Black women, employees of the detention center. I asked to see ICE. But ICE did not arrive. They took me with two women to an office to give my statement. These women also worked for the detention center.

20. They took me to an office inside the module where my room was and two female guards took my statement. After taking my statement they asked me to wait for them in the office while they went to see if the nurse was still in the office. I told them that I was not going to stay there alone and that from that moment on I did not want to be alone with any of the staff of that facility. They let me go to my housing unit.

21. That night, the same day, they called me to interview me again. The woman who interviewed me had red hair and was a little chubby, but did not give me her name. I believe she worked for the detention center because she was wearing a blue shirt like the officers at the detention center wear. She had some sheets of paper in her hand with figures of the human body which she crossed out as I spoke, but she was not circling or indicating where he touched me. I don't know what she was doing on that paper. I told her that the nurse had refused to use an interpreter and she told me that I was lying, that the male nurse did not speak Spanish. I knew that this was untrue. When I told the woman that he had taken me to another office, she said again that I was lying because there were no more offices in that area. From what I saw, there are more than four offices. The red-haired woman told me that I was confused. She did not give me any papers to review or sign.

22. During the interview, the woman denied everything I said. I just cried and ask her why she didn't believe me. She told me to please leave, so I left there and went to the corridor where I waited more than 3 minutes for the door to be opened. No guard came to unlock or open the door. I was so upset I couldn't stand it and I fell on the floor crying and asking for help.

23. Two guards arrived, one man and one woman, and they called an interpreter because they did not speak Spanish. I told them what had happened to me and they looked astonished while I told them everything. They asked me what the woman who had interviewed me was like. After this, they took me back to my housing area.

24. That was all on a Friday, December 31, 2021, and nothing happened over the weekend, but on Monday, January 3, 2022, I had another interview and after that day, I was interviewed every day until the day before they let me out of the detention center.

    On Monday January 3, I had interviews with a man with the white hair, I think he was a chaplain, and a Black woman with a radio and long braids. I don't think she was an ICE officer. They asked me several questions, but I told them I wanted to talk to ICE. About 40 minutes later, ICE Officer Johnson showed up and asked what I needed. I told him I needed help and he said they couldn't help me with that, that he could only answer questions regarding my immigration case. I think he was the ICE officer assigned to my case. I was taken back to my dorm.

25. The next day, a female officer came to take me to an office within the medical center to see a woman named Miss Morris, who I believe is a psychiatrist or psychologist. Miss Morris took my statement. While I was in the room with Miss Morris, four ICE officers, including Officer Johnson, came into the room and spoke with each other in English. I don't speak English so I don't know what they were saying to each other. The officers left and then came back in. I asked them to please help me and one of them told me there was nothing they could do. I asked Miss Morris to please help me; she said she could only write the report. She gave me a piece of paper to mark what feelings I had and asked me if I felt like I was going to commit suicide. I laughed and told her that I was fighting for my life. I said, "why would I take my own life, if what I want is to get out of here?" At that time, though, I was starting to not trust ICE in the same way that I did not trust the detention center. None of them were protecting me or other women from the nurse.

26. Every day I was there, I had an interview with someone about the incident. Sometimes I would talk with people 2-3 times a day. They did not want to give me the name of the nurse who abused me. Nobody talked to me about the PREA law and my rights. Everyone made me feel like I was crazy and wrong. They were trying to confuse me. There was only one female nurse, who was about 60 years old, with white hair, who told me that she believed me, but that there was nothing she could do to help me. She said she believed me because she knew that the nurse spoke Spanish very well. She gave me phone numbers of pro bono lawyers so that I could report by abuse, so that I could get help. In that moment, I felt confirmation that the detention center was not going to help me.

27. Beginning on Tuesday, January 4, the ICE officers I met with began threatening that they were going to give me 7 years in prison. Officer Johnson said this in the ear of a female

ICE officer who was with him, and the woman would tell the interpreter via phone, who then told me in Spanish. They asked me if I was sure I wanted to continue with the complaint. I said that I knew I was telling the truth and I didn't care about time in jail – if that is what it took for them to hear my complaint. The female ICE officer was violent, she hit the table and provoked me. I always cried but kept calm.

28. Sometimes I couldn't eat, because it was during meal times that they would take me for interviews. It was clear that they had me there asking me questions to punish me and make me weak. They told me through the translator that I was stupid. I cried and stayed silent. The female ICE officer got angrier. After Tuesday, I did not see the ICE officers again.

29. I was interviewed about the abuse every day until January 10. On January 10, I signed a paper for my release, but they held me for the day for one more interview. I was already in my civil clothes and about to head out of the door from the detention center, but an ICE officer called me by my full name and said that I would not be released that day because I had decided to continue with the investigation. To me that was a threat, and I started yelling and crying and that I wanted to call my family because I needed to get out of there. He said I needed to calm down and that I was not going to leave. He said that I had to change back to the clothes from the detention center because I was going to go to another interview.

30. The last interview was with a Black woman in a beige detention center uniform. They told me she was an investigator. This woman was rude to me, she confused me, she treated me badly. She told me that I was lying. At the end of the interview, she apologized to me. She told me to excuse her if she had been rude to me because it was her job.

31. The next day, on January 11, Officer Johnson came looking for me. I remember that I lowered my face because I was afraid that they would tell me again that I was not going to be released. Johnson told me to behave myself and not to cause any more trouble.

32. When the abuse just happened, I asked to call the police. I wanted them to take the nurse away. I tried to dial 911 from the phones in the housing area, but it didn't work. I couldn't make the call. I was never able to speak with the police at the detention center.

33. I did not sign any paper about the incident. I tried to read everything they gave me so as not to sign something that said that what I had said was a lie. I was very careful with that. I only signed my release papers from Stewart.

34. As far as I know, neither ICE nor the guards at the center, no one, spoke with any other female detainees even though other women had experienced similar behavior from this nurse. They told me that another girl had reported abuse from him, and they accused me of forcing her, saying that I was causing a revolution. I didn't talk to any other detained women about what happened except a girl from Nicaragua who was waiting outside the doctor's office. She asked me if I had heard that someone had reported sexual abuse, I told her that it had happened to me, nothing more.

35. The nurse who abused me did not use a translator, he speaks Spanish well, he has good pronunciation.

36. ICE more than once threatened me that if I wanted to continue with the complaint they would put me in jail for 7 years and they psychologically abused me, telling me things like they were going to prove that I was lying. They would sometimes withhold food from me during interviews and I went without eating lunch or dinner for several days. Because of when they would do interviews, I could only eat breakfast.

37. I met many girls inside the detention center who were abused by this same person and the detention center did nothing to help them or they were afraid to report because they were afraid of being treated badly. I know from my experience that their fears were real.

I certify under the penalty of perjury that the foregoing is true and correct. Executed at Woodridge, IL.

Glaysde Daniela Meza Medina

06/21/2022

Date

CERTIFICATE OF TRANSLATION

I, Edith Oriciaga, declare under penalty of perjury that I am fluent in both the Spanish and English languages. I have accurately and completely translated the foregoing declaration from English into Spanish to Daniela Meza Medina and she understood and affirmed its contents before signing.

Executed on June 10, 2022, in Ocilla, GA.

Edith Oriciaga

July 12, 2022

Sent via Email

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Re: Sexual assault of detained immigrants by a nurse at Stewart Detention Center, a U.S. Department of Homeland Security immigration detention facility operated by CoreCivic

I. INTRODUCTION

Maria Doe, Viviana Doe, Laura Doe, and Marta Doe (collectively, "complainants"), through the undersigned counsel at the Southern Poverty Law Center (SPLC) and affiliated advocates at Project South, the Georgia Latino Alliance for Human Rights (GLAHR), the Black Alliance for Just Immigration (BAJI), El Refugio, the Georgia Human Rights Clinic, and Owings MacNorlin LLC submit this complaint denouncing repeated sexual assaults towards them by [redacted], Registered Nurse, Lic. # [redacted], while they were detained at Stewart Detention Center (Stewart) in Lumpkin, Georgia, as well as the enabling of his actions by U.S. Immigration and Customs Enforcement (ICE) and CoreCivic, Inc. (CoreCivic) and suppression of reports of the assaults. Although ICE and CoreCivic are aware of the multiple allegations of sexual assault against Nurse [redacted], he continues to treat individuals at Stewart with access to women made especially vulnerable by their detention. ICE and CoreCivic have failed in their duty to care for and protect people in their custody from the kind of pervasive sexual assault that the Prison Rape Elimination Act was designed to address. In fact, when complainants Maria Doe and Laura Doe reported Nurse [redacted]'s behavior to CoreCivic and ICE employees, rather than addressing their complaints, officers threatened them with legal action and prolonged detention.

Stewart has historically failed to protect detained individuals from sexual assault. An audit under the Prison Rape Elimination Act conducted between May 25-27, 2021 found the standards for (1) Investigations (§115.34); (2) Assessment for risk of victimization and abusiveness (§115.41); and (3) Criminal and Administrative Investigations (§115.71) were not being met.[1] Further, the report substantiated at least one allegation of staff-on-detainee sexual assault.[2] Almost one year later, an ICE facility inspection report dated May 5, 2022 indicates that there were eight allegations of sexual abuse and assault by staff/contractor on detained individuals at Stewart in the preceding twelve months, and at least two were substantiated.[3] It is past time for supervising agencies to hold Stewart accountable for the abuse of people detained there.

The complainants urge the responsible components of the U.S. Department of Homeland Security (DHS) and the U.S. Department of Justice (DOJ) to investigate and render consequences under law for these alleged actions of ICE staff and their contractors, subcontractors, and detention administrators at Stewart, including private contractor CoreCivic.

[1] PREA Audit: Subpart A. DHS Immigration Detention Facilities Audit Report, DHS, https://www.ice.gov/doclib/foia/prea_audit/stewartDetCtrMay25-27_2021.pdf.
[2] *Id.* at 3.
[3] ICE Facility Significant Incident Summary (SIS), ICE, May 5, 2022, https://www.ice.gov/doclib/facilityInspections/StewartDetCtr_SIS_05-05-2022.pdf.

II. BACKGROUND AND LEGAL STANDARDS

> *The South, which already has some of the highest rates of incarceration in the country, is the bargain basement of immigration detention. Facilities charge among the lowest per diem rates in the country in order to land Immigration and Customs Enforcement (ICE) contracts that can create jobs for communities, revenue for municipalities and profits for private prison operators, no matter the long-term cost. It's an approach that flows from the South's long history of looking to prisons filled mostly with people of color as a way to build local economies – a history that includes chain gangs and programs that "leased" prisoners to companies for work. Today, immigrant detention is but the latest chapter in that history.*[4]

The Performance-Based National Detention Standards (PBNDS), issued and intermittently revised by ICE, are supposed to provide a framework to maintain a safe and secure environment for people it keeps in civil detention. Stewart operates under PBNDS 2011 (Revised 2016).[5] PBNDS 2.11 specifically addresses Sexual Abuse and Assault Prevention, and mandates that each "facility shall articulate and adhere to a written zero tolerance policy for sexual abuse or assault, outlining the facility's approach to preventing, detecting, and responding to such conduct." As described below, ICE at Stewart has utterly failed to comply with the standards in that chapter, including, but not limited to, procedures for reporting and addressing allegations or suspicions, "procedures for offering immediate protection, including prevention of retaliation and medical and mental health referrals;" and coordination with appropriate investigative agencies.

Over the past several years, Georgia's immigration facilities have gained notoriety for the most horrific reasons. International attention shined on the Irwin County Detention Center (Irwin) in Ocilla, Georgia, only two hours from Stewart, in the wake of a September 2020 whistleblower complaint filed on behalf of Nurse Dawn Wooten by Project South, Georgia Latino Alliance for Human Rights, South Georgia Immigrant Support Network, and Georgia Detention Watch. The complaint exposed medical abuses at Irwin, including gynecological procedures performed on cis-gender female detained immigrants without informed consent.[6] The Folkston ICE Processing Center (Folkston) in Folkston, Georgia, only four hours from Stewart, recently garnered attention for reports that it may become the largest ICE detention center in the nation—a "super-complex"

[4] Southern Poverty Law Center, National Immigration Project of the National Lawyers Guild, and Adelante Alabama Worker Center, *Shadow Prisons: Immigrant Detention in the South (Executive Summary)*, Nov. 26, 2016, https://www.splcenter.org/20161121/shadow-prisons-immigrant-detention-south#executive%20summary.
[5] Stewart Detention Center, ICE Office of Professional Responsibility, Feb. 22-26, 2021, https://www.ice.gov/doclib/foia/odo-compliance-inspections/2021-StewartDC-LumpkinGA-Feb.pdf.
[6] Re: Lack of Medical Care, Unsafe Work Practices, and Absence of Adequate Protection Against COVID-19 for Detained Immigrants and Employees Alike at the Irwin County Detention Center, submitted by Project South, Georgia Detention Watch, Georgia Latino Alliance for Human Rights, South Georgia Immigrant Support Network, Sept. 14, 2020, https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf.

holding more than 3,000 detained immigrants—despite ongoing investigations into civil rights violations at the facility.[7] Looking forward, Georgia and Louisiana are poised to become a new epicenter of immigrant detention. Despite the widespread coverage and numerous complaints of the unbearable conditions and abuses, these same states continue to play host to rampant abusive detention practices, including inadequate, negligent and abusive medical care, failure to provide COVID-19 protections, physical violence against detained people, and punitive use of solitary confinement for people who speak out about their treatment.[8]

ICE began detaining people at Stewart in 2006 and has relied upon CoreCivic for its operations.[9] With capacity to detain nearly 2,000 individuals, Stewart is one of the largest immigration detention centers in the United States and, as of 2016, was estimated to net CoreCivic approximately $38 million in profits per year.[10] Between 2008 and December 2020, Stewart did not detain cisgender immigrant women.[11] However, after Nurse Wooten's whistleblower complaint against Irwin in September 2020, ICE transferred individuals from Irwin to Stewart and has detained cisgender women at Stewart since that time.[12]

Since its opening in 2006, Stewart has been plagued by persistent and pervasive human rights abuses which have earned it the moniker of the "deadliest immigration jail."[13] Stewart faces lawsuits regarding the wrongful death of people it its care,[14] inability for people detained to access counsel,[15] insufficient medical care,[16] and its involuntary and abusive forced labor

[7] Jeremy Redmon & Lautaro Grinspan, *Exclusive: Ga. Immigration Facility to Become One of Nation's Largest*, The Atlanta-Journal Constitution. Feb. 4, 2022, https://www.ajc.com/news/exclusive-south-georgia-immigration-detention-complex-aims-to-expand/QN5G2BFOPREQHEBDOPPAX2PSVI/.

[8] Re: Complaint for violations of civil, constitutional, and disability rights of medically vulnerable individuals at Stewart Detention Center, Aug. 30, 2021, submitted by SPLC, El Refugio, the Black Alliance for Just Immigration (BAJI), and the Georgia Human Rights Clinic (GHRC), https://www.splcenter.org/sites/default/files/august_crcl_complaint.pdf.

[9] *Office of Detention Oversight Compliance Inspection Stewart Detention Center*, ICE, Aug. 21-23, 2012, https://www.ice.gov/doclib/foia/odo-compliance-inspections/2012stewart_detntn_cntr_lumpkin_GA_aug21-23-2012.pdf.

[10] Catherine E. Shoichet, *Inside America's Hidden Border. In One of America's Poorest Places, Detaining Immigrants is a Big Business*, CNN, August 2018, https://edition.cnn.com/interactive/2018/08/us/ice-detention-stewart-georgia/?utm_content=chapter_04/.

[11] Jeremy Redmon & Alan Judd, *ICE Resumes Holding Women in Southwest Georgia Detention Center*, The Atlanta Journal-Constitution, Dec. 28, 2020, https://www.ajc.com/news/ice-resumes-holding-women-in-southwest-georgia-detention-center/WICMRG2FTVHMFKW3MFCPNXDP2M/.

[12] Charles R. Davis, *ICE transfers women out of detention center that became infamous over allegations of forced sterilization*, Business Insider, May 3, 2021, https://www.businessinsider.com/ices-irwin-county-detention-center-transfers-remaining-women-lawyer-says-2021-4.

[13] José Olivares, *ICE Review of Immigrant's Suicide Finds Falsified Documents, Neglect, and Improper Confinement*, The Intercept, Oct. 23, 2021, https://theintercept.com/2021/10/23/ice-review-neglect-stewart-suicide-corecivic/.

[14] *Id.*

[15] *S. Poverty Law Ctr. v. DHS*, No. 18-cv-00760, (D.D.C.).

[16] *Fraihat v. ICE*, No. 5:19-cv-01546-JGB-SHK (C.D. Cal. Apr. 20, 2020).

practices.[17] Stewart has further garnered a host of prior administrative agency complaints that have failed to redress the systemic nature of the human rights abuses suffered by those detained there.[18] Specifically:

- Stewart fails to provide appropriate and necessary medical care. According to a 2021 Intercept article, eight detained individuals have died at Stewart since 2017, including two by suicide, one as a result of pneumonia, and one by heart attack.[19] Of particular note is the Detainee Death Review issued by ICE's External Reviews and Analysis Unit after the death of Efraín Romero de la Rosa, who died by suicide in July 2018.[20] The report noted 22 policy violations by staff and eight "areas of concern" while Mr. Romero de la Rosa was at Stewart.[21]
- COVID-19 exacerbated medical neglect and other problems at Stewart. As of July 10, 2022, there have been 1,669 confirmed COVID-19 cases at Stewart since reporting began.[22] Alarmingly, four people in ICE's custody at Stewart have died due to complications of COVID-19, the most of any immigrant detention center in the nation.[23] The COVID-19 death toll at Stewart constitutes 36% of all reported COVID-19-related deaths of people in ICE custody nationwide, which is disproportionately higher than Stewart's share of the total nationwide detained population in general (about 5%).[24]
- Recent accounts from people detained at Stewart indicate a continuing pattern of neglect and delays in providing medical care at Stewart: since May 2022, more than five people reported to SPLC that they have been waiting several weeks, and in some cases more than six weeks, to be evaluated by a mental health professional after complaining of anxiety, depression, and panic attacks. One SPLC client was recently released from Stewart weeks after an urgent biopsy without being given the results of the biopsy or any meaningful medical care summary upon release, as required by the PBNDS.[25] ICE's failure to inform

[17] *Barrientos v. CoreCivic*, No. 4:18-cv-00070 (M.D. Ga.).

[18] *See, e.g.,* Re: Complaint for violations of civil, constitutional, and disability rights of medically vulnerable individuals at Stewart Detention Center, Aug. 30, 2021, submitted by SPLC, El Refugio, the Black Alliance for Just Immigration (BAJI), and the Georgia Human Rights Clinic (GHRC), https://www.splcenter.org/sites/default/files/august_crcl_complaint.pdf.

[19] José Olivares, *ICE Review of Immigrant's Suicide Finds Falsified Documents, Neglect, and Improper Confinement*, The Intercept, Oct. 23, 2021, https://theintercept.com/2021/10/23/ice-review-neglect-stewart-suicide-corecivic/.

[20] *Id.*

[21] *Id.*

[22] ICE Guidance on COVID-19, updated July 10, 2022, https://www.ice.gov/coronavirus#detStat.

[23] Jeremy Redmon, *Fourth ICE detainee dies from COVID-19 in southwest Georgia*, The Atlanta Journal Constitution, Jan. 31, 2021, https://www.ajc.com/news/fourth-ice-detainee-dies-fromcovid-19-in-southwest-georgia/TNPDEQCTD5AJNEJG3AB5UODNGQ/.

[24] ICE Guidance on COVID-19, updated July 10, 2022, https://www.ice.gov/coronavirus#detStat; FY22 ICE Detention Statistics, updated Apr. 23, 2022, https://www.ice.gov/detain/detention-management.

[25] ICE, Performance-Based National Detention Standards 2011 (PBNDS) (revised Dec. 2016) https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf.

her of the process for requesting records upon release resulted in an overall delay of more than two months in receiving her biopsy results. Only after numerous requests by her attorney was she able to get the results that recommend further testing to rule out lymphoma.

- Stewart has a history of violence toward individuals in detention. Toward the beginning of the COVID-19 pandemic, detained immigrants at Stewart peacefully protested lack of medical care and adequate protection from the virus.[26] On April 9 and 20, 2020, Stewart's Special Operations Response Team (SORT) Unit, a militarized jail police force, used aggressive and unnecessary force against the peaceful protestors.[27] Following these incidents, several members of the SORT Unit spoke proudly about the attack on social media posts.[28] In one social media post, for example, one of the SORT officers equated his role of shooting pepper-ball projectiles against peaceful, detained protesters as being in "call of duty mode."[29] A different officer posted on his social media account that the detainees "felt them mfs."[30] Eight employees were placed on administrative leave and four were ultimately fired.[31] Nonetheless, SPLC has continued to receive reports of aggressive use of force by CoreCivic employees.
- Current oversight mechanisms at Stewart have failed. Recently, the DHS Office of the Immigration Detention Ombudsman (OIDO) selected Stewart as part of a pilot project to implement on-site oversight at ICE detention facilities. Despite the presence of an OIDO case manager who makes weekly unannounced visits to Stewart since late 2021, and a newly circulated OIDO intake form, ICE has perpetuated a climate of fear, abuse, and neglect at Stewart, as demonstrated by the experiences of the complainants below.

III. ACCOUNTS OF WOMEN PREVIOUSLY DETAINED AT STEWART REGARDING NURSE [redacted]

Nurse [redacted] has repeatedly taken advantage of his position as a medical professional to isolate women at Stewart in private medical examination rooms, to force or coerce them into giving him access to private parts of their body without medical justification or need and assaulting them during his "medical exams." At least two brave women already came forward during their detention at Stewart to report the assaults. However, internal investigations turned into interrogations with victim-blaming, accusations of false reporting, and threats of prison sentences.

[26] José Olivares, *ICE's Immigration Detainees Protested Lack Of Coronavirus Precautions — And Swat-Like Private-Prison Guards Pepper-Sprayed Them*, The Intercept, May 5, 2020, https://theintercept.com/2020/05/05/ice-stewart-immigration-detention-coronavirus-protest-pepper-spray/.
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*

These interrogations caused additional trauma to women who already survived sexual assault while physically confined in the same setting as their assailant and prevented additional women from wanting to come forward. An internal review of Stewart medical records of individuals who contacted SPLC from December 2018 through January 2022 showed that Nurse [redacted] was involved in the medical care of at least 165 detained individuals during that time. Although it appears that Nurse [redacted] was briefly reassigned elsewhere within Stewart after the allegations of sexual assault, upon information and belief, the reassignment appears to have been to the segregation unit, where people are isolated and vulnerable to further harm with no opportunity to seek help. Further, recent reports indicate that Nurse [redacted] is now once again providing medical care to the general population, including to cisgender women.

a. ***Allegations of Sexual Assault of Maria Doe***

Maria Doe was brought to Stewart on December 30, 2021. The next day, she was taken to a medical appointment with Nurse [redacted]. He closed the door and told her that he speaks Spanish, so they would not need an interpreter. He asked if she had had any surgeries or was feeling unwell. She reported that she had breast prosthesis and that she had not been able to use the bathroom.

He told her that he would need to examine her and told her to lie on the examination table. During the course of the "examination," he put his penis in her hand, ordered her to lower her pants and attempted to touch her below her waistline, and groped her breasts multiple times under the guise of listening to her heart. Again and again, Maria Doe told him to stop, asked him why he was treating her this way, and asked to leave the examination room. He, instead, continued his aggression and complimented her looks, talking to her about her self-esteem. In an attempt to get someone else in the room, she asked him to get an interpreter, but he used Google translate to ask to see her scars from breast surgery.

While Nurse [redacted] assaulted Maria Doe, someone knocked on the door several times and Nurse [redacted] replied that he was not finished with the exam. Finally, the person knocking insisted that they needed the room. Nurse [redacted], however, instructed Maria Doe that they were not finished, and she had to wait to finish the exam in another office. He took her directly to another office, trapped her with his body, and continued the assault by touching her, complimenting her, and offering her things. She continually asked him to please stop touching her and to let her leave. He told her that in order to leave, she needed to take medications that he gave her. Maria Doe reports that he appeared nervous, and he told her that she made him nervous because he liked her. She said she just wanted to leave and asked if there was anything else, hoping that she would be allowed to leave. He told her that he needed to check her menstrual cycle and insisted on seeing her vaginal discharge. She was finally able to escape by telling him that another person had discharge that she was concerned about, and that Nurse [redacted] needed to see her about it.

Unfortunately, Maria Doe's assault was not where her trauma ended. She quickly reported the

abuse to a guard in the hall. She was brought into an office where two female officers who worked for CoreCivic took her statement. After the officers took her statement, she returned to her housing unit. That same night, another woman, who also appeared to work for CoreCivic based on her blue shirt, called her in to interview her, using a form with the parts of the human body. During her statement, that woman told her that her story was a lie because Nurse [redacted] did not speak Spanish. The woman told her that there are no other rooms that he could have taken her to after the initial examination room, indicating that Maria Doe had concocted the entire story. Maria Doe cried, asking the woman to believe her, but the woman dismissed her back to her housing unit. Maria Doe was desperate and scared, and fell on the floor crying. Two guards found her and, using a telephonic interpreter, asked her what had happened. She recounted the story and they brought her back to her housing unit.

On Monday, January 3, Maria Doe was brought back for another interview. She believes it was with a chaplain and a CoreCivic guard. She asked to speak to somebody from ICE, and after some time, [redacted] arrived and told her that he could not help her; that he could only answer questions about her immigration case. Maria Doe was interviewed every day after that, including by a mental health professional named [redacted] who asked if she was suicidal and asked her to circle how she was feeling, but said she could not assist further. On at least one other occasion, up to four ICE officers were in the room during an interview. One female nurse told her about the Prison Rape Elimination Act and told her to call lawyers to help her.

[redacted] communicated through an interpreter that she would be given seven years in prison if she continued with her report, saying they knew she was lying. A CoreCivic employee hit the table in front of her during an interview. Officers also withheld food during interviews, causing her to miss multiple meals. Over the course of a week, she was subjected to repeated interrogations and accusations that she was lying. They told her that if she made further reports, she would continue to be detained because they could not release her with an investigation ongoing, but if she withdrew the report, she would be released. In fact, her release was delayed by a full day in order to force her to attend a final abusive interrogation.

Maria Doe encountered several women in her unit throughout the investigation who shared that they had also been in uncomfortable situations with Nurse [redacted] due to inappropriate behavior and thanked her for reporting, sharing that they were too afraid to report. Maria Doe was finally released from Stewart on January 11, 2022. She never received any information about the status of her complaint or the result of any investigation into Nurse [redacted].

b. Allegations of Sexual Assault of Viviana Doe

Viviana Doe was detained at Stewart for three months at the end of 2021. During that time, she had two disturbing encounters with Nurse [redacted]. She reports that she was left alone with Nurse [redacted], who would close the door and curtain and lower his face mask when he was alone with

her. She was under the impression that he was a doctor, and he did not correct her or properly identify himself as a nurse.

First, when Viviana Doe had an allergic reaction and needed a steroid injection, Nurse [redacted] told her that he would give her the shot in her buttocks. She expressed discomfort and requested a female provider. Nurse [redacted] argued with her and told her, in Spanish, that he had "good hands." He expressed annoyance with her request for a female medical professional and told her that she would not be able to request a female in the hospital. She finally prevailed and a female nurse came to give her the injection. Viviana Doe does not know exactly what Nurse [redacted] and the female nurse said to each other, but she felt that the female nurse gave her the injection while keeping an eye out as if expecting that Nurse [redacted] would try to come back into the room.

A few weeks later, Viviana Doe had an offsite appointment for her eyes. When she returned, Nurse [redacted] took her into a room, closed the door, and said he needed to do a "*chequeo médico*" (medical check). He had her lift her shirt up to her neck for him to place the stethoscope on her chest. He indicated that he was also going to place the stethoscope below her waistline. He did not explain what he was doing or ask for consent. She was scared and confused and froze as he placed the stethoscope on her lower belly below the waist of her pants.

Viviana Doe was never able to see any of the information that was sent back from the offsite appointment. She saw that her file was handed to Nurse [redacted] when she returned to Stewart, but he refused to acknowledge it when she asked about it. After the inexplicable exam in a closed room with him, that file from the offsite appointment never made it into her medical record.

Viviana Doe complained about this experience to the other women in her unit. She was afraid to complain to ICE, CoreCivic, or anyone else at the facility, not knowing what repercussions it could have on her detention or her case with the immigration judge.

c. Allegations of Sexual Assault of Laura Doe

Laura Doe was detained at Stewart for approximately six months between 2021 and 2022. She reports two incidents of abuse by Nurse [redacted] during this time. During these incidents, Laura Doe was under the impression that Nurse [redacted] was a physician, and he did not correct her. She only learned he was a nurse long after her release from Stewart.

The first instance of abuse occurred in or about September 2021. Laura Doe requested a medical check because she was experiencing stomach pain and a burning sensation in her leg. She was taken to a small room alone with Nurse [redacted] when he instructed her to lift her shirt up past her bra. He then placed a stethoscope on her chest and proceeded to touch her in between and around her breasts with the stethoscope and his fingers. He then asked her to lower her pants to below her waist and placed his hand and stethoscope to the area beneath her appendix, moving it around near

her uterus. Nurse [redacted] then instructed Laura Doe to remove her right shoe and sock and proceeded to give her a "weird massage" while looking at her in a sexually suggestive manner that made her uncomfortable. When he finished, he attempted to put her sock on for her, and she said no.

The second instance of abuse occurred in or about late November or early December 2021. Laura Doe requested a urine and blood test because she continued to experience abdominal pain and believed she may have an infection. Staff at Stewart took her to the medical unit, and Nurse [redacted] once again treated her. After asking Laura Doe a series of questions in a manner that made her uncomfortable, he instructed her to lay down on the examination table and once again instructed her to lift her shirt and lower her pants. For the second time, Nurse [redacted] proceeded to inappropriately touch Laura Doe all over her chest and under her pants below her waist with his hands and stethoscope. When he finished, he told her she did not have an infection and gave her pills for pain that she understood were Tylenol.

On or about January 3, 2022, Laura Doe spoke with a mental health professional at Stewart about these incidents of abuse by Nurse [redacted]. The psychologist called in two other staff members to speak with Laura Doe about these incidents and how she was feeling. That night, an official at the facility approached Laura Doe in her dorm and told her she had to report what happened. Another woman detained with Laura Doe overheard and stated that she also wanted to make a report against this nurse. The two women were taken to an office where, as instructed, they each wrote down what they experienced at the hands of Nurse [redacted] on pieces of paper.

In the days that followed, Laura Doe was once again taken to a room, this time by a male and female official at the facility. The female proceeded to tell Laura Doe that she could be sent to prison for up to seven years for lying and accused her of instigating other women. Laura Doe was released from Stewart days later, on or about January 12, 2022. To date, she has not received any information about the status of her complaint or the result of any investigation.

d. Allegations of Sexual Assault of Marta Doe

Marta Doe was detained at Stewart from September through November 2021. She reports three incidents of abuse by Nurse [redacted]. Marta Doe was led to believe that Nurse [redacted] was a doctor, and he did not correct her.

When Marta Doe went to the medical unit for chest pain, Nurse [redacted] took her into a room by herself and had her remove her shirt and bra. She hesitated about the need to remove the bra, and he insisted. He spoke limited Spanish but said something that she understood as "no bra." He then placed the stethoscope on her bare chest.

On another occasion, Marta Doe went to medical for stomach pain and was told she needed an

enema. Nurse [redacted] was preparing to place the enema when a female nurse stopped him. Although Marta Doe did not understand what the nurses said because they were speaking English, she understood that the female nurse took over and indicated that Nurse [redacted] should not have been doing what he was doing.

Marta Doe saw Nurse [redacted] one final time after she fell and hurt her wrist. He again took her to a room by herself and then asked if she had hurt her knees or anywhere else. He told her to take off her pants to see her legs. She refused. She showed him that the pants were loose enough to raise them from the bottom so that he could see her knee that way. After she refused, Nurse [redacted] grabbed her hand and insisted that she remove her pants. Based on what she had already experienced herself and what she had heard from other detained women, Marta Doe was resolute in refusing to take off her pants. Finally, the nurse gave up and told her to calm down ("*tranquila*").

Fortunately, she was released from Stewart that day shortly after the incident occurred.

IV. NURSE [redacted] VIOLATED THE CODE OF MEDICAL ETHICS AND HIS BEHAVIORS ARE CONSISTENT WITH SEXUAL MISCONDUCT

Nurse [redacted]'s behaviors were inappropriate and consistent with sexual misconduct.[32] Further, the way he engaged with patients was not indicated, outside the scope of his practice, and in violation of the medical ethics required of a healthcare professional during patient-provider encounters.[33]

Nurse [redacted] performed examinations that were not indicated, not necessary, and abusive. While it is common to auscultate (listen) to heart and lung sounds with a stethoscope, it does not require a patient to remove or lift up their shirt and expose their breasts and certainly does not require removal of the bra. Auscultation of the heart and lungs can be done over the shirt, or the stethoscope can be placed in a nonintrusive manner by making minor adjustments to clothing to expose the third to fifth rib space anteriorly. There would be no indication to palpate a patient's breasts to auscultate heart or lung sounds. If a patient has an abdominal complaint, it is common for the clinician to auscultate bowel sounds but this would not be done without an indication (e.g., abdominal pain) and the stethoscope is typically placed in the periumbilical region (around the belly button). There would rarely be an indication for a clinician or nurse to auscultate an organ below the waistline. In the encounters described, there was no indication to conduct a breast or genitourinary (genital and/or urinary) exam.

[32] National Council of State Boards of Nursing, Practical Guidelines for Boards of Nursing on Sexual Misconduct Cases, https://www.ncsbn.org/Sexual_Misconduct_Book_web.pdf.
[33] American Nurses Association, *Code of Ethics for Nurses with Interpretive Statements*, https://www.nursingworld.org/coe-view-only; American Medical Association, *Code of Medical Ethics Overview*, https://www.ama-assn.org/delivering-care/ethics/code-medical-ethics-overview#:~:text=Preface%20and%20Preamble.-,AMA%20Code%20of%20Medical%20Ethics,professional%20relationships%20and%20self%2Dregulation.&text=The%20nine%20Principles%20of%20Medical,principles%20of%20the%20medical%20profession.

If such an exam were required (which, again, was not the case in any of the above scenarios), it should be done by a trained medical provider, usually an advanced practice provider, physician, or nurse trained in sexual assault,[34] after the patient provides consent, and with a chaperone. By performing examinations that were not indicated, without consent, and without a chaperone, Nurse [redacted] severely violated medical ethics of a provider-patient interaction.

Nurse [redacted] also violated standard operating procedures by failing to honor a patient's request for a same-gender nurse and by failing to provide an interpreter during his examinations.

According to the National Council of State Boards of Nursing definition of sexual misconduct, Nurse [redacted] engaged in sexual misconduct in the following manners:

1) Touching of the breasts, genitals, anus or any sexualized body part, except as consistent with accepted community standards of practice for examination, diagnosis and treatment within the healthcare practitioner's scope of practice (b)
2) Rubbing against a patient, client or key party for sexual gratification (c)
3) Hugging, touching, fondling or caressing of a romantic or sexual nature (e)
4) Not allowing a patient or client privacy to dress or undress (g)
5) Not providing the patient or client with a gown or draping (h)
6) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual (r)

For the above reasons, the undersigned counsel at SPLC is contemporaneously filing a complaint with the Georgia Board of Nursing against Nurse [redacted] on behalf of each complainant.

V. REQUIREMENTS TO PREVENT AND RESPOND TO SEXUAL ASSAULT IN DETENTION

The PBNDS contain clear and strong language with regards to the expectations in response to reports of sexual assault by an employee or contractor. As indicated in the aforementioned allegations, Stewart failed disastrously at implementing safeguards to protect people detained at Stewart from sexual assault. The PBNDS states what staff ***shall*** do in response to a report of sexual assault, including taking allegations seriously and addressing them non-judgmentally, immediately referring to a clinical assessment, following reporting requirements, and using a coordinated multidisciplinary team that includes outside entities like a victim advocate. PBNDS 2.11(J), (H). Additionally, the facility administrator must refer an allegation of sexual assault by a facility contractor to law enforcement and the Field Office Director, who must report the allegation to the Office for Professional Responsibility's Joint Intake Center. PBNDS 2.11(L)(2).

[34] Sexual Assault Nurse Examiner (SANE), International Association of Forensic Nurses, https://www.forensicnurses.org/page/aboutSANE.

Specifically, the Detention Standards mandate strongly against retaliation against a person who reports sexual abuse. PBNDS 2.11(K).

In addition to the PBNDS, CoreCivic publishes its own Sexual Abuse Prevention and Response policy, including a specific policy for the Stewart Detention Center.[35] The CoreCivic policy states: "Inmates/detainees shall have access to outside victim advocates for emotional support services related to sexual abuse by being provided with mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations." *Id.* Efforts to identify a victim advocate must be documented on the 14-2C Sexual Abuse Incident Check Sheet, and victims must be informed of the resources available to them and their rights to care and protection. *Id.*

Despite bravely making reports, neither Maria nor Laura Doe were provided with victim advocates or appropriate clinical assessments, and instead were brazenly retaliated against through aggressive and accusatory interrogations and threats of prolonged imprisonment.

Similarly, ICE and CoreCivic failed in the protection of other detained people after the interrogations that took the place of actual unbiased investigations. According to the Detention Standards, termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse. PBNDS 2.11(M)(4)(a). For any contractor who engages in sexual abuse, the detention center must discontinue contact between that contractor and any detained people.

An internal review of Stewart medical records of individuals who contacted SPLC from December 2018 through June 2022 showed that Nurse [redacted] continued to have unsupervised medical contact with detained people in the immediate aftermath of the sexual assault reports and for months thereafter. Complainants and their counsel have no reason to believe Nurse [redacted] has stopped seeing and treating individuals at Stewart.

CoreCivic and ICE failed to take appropriate action once concerns were raised. Nurse [redacted] was allowed to continue practicing at Stewart and was left alone with women patients for months after concerns were raised. The brave women who filed complaints were called liars, threatened with longer detention, and generally harassed and intimidated by multiple officials instead of receiving proper assistance when they complained about the abuse. The allegations against Nurse [redacted] were not singular, and the response to them represent a network of enablers and silencers that propped up the abuser's conduct and used the threat of prosecution to cow complainants.

[35] 14-2 Sexual Abuse Prevention and Response, CoreCivic Company Policy (eff. Apr. 2, 2020) https://www.corecivic.com/hubfs/_files/PREA/CoreCivic%20Policy%2014-2.pdf; Sexual Abuse Prevention and Response, Policy 14-2 (Stewart Detention Center), CoreCivic, https://www.corecivic.com/hubfs/_files/PREA/Facilities/Stewart-14-02-1.pdf.

VI. REQUESTS

Regarding the allegations against Nurse [redacted], the complainants seek the following:

- Immediate removal of Nurse [redacted] from Stewart with termination of his contract;
- A separate investigation into Stewart as an inherently and irredeemably unsafe detention facility;
- Records related to the reports that were filed by Maria and Laura Doe;
- Records related to the actual protocol and any internal DHS and CoreCivic investigations that followed the reports by Maria and Laura Doe, including email communication between and among ICE and CoreCivic employees and the final result of the investigation;
- Immediate termination of the employment of each ICE and CoreCivic officer, guard, administrator, health professional, and/or investigator who threatened and accused Maria and Laura Doe of lying;
- A review of the process undertaken in responding to and investigating the reports made by Maria and Laura Doe, including whether the requirements laid out in the PBNDS were followed, which officers responded, what steps were taken to investigate or document the allegations;
- All documents related to internal DHS and CoreCivic protocols and mandatory reporting measures taken in the event of a report of sexual assault;
- The designation of a point of contact within DHS who will be responsible for communicating action steps and timelines, and results of the investigation to the survivors of sexual assault and their representatives.

VII. CONCLUSION

The highly sensitive and disturbing accounts shared by these brave women are not isolated incidents. Rather, they confirm what community organizers, human rights advocates, and detained immigrants have warned for years—ICE detention centers are fundamentally inhumane and unable to safely operate under any conditions. The multiple incidents of sexual assault reported herein occurred mere months after ICE ended its contract with Irwin in May 2021 and transferred or released all of the women by September 2021 after allegations of nonconsensual gynecological procedures. Advocates have documented the dangerous and deteriorating conditions of Stewart and Irwin for years, citing first-hand accounts and recommending that the centers be shut down.[36] The clear pattern of abuse of detained immigrant women in Georgia is deeply concerning and can no longer be ignored.

[36] *Imprisoned Justice: Inside Two Georgia Immigrant Detention Centers*, Penn State Law Center for Immigrant Rights' Clinic and Project South, May 2017, https://projectsouth.org/wp-content/uploads/2017/06/Imprisoned_Justice_Report-1.pdf.

As detailed above, these allegations against Nurse [redacted], ICE, CoreCivic, and any medical contractor involved, are just the latest in a series of complaints regarding medical abuse and reckless misconduct at Stewart and other ICE detention facilities. Reports have repeatedly called for the closure of Stewart given its improper use of solitary confinement leading to multiple deaths from suicide and medical neglect.[37] Stewart also has been at the center of investigative reports on the use of force by its SORT team.[38] The fact that reports about sexual assault filed by the complainants went unaddressed while Stewart was actively under investigation betrays the ineffectiveness of these current oversight attempts, and counsels for immediate closure of Stewart.

The undersigned counsel and affiliated advocates join the complainants in calling for a thorough investigation of these allegations, the immediate closure of Stewart, the release of people still detained there, and reparations and a path to immigration relief in the United States for the brave survivors who came forward in this complaint. Additionally, given that these abuses are not isolated but endemic to immigrant detention with little-to-no oversight, we further call for concrete steps towards ending immigrant detention and full transition to more effective, humane community-based models.

Thank you for your urgent attention to these critical matters. Please do not hesitate to contact us for additional information.

[37] Southern Poverty Law Center, National Immigration Project of the National Lawyers Guild, and Adelante Alabama Worker Center, *Shadow Prisons: Immigrant Detention in the South (Executive Summary)*, SPLC, Nov. 26, 2016, https://www.splcenter.org/20161121/shadow-prisons-immigrant-detention-south#executive%20summary; Re: Complaint for violations of civil, constitutional, and disability rights of medically vulnerable individuals at Stewart Detention Center, Aug. 30, 2021, submitted by SPLC, El Refugio, the Black Alliance for Just Immigration (BAJI), and the Georgia Human Rights Clinic (GHRC), https://www.splcenter.org/sites/default/files/august_crcl_complaint.pdf; El Refugio, *Cage of Fear: Medical Neglect and Abuse in Stewart Detention Center During the COVID-19 Pandemic*, May 2021, https://www.elrefugiostewart.org/wp-content/uploads/2021/05/CageOfFear_FINAL_English.pdf

[38] José Olivares, *ICE's Immigration Detainees Protested Lack Of Coronavirus Precautions — And Swat-Like Private-Prison Guards Pepper-Sprayed Them*, The Intercept, May 5, 2020, https://theintercept.com/2020/05/05/ice-stewart-immigration-detention-coronavirus-protest-pepper-spray/.

Sincerely,

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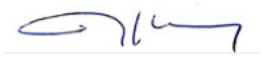
Southern Poverty Law Center

Priyanka Bhatt
Senior Staff Attorney
Project South



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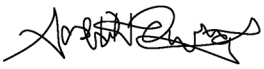

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INDEX OF EXHIBITS

SPLC Southern Poverty Law Center

Fighting Hate
Teaching Tolerance
Seeking Justice

Southern Poverty Law Center

November 30, 2022

The Honorable Jon Ossoff
Chair
Senate Committee on Homeland Security & Governmental Affairs
Permanent Subcommittee on Investigations
Washington, D.C. 20510

Dear Senator Ossoff:

We deeply appreciate your leadership and the Subcommittee's extensive work to address the horrific medical mistreatment of women in ICE detention facilities. The comprehensive report the Subcommittee prepared on the issue, coupled with the deeply impactful testimony presented at the November 15 hearings, have focused crucial attention on the government's abject failure to protect these vulnerable female immigrants.

Established in 1971, the Southern Poverty Law Center (SPLC) is a nonprofit advocacy organization serving as a catalyst for racial justice throughout the South. We work in partnership with communities of color to dismantle white supremacy, strengthen intersectional movements through transformative policies and initiatives, and advance human rights of all people.

Consistent with the testimonies presented at the November 15 hearing, on behalf of the SPLC and our Immigrant Justice Project, Southeast Immigrant Freedom Initiative, I am sharing an administrative complaint[1] that we filed on July 12, 2022, in collaboration with the Black Alliance for Just Immigration, El Refugio, Georgia Detention Watch, Georgia Human Rights Clinic, Georgia Latino Alliance for Human Rights (GLAHR), Owings MacNorlin, LLC, and Project South on behalf of four women formerly detained at the Stewart Detention Center (Stewart) in Lumpkin, Georgia. We would ask that you include this complaint in the hearing record to document the systemic nature of the abuses against women seeking medical care while detained by the U.S. government.

The complaint is against the U.S. Immigration and Customs Enforcement (ICE) and a male nurse employed by the country's largest private prison company CoreCivic, detailing a pattern of sexual assault and retaliation by guards for reporting repeated assaults against people who were detained at Stewart. The complaint details firsthand accounts from a group of survivors who were detained by ICE at Stewart from July 2021 to January 2022, and sexually assaulted by the nurse while seeking medical care. A fifth survivor of sexual abuse by the same nurse at Stewart came forward on September 30 and added her statement to the complaint.

[1] Administrative Complaint submitted to DHS officials by Southern Poverty Law Center, Black Alliance for Just Immigration, El Refugio, Georgia Detention Watch, Georgia Human Rights Clinic, Georgia Latino Alliance for Human Rights (GLAHR), Owings MacNorlin, LLC, and Project South on behalf of four women formerly detained at the Stewart Detention Center, https://www.splcenter.org/sites/default/files/stewart-detention-center-nurse-complaint-07-12-2022.pdf, July 12, 2022.

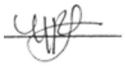
This issue is personal for us at the SPLC. We currently represent more than 50 clients and have advised hundreds at immigrant detention centers across the Deep South, all of whom have been torn from their families either at the United States border or while living and working in the country. Instead of offering freedom, protection, and a path to permanent safety in the U.S., the government has chosen to detain them, strip them of their support network and due process rights, and further endanger their lives in the process. In these women's cases, not only were they shackled at the border and forced onto a crowded cross-country government charter plane during a deadly pandemic, but they were also sexually assaulted, threatened, and retaliated against by the very people entrusted with their medical care. ICE has completely failed to carry out even the most basic of its responsibilities and has once again proven itself unable to safely operate.

For more information on the allegations listed in this complaint and the greater context of medical neglect at Stewart, you can read this article in *The Intercept.*[2]

Again, we deeply appreciate your leadership and focus on this issue. Should you have questions about this statement or need additional information, please contact Mich P. González mich.gonzalez@splcenter.org or (786) 753.1383.

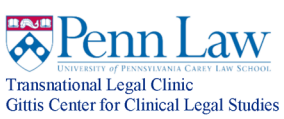
Sincerely,

Efren Olivares
Deputy Legal Director
Immigrant Justice



Mich P. González, Esq.
Associate Director of SIFI Advocacy

[2] José Olivares and John Washington, "'The Worst Day of my Life' ICE Jail Nurse Sexually Assaulted Migrant Women, Complaint Letter Says," *The Intercept,* https://theintercept.com/2022/07/13/ice-stewart-detention-sexual-misconduct/, July 13, 2022



November 19, 2020

Dubravka Šimonovic
UN Special Rapporteur on violence against women, its causes and consequences
Via email: vaw@ohchr.org

Elizabeth Broderick, Chair-Rapporteur
UN Working Group on Discrimination Against Women and Girls
Via email: wgdiscriminationwomen@ohchr.org

RE: Communication Addressing U.S. Violations of International Law at Immigration Detention Facilities in the U.S. State of Georgia and Calling for a Coordinated Site Visit and International Condemnation.

CC: Felipe González Morales
Special Rapporteur on the human rights of migrants

Working Group on Arbitrary Detention;

Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of people to self-determination;

Nils Melzer, Special Rapporteur on torture and other inhuman, or degrading treatment or punishment;

E. Tendayi Achiume, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance;

Tomoya Obokata, Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and its Consequences;

Dainius Puras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

José Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples

Dear Special Rapporteurs Šimonovic and Working Group Chair Broderick:

We submit this urgent communication on behalf of Project South, an organization working extensively with immigrant communities in the U.S. South to end abusive and inhumane immigration detention practices, Detention Watch Network, Georgia Detention Watch, Georgia Latino Alliance for Human Rights (GLAHR), the South Georgia Immigrant Support Network, the Center for Reproductive Rights, the Feminist Alliance for Rights, and the Continental Network of Indigenous Women of the Americas, organizations committed to ensuring the human rights and fundamental bodily integrity of all persons, regardless of their migration status or gender, in response to reports of medical neglect and mistreatment of women in the custody of the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), at the Irwin County Detention Center (ICDC) in Ocilla, Georgia. Reports of abuse include accounts of immigrant women who were subjected to unnecessary gynecological procedures, including non-consensual surgeries rendering the women unable to bear children.

On September 14, 2020, Project South, together with Georgia Detention Watch, Georgia Latino Alliance for Human Rights, and South Georgia Immigrant Support Network, submitted a public complaint to the DHS Inspector General, the DHS Office of Civil Rights and Civil Liberties, the Acting Director of the Atlanta ICE Field Office, and the Warden of ICDC on behalf of detained immigrants and a former nurse at ICDC detailing the gross disregard for the health and medical well-being of immigrants detained at ICDC. ICDC is owned and operated by LaSalle Corrections, Inc., a for-profit private prison corporation with a history of medical neglect, abuse and mismanagement.[1] ICE contracts with LaSalle Corrections, Inc. for the detention of immigrants at ICDC and at facilities across the Southeast, despite years of public and well-documented reports of abuse and medical neglect at their facilities. The Project South complaint – based on accounts from whistleblower and human rights defender Nurse Dawn Wooten, a licensed nurse employed at ICDC by LaSalle

[1] *See, e.g.*, Tanya Eiserer, *Jailed to death: False paperwork, deaths widespread in N. Texas for-profit's jails*, WFAA (June 29, 2020, 4:42 PM), https://www.wfaa.com/article/news/local/investigates/jailed-to-death-false-paperwork-deaths-widespread-in-n-texas-for-profits-jails/287-610400876 (quoting Lance Lowry, expert on the Texas prison industry and former president of the Texas Correctional Employees union: "This is a company that puts profit over human lives."); Aimee Ortiz, *For-Profit Jail is Accused of Abuse After Death of Woman with H.I.V.*, N. Y. TIMES (Sept. 17, 2020), https://www.nytimes.com/2020/09/17/us/lasalle-corrections-inmate-death.html. Just one week after Project South filed its complaint with DHS Office of Inspector General, the U.S. House Committee on Homeland Security issued a report , in which it specifically noted the ongoing abuses committed at facilities owned and operated by LaSalle Corrections, Inc. U.S. House of Representatives, Comm. on Homeland Sec., *ICE Detention Facilities: Failing to Meet Basic Standards of Care* 11 (Sept. 21, 2020), https://homeland.house.gov/imo/media/doc/Homeland%20ICE%20facility%20staff%20report.pdf.

Corrections, Inc., substantiated by accounts from immigrants detained at ICDC – details the harmful and unsanitary conditions at ICDC, and the facility's total disregard for the grave risks arising from the COVID-19 pandemic, the lack of protective measures aimed at guarding against those risks, the unsanitary conditions to which persons detained at ICDC are subjected, and the lack of meaningful care for those who become sick.[2] In April 2020, many of the women detained at ICDC bravely recorded a video pleading with ICE and the outside community to help, fearful of the retaliation to come for speaking out about their rights. The voices of these human rights defenders can be heard here. As noted in the September 14, 2020 complaint, the women's fears of retaliation were well-founded, as officials at ICDC persisted in its use of solitary confinement to punish those who assert their rights.

The complaint also includes credible and substantiated allegations of non-consensual sterilizations and other gynecological procedures carried out against immigrant women at ICDC. Subsequent reports reveal a history of unnecessary gynecological procedures carried out by the physician contracted by LaSalle to provide gynecological care to the women at ICDC. This communication details the reports of non-consensual sterilizations and other forms of medical neglect and abuse committed against the women detained at ICDC, and the ways in which the United States has failed to respect principles set forth in Arts. 6 and 16 of the Universal Declaration on Human Rights, and has violated obligations under international human rights treaty law including: Articles 1, 2, 7, 9, 17 and 23 of the ICCPR; Article 1 of the CAT, Articles 1, 5(b), and 5(e)(iv) of the CERD; and Articles 1, 2, 6, 7, and 11 of the American Declaration on the Rights and Duties of Man. While this communication is focused on the non-consensual and unnecessary sterilizations and other invasive gynecological procedures, those egregious rights violations must be understood in the context of the full scope of violations committed against the women at ICDC, and against immigrants detained at public and private detention centers across the United States.

In May 2018, Project South, with support from the Transnational Legal Clinic at the University of Pennsylvania School of Law, submitted a Communication to several of the UN Special Procedures addressed herein, calling for attention to the pervasive and, in some cases, deadly, rights abuses at both ICDC and the Stewart Detention Center. Eleven (11) of the UN Special Procedures sent a Communication to the United States government, as well as to LaSalle Corrections, Inc. and CoreCivic, Inc., which owns and operates the Stewart Detention Center. To our knowledge, the United States government has not responded, nor have LaSalle Corrections, Inc. or CoreCivic, Inc. The May 2018 communication set forth numerous abuses committed at both the Stewart and Irwin detention centers, including: the rampant use of solitary confinement as a form of punishment and control in violation of the immigrants' rights to security of person; forced labor and exploitation of immigrant labor in violation of contemporary human rights norms against all forms of slavery; alarmingly inadequate, neglectful, and negligent medical care, as well as the provision of unsanitary food and water, in violation of the right to health; a disregard for immigrants' cultural and religious beliefs and race-based discrimination; denial of due process; and interference in right to family life. In the years since, Project South has repeatedly sought the U.S. government's and the international community's attention to the ongoing rights violations and resulting deaths of immigrants held at the

[2] Project South Complaint on the Lack of Medical Care, Unsafe Work Practices, and Absence of Adequate Protection Against COVID-19 for Detained Immigrants and Employees Alike at the Irwin County Detention Center, Project South (Sep. 14, 2020), https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf [hereinafter Project South Complaint].

Stewart Detention Center, alongside the increasingly deplorable and abusive conditions at ICDC.[3] Those rights violations persist, and are part of a culture of abuse and impunity that pervades the system of immigrant detention, whereby egregious violations such as forced sterilizations are allowed to occur.

We respectfully call on you to issue a statement of urgent concern that reaffirms the rights of detained immigrant women to have their fundamental rights respected and protected, and call for a full and comprehensive investigation into reports of abuse. Such an investigation must: protect the rights to privacy, due process, basic dignity and health, including sexual and reproductive health, for all women who may have been subjected to the abuses set forth herein; protect those detained at ICDC from retaliation; ensure full and equal access to remedies that are driven by the needs and interests of the women whose rights have been violated; and, recognize the persistent medical neglect and rights abuses experienced by women at the hands of ICDC and ICE officials. Finally, we call on you to: recognize the breadth and depth of rights abuses violations that are endemic to the system of immigrant detention; in recognition of international law's prohibition on civil immigration detention except as a matter of last resort, call for an end to immigrant detention and an end to the profiteering of private prison corporations in the detention of immigrants.

I. BACKGROUND AND CONTEXT

a. Immigrant Detention in the United States: A History of Abuse

The United States' detention of immigrants has received international condemnation – both for the widespread use of detention for civil matters, and for the abuses of fundamental rights committed against those detained, abuses that persist to the present day.[4] The alleged forced sterilizations of detained immigrant women are thus consistent with a long history of human rights violations committed by U.S. immigration detention officials, beginning in its modern form under

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[3] *E.g.*, Submission from Project South, University of Pennsylvania Law School Transnational Legal Clinic, and Detention Watch to the UN Working Group on the Use of Mercenaries, Addressing the Role of Private Military and Security Companies in Immigrant Detention and the Impact on the Protection of the Rights of All Migrants (May 21, 2020), https://www.ohchr.org/Documents/Issues/Mercenaries/WG/ImmigrationAndBorder/dwn-projectsouth-pennlaw-submission.pdf; Letter from Project South to Georgia Delegation to the 116th United States Congress, Requesting the Immediate Release of Immigrants in ICE Custody in Georgia (Mar. 31, 2020), https://projectsouth.org/wp-content/uploads/2020/04/Congressional-Letter-Requesting-the-Immediate-Release-of-Immigrants-in-ICE-custody-in-Georgia.pdf; Letter from Project South to Members of the U.S. Commission on Civil Rights (May 13, 2019), https://projectsouth.org/wp-content/uploads/2019/05/Comment-to-U.S.-Commision-on-Civil-Rights-Georgia-Detention-Centers.pdf.

[4] *See, e.g.,* UN Human Rights Committee, *Concluding observations on the fourth periodic report of the United States of America*, 7, U.N. Doc. No. CCPR/C/USA/CO/4 (Apr. 23, 2014), http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsijKy20sgGcLSyqccX0g1nnMFNOUOQBx7X%2BI55yhIwlkDk6CF0OAdiqu2L8SNxDB4%2BVRPkf5gZFbTQO3y9dLrUeUaTbS0RrNO7VHzbyxGDJ%2F; UN Human Rights Council, *Report of the Working Group on Arbitrary Detention on its visit to the United States of America*, 6-11, U.N. Doc. No. A/HRC/36/37/Add.2 (July 17, 2017); *UN rights chief 'appalled' by US border detention conditions, says holding migrant children may violate international law*. UN NEWS (July 8, 2019), https://news.un.org/en/story/2019/07/1041991; Inter-Am. Comm'n on Human Rights, *IACHR Visits U.S. Immigration Detention Facilities*, Press Release No. 53/09 (July 28, 009), http://www.cidh.org/Comunicados/English/2009/53-09eng.htm (describing visits to five detention centers in Texas and Arizona and finding that detained immigrants were "held in unacceptable conditions, and [that] the right of these persons to due process remains, in many cases, compromised").

President Reagan.[5] At ICDC, immigrants are provided grossly inferior medical care, squalid living conditions, and inadequate access to legal resources. The practices at these detention centers are shameful in and of themselves, but they also violate U.S. obligations under international law.[6]

The Reagan-era detention centers were fraught with human rights abuses that have continued until the present. Without adequate facilities, many detained immigrants slept in mosquito- and snake-infested rooms and were fed spoiled food.[7] Rape, sexual abuse, arbitrary strip searches and moldy food were common complaints all through the 1980s, 1990s and into the 21st century.[8] In 2014, after a large number of unaccompanied immigrant children reached the southern border, a complaint was submitted to DHS about the abuses suffered by 116 of these children.[9] According to the complaint, one quarter reported being physically beaten or sexually assaulted by Border Patrol agents, more than half reported death threats and denial of necessary medical care, and 80 percent reported inadequate food and water.[10]

An investigation by USA Today found rampant abuse in immigration detention facilities.[11] From 2015 to 2019, there were 15,821 violations of detention standards.[12] Yet 90 percent of the facilities received passing marks from government inspectors.[13] The problems documented ranged from moldy food and squalid bathrooms to sexual assault, beatings, and attempted suicides.[14]

Racial discrimination and bias permeate the system of immigration detention, decisions about who is detained, how detained immigrants are treated, and whether they are granted immigration relief. Immigrants in removal proceedings from Africa and Latin America are detained at higher rates than immigrants from Asia and Europe.[15] Migrants from Africa and the Caribbean are six times more likely to be held in solitary confinement than other detained immigrants.[16] Detained immigrants are less likely to secure legal representation – one study found that just 14 percent of detained immigrants acquired counsel, compared to two thirds of non-detained immigrants.[17] Being released from detention and securing legal representation dramatically improve an immigrant's chances of winning

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[5] Philip L. Torrey, *Rethinking Immigration's Mandatory Detention Regime: Politics, Profit, and the Meaning of "Custody,"* 48 U. MICH. J. L. REFORM 879, 890 (2015), https://repository.law.umich.edu/mjlr/vol48/iss4/1.
[6] See *supra* text accompanying note 4.
[7] Smita Ghosh, *How Migrant Detention Became American Policy*, WASH. POST (Jul. 19, 2019, 5:00 AM) https://www.washingtonpost.com/outlook/2019/07/19/how-migrant-detention-became-american-policy/.
[8] *No Refuge Here: A First Look at Sexual Abuse in Immigration Detention*, Stop Prisoner Rape, 4-102 (2004,), http://www.ncdsv.org/images/JD_NoRefugeHere_2004.pdf.
[9] Letter from Nat'l Immigrant Just. Ctr. et al., to DHS CRCL & DHS OIG on Systemic Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection (June 11, 2014), https://cbpabusestest2.files.wordpress.com/2015/03/2014-06-11-dhs-complaint-re-cbp-abuse-of-uics.pdf.
[10] *Id.*
[11] Monsey Alvarado et al., *Deaths in custody. Sexual violence. Hunger strikes. What we uncovered inside ICE facilities across the US,* USA TODAY (Dec. 22, 2019, 4:13 PM), https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-asylum-under-trump-exclusive-look-us-immigration-detention/4381404002/.
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] NYU Immigrant Rights Clinic and Black Alliance for Just Immigration, *The State of Black Immigrants* 25 (Jan. 22, 2020), http://baji.org/wp-content/uploads/2020/03/sobi-fullreport-jan22.pdf.
[16] Konrad Franco, Caitlin Patler & Keramet Reiter, *Punishing Status and the Punishment Status Quo: Solitary Confinement in U.S. Immigration Prisons, 2013-2017* (Aug. 12, 2020), https://doi.org/10.31235/osf.io/zdv7f.
[17] Ingrid Eagly & Steven Shafer, *Access to Counsel in Immigration Court*, AMERICAN IMMIGRATION COUNCIL (Sept. 28, 2016), https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court.

relief.[18] One study found that just two percent of unrepresented detained immigrants won relief, compared to 21 percent of represented detained immigrants.[19] However, for released immigrants, seven percent won relief when unrepresented, while 39 percent did so when represented.[20] Thus, release from detention more than triples an immigrant's likelihood of winning relief, while release and representation lead to a twenty-fold increase likelihood of winning relief. With some of the highest rates of detention and lowest rates of representation, immigrants from Mexico and the Northern Triangle countries are among those most likely to be denied relief – one recent study found asylum denial rates of 90 percent, 83 percent, 77 percent, and 80 percent for immigrants from Mexico, El Salvador, Guatemala and Honduras, respectively.[21]

Despite international condemnation, the United States is expanding its use of immigration detention. In April 2019, there were nearly 50,000 people held in detention facilities – double the number from March 2015.[22] This increase has been fueled by the Trump administration's expanded detention of migrants with no criminal record.[23] About 43 percent of detained immigrants in 2018 were Mexican nationals, while 46 percent were from the Northern Triangle countries of El Salvador, Guatemala, and Honduras.[24]

Immigration detention in the U.S. is run predominantly by private, for-profit corporations. While only about nine percent of the total prison population is incarcerated in private facilities, by some estimates 81 percent of detained immigrants are held in private prisons,[25] an increase of nearly 450 percent since 2002.[26] While the Obama administration attempted to phase out the use of private prisons in 2016, the Trump administration, led by Attorney General Jeff Sessions, reversed this trend, allowing for expanded use of private prisons.[27] La Salle Corrections operates private prisons in the southeastern United States, including ICDC in Ocilla, Georgia, the site of detention for the complaints set forth herein. The history of human rights abuses committed at ICDC and other facilities owned and operated by LaSalle Corrections take place in private prisons across the country.[28] A federal review in 2016 found that private prisons were more dangerous for both detained immigrants and

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[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Continued Rise in Asylum Denial Rates: Impact of Representation and Nationality*, TRAC, SYRACUSE UNIVERSITY (Dec. 13, 2016), https://trac.syr.edu/immigration/reports/448/.
[22] *Growth in ICE Detention Fueled by Immigrants with No Criminal Conviction*, TRAC, SYRACUSE UNIVERSITY, (Nov. 26, 2019), https://trac.syr.edu/immigration/reports/583/.
[23] *Id.*
[24] Emily Ryo & Ian Peacock, *The Landscape of Immigration Detention in the United States*, AMERICAN IMMIGRATION COUNCIL (Dec. 5, 2018), https://www.americanimmigrationcouncil.org/research/landscape-immigration-detention-united-states.
[25] Clyde Haberman, *For Private Prisons, Detaining Immigrants is Big Business*, N.Y. TIMES (Oct. 1, 2018), https://www.nytimes.com/2018/10/01/us/prisons-immigration-detention.html.
[26] *Justice-Free Zones: Immigration Detention Under the Trump Administration*, ACLU, HUMAN RIGHTS WATCH AND NATIONAL IMMIGRANT JUSTICE CENTER (2020), https://www.aclu.org/sites/default/files/field_document/justice-free_zones_immigrant_detention_report_aclu_hrw_nijc_0.pdf; Capitalizing *on Mass Incarceration: US Growth in Private Prisons*, THE SENTENCING PROJECT (Aug. 2, 2018) https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/.
[27] *Id.*
[28] *See*, *e.g.*, Alvarado, *supra* note 11.

guards than public prisons, and that ICE received more grievances filed from private prisons than public ones.[29]

b. History of Medical Neglect and Retaliation at ICDC and Similarly Situated Facilities

Human rights abuses have been rampant at ICDC, and many other detention centers nationwide. Solitary confinement, for example, is the default for detained immigrants who seek mental health counseling. Contrary to ICE Performance Based National Detention Standards (PBNDS), detention center officials routinely hold immigrants in solitary confinement without proper hearings and without seeking alternatives, arbitrarily segregating anyone they deem "problematic."[30] A report published by the Project on Government Oversight, an independent watchdog group, showed that the use of solitary confinement in immigration detention centers increased by nearly 400 percent in the first 15 months of the Trump administration.[31] Holding immigrants in solitary confinement without proper hearings and an exploration of alternative measures is a violation not only of international law, but of ICE's own PBNDS,[32] yet the practice persists.

Immigrants at ICDC are forced to eat food of inferior quality. Meat is reported to be undercooked, rancid, or otherwise inedible.[33] Immigrants have filed complaints about all manner of foreign objects in their food, including hair, plastic, nails, rocks, teeth, maggots, cockroaches and mice.[34]

The ICE PBNDS require access to medical care for all detained immigrants, including "screening, prevention, health education, diagnosis and treatment."[35] Yet medical units are routinely understaffed, so requests to see medical staff often go unanswered for days or weeks and their conditions are frequently misdiagnosed or ignored.[36] Immigrants have been denied insulin to manage diabetes.[37] Those who insist on additional care may be placed in solitary confinement.[38] ICDC staff have shredded medical request forms from detained immigrants, fabricated detained immigrants' medical records, taunted detained immigrants for not speaking English, accused detained immigrants of exaggerating their pain, failed to disinfect the medical unit and allowed it to become infested with

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[29] *Id.*; *see also* Ryo & Peacock, *supra* note 24.
[30] *Id.;* Project South & Penn State Law Center for Immigrants' Rights Clinic, *Imprisoned Justice: Inside Two Georgia Immigrant Detention Centers* 36, 49 (May 2017), https://projectsouth.org/wp-content/uploads/2017/06/Imprisoned_Justice_Report-1.pdf [hereinafter Project South *Imprisoned Justice*].
[31] Spencer Woodman &Maryam Saleh, *40 Percent of Ice Detainees Held in Solitary Confinement Have a Mental Illness, New Report Finds*, THE INTERCEPT (Aug. 14, 2019, 7:30 AM), https://theintercept.com/2019/08/14/ice-solitary-confinement-mental-illness/.
[32] International Covenant on Civil and Political Rights arts. 2(1), 6(1), Dec. 16, 1966, 999 U.N.T.S. 171, S. Exec. Doc. No. E, 95-2 [hereinafter ICCPR]. U.S. Immigration and Customs Enforcement, *Performance-Based National Detention Standards 2011* § 2.12(V)(B) (rev. 2016) https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf [hereinafter *ICE Det. Stds.*]
[33] Project South *Imprisoned Justice*, *supra* note 30, at 31.
[34] *Id.* at 31, 44.
[35] ICE Det. Stds., *supra*, note 32, at §4.3(II)(1).
[36] Project South *Imprisoned Justice*, *supra* note 30, at 35, 48.
[37] Azadeh Shahshahani, *On this Human Rights Day: Act on the Cries of Detained Immigrants for Dignity and Justice*, THE JURIST (Dec. 10, 2017, 7:42 PM), https://www.jurist.org/commentary/2017/12/Morgan-Peng-Shahshahani-human-rights-day/.
[38] Project South *Imprisoned Justice*, *supra* note 30, at 48.

insects, retaliated against staff who adhered to public health protocols, and performed nonconsensual gynecological procedures on immigrants.[39]

Furthermore, detention center staff have refused to admit interpreters and maintain inadequate legal resources for detained immigrants.[40] Some immigrants have also reported being told to sign forms they did not understand that relinquished their legal rights.[41] A lack of interpreter services at ICDC is consistent with the complaints set forth herein, alleging that gynecological procedures were performed without informed consent and without any explanation following the procedures provided in a language the women could understand, leaving many confused as to what actually happened and why.[42]

The situation at ICDC, and at immigrant detention centers across the country, has worsened since the onset of the COVID-19 pandemic. Detained immigrants are routinely denied personal protective equipment, regular access to soap and water, and adequate space for physical distancing.[43] There is insufficient testing and detention centers remain crowded.[44] By May 2020, there were over 1,000 confirmed COVID-19 cases at detention centers nationwide.[45] In response to detained immigrants' requests for protection and medical care in light of the pandemic, officials at the neighboring Stewart Detention Center and other facilities nationwide have reportedly used physical force against immigrants.[46] These findings from May 2020 are consistent with the allegations listed in the complaint herein.[47]

c. U.S. History of Interfering with and Denying Women's Right to Bodily Integrity, Reproductive Health, and Reproductive Freedom

The reports of coercive sterilizations at ICDC are consistent with a long history in the United States of state-sanctioned violations of the reproductive autonomy and bodily integrity of people in marginalized communities.[48] In Puerto Rico, about one third of the island's female population was sterilized between the 1930s and 1970s.[49] Puerto Rican women were subjected to trials of new birth control pills, local eugenic sterilization laws, and U.S. policy encouraging sterilization on the island, which became so common that it was referred to simply as "la operación" (the operation).[50] By 1977, the island had the largest proportion of sterilized women in the world.[51] California coercively

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[39] Project South Complaint, *supra* note 2, at 15-21, 25.
[40] Project South *Imprisoned Justice*, *supra* note 30, at 30.
[41] Project South *Imprisoned Justice*, *supra* note 30, at 28.
[42] Project South Complaint, *supra* note 2, at 15-21, 25.
[43] José Olivares, *ICE's Immigration Detainees Protested Lack of Coronavirus Precautions – And SWAT-like Private-Prison Guards Pepper-Sprayed Them*, THE INTERCEPT (May 5, 2020, 8:00 AM), https://theintercept.com/2020/05/05/ice-stewart-immigration-detention-coronavirus-protest-pepper-spray/.
[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] Project South Complaint, *supra* note 2, at 2-15.
[48] Lisa Ko, *Unwanted Sterilization and Eugenics Programs in the United States*, PBS (Jan. 29, 2016), https://www.pbs.org/independentlens/blog/unwanted-sterilization-and-eugenics-programs-in-the-united-states/.
[49] Bonnie Mass, *Puerto Rico: A Case Study of Population Control*, LATIN AM. PERSPECTIVES (1977), 10.1177/0094582X7700400405. *See also* Vanessa Bauza, *Puerto Rico: The Covert Campaign to Sterilize Women*, MS (1994).
[50] *Id.*
[51] *Id.*

sterilized more than 20,000 people beginning from 1909 to 1979.[52] The practice of "Mississippi appendectomies" – unnecessary hysterectomies performed on women of color in the South as practice for medical students at teaching hospitals – was pervasive.[53] In *Relf v. Weinberger*, a federal district court found that between 100,000 and 150,000 low-income individuals had been sterilized annually under federally funded programs.[54] In many cases, doctors threatened to terminate welfare benefits of program participants unless they consented to sterilization.[55]

The targets of sterilization have long been those deemed "undesirable," so it is unsurprising that incarcerated and detained populations have been subject to denials of reproductive rights. The landmark U.S. Supreme Court case *Skinner v. Oklahoma* invalidated laws permitting compulsory sterilization of incarcerated individuals.[56] Yet the practice has persisted – in California, 150 imprisoned women were reportedly sterilized between 2006 and 2010.[57] This is all part of a pattern and practice of denying women of all ages their rights to bodily integrity, and the right to make their own medically-informed decisions regarding reproductive health. At the same time that doctors operating under government contracts are performing forced and non-consensual sterilizations, the government has also sought to deny women access to abortion care, even where medically indicated.[58] The Trump administration has taken aggressive action to block access to reproductive health care for detained immigrants. In 2017, the Office of Refugee Resettlement (ORR), the federal agency that has custody over unaccompanied immigrant children, instituted a policy of refusing to allow pregnant young people access to abortion care, instead coercing them to carry their pregnancies to term.[59] The ACLU sued on behalf of a class of young women seeking abortion, winning a court order enjoining the ORR policy.[60]

Consistent with the complaints of forced gynecological procedures at ICDC, reproductive rights abuses, denial of prenatal care, and access to feminine hygiene products have been a regular occurrence at immigration detention centers.[61] Pregnant women have been forced to deliver their babies in a holding cell, standing and wearing pants, after being refused medical attention.[62] Other

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[52] Jeremy Rosenberg, *When California Decided Who Could Have Children and Who Could Not,* KCET (June 18, 2012), https://www.kcet.org/history-society/when-california-decided-who-could-have-children-and-who-could-not.
[53] Ko, *supra* note 48.
[54] Relf v. Weinberger, 372 F. Supp. 1196, 1199 (D.D.C. 1974).
[55] *Id.*
[56] Skinner v. Oklahoma, 316 U.S. 535 (1942).
[57] *Id.*
[58] Brigitte Amiri, *Reproductive Abuse is Rampant in the Immigration Detention System*, AM. CIV. LIBERTIES UNION (Sept. 23, 2020), https://www.aclu.org/news/immigrants-rights/reproductive-abuse-is-rampant-in-the-immigration-detention-system/. *See also* Tanya Albert Henry, *Should abortion rights extend to unaccompanied migrant minors?*, AM. MED. ASS'N (Oct. 18, 2018), https://www.ama-assn.org/delivering-care/population-care/should-abortion-rights-extend-unaccompanied-migrant-minors.
[59] *Id.*
[60] *Id.* The United States has recently announced a change in policy, allowing unaccompanied minors in its custody access to abortion care consistent with the governing law of the state in whose jurisdiction the minor is held, mooting the federal court litigation, Administration for Children and Families, Office of Refugee Resettlement, Policy Memorandum: Medical Services Requiring Heightened ORR Involvement (Sept. 29, 2020), https://www.acf.hhs.gov/sites/default/files/orr/garza_policy_memorandum.pdf.
[61] National Women's Law Center, *Immigrant Rights and Reproductive Justice; How Harsh Immigration Policies Harm Immigrant Health* 2 (Apr. 2017), https://nwlc.org/wp-content/uploads/2017/04/Immigrant-Rights-and-Reproductive-Justice.pdf; *see also* Amiri, *supra* note 58.
[62] See Amiri, *supra* note 58.

women have been forced to give birth in shackles.[63] In 2018, reversing a longstanding policy, ICE ended its general presumption of release for pregnant immigrant women.[64]

Pregnant women at ICDC receive no prenatal care.[65] Human rights organizations have documented cases in which delays and denials of access to prenatal and emergency care may have resulted in miscarriage.[66] All of the above serve as searing examples of the ways in which the U.S. denies women their basic rights to bodily integrity, reproductive health, and reproductive freedom.

II. REPORTS OF NON-CONSENSUAL GYNECOLOGICAL PROCEDURES INCLUDING STERILIZATIONSOF WOMEN DETAINED BY THE UNITED STATES AT THE IRWIN COUNTY DETENTION CENTER

Recent reports reveal a history of the United States' violation of detained migrant women's inalienable rights to bodily integrity; to be free from torture and other cruel, inhuman and degrading treatment; and rights to reproductive health. The Project South complaint, and subsequent reports document "rough" gynecological treatment, medically unnecessary procedures, and non-consensual sterilizations carried out against women at ICDC and the reckless indifference displayed by LaSalle Corrections and by the United States government to the health, safety, and reproductive autonomy of women subjected to their custody in immigrant detention. On September 14, 2020, Project South issued a complaint detailing concerns shared by whistleblower-nurse Dawn Wooten and individuals detained at ICDC – that migrant women were being sterilized without their consent.[67] The story began with one individual, Wendy Dowe, detained at ICDC telling Project South that the facility was sending migrant women to an outside gynecologist whom some of the women did not trust.[68] Then, another interviewee explained she had conversations with five women who underwent gynecological procedures at ICDC from October 2019 to December 2019 and reported the women "reacted confused when explaining why they had one done."[69]

The woman reported that she refused medical treatment after she received three different explanations regarding what procedure she was to receive.[70] First, a doctor told her she needed to have

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[63] *Id.*
[64] U.S. Immigration and Customs Enforcement, *FAQs: Identification and Monitoring of Pregnant Detainees* (Mar. 29, 2018), https://www.ice.gov/faqs-identification-and-monitoring-pregnant-detainees.
[65] Project South *Imprisoned Justice*, *supra* note 30, at 49.
[66] Ema O'Connor & Nidhi Prakash, *Pregnant Women Say They Miscarried in Immigration Detention and Didn't Get the Care They Needed*, BUZZFEED.NEWS (July 9, 2018, 2:44 pm), https://www.buzzfeednews.com/article/emaoconnor/pregnant-migrant-women-miscarriage-cpb-ice-detention-trump; Administrative Complaint from Am. Civil Liberties Union et al. to DHS on Increasing Numbers of Pregnant Women Facing Harm in Detention (Sept. 26, 2017), https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_increasing_numbers_of_pregnant_women_facing_harm_in_detention.pdf
[67] Project South Complaint, *supra* note 2, at 18-20.
[68] *Id.* at 18. *See also* Caitlin Dickerson, Seth Freed Wessler, & Miriam Jordan, *Immigrants Say They Were Pressured into Unneeded Surgeries*, N.Y. TIMES (Sept. 29, 2020), https://www.nytimes.com/2020/09/29/us/ice-hysterectomies-surgeries-georgia.html.
[69] Project South Complaint, *supra* note 2, at 18.
[70] *Id.* at 20.

an ovarian cyst removed.[71] Then, an officer transporting her to the hospital said she was having a hysterectomy.[72] In a twist of fate, the woman tested positive for COVID-19 antibodies and was transported back to ICDC.[73] When she was returned to ICDC, she asked the nurse there what was happening, and that nurse explained that yet a third procedure that was going to be performed and when she asked why she need the procedure, the nurse told her it was to manage her heavy bleeding.[74] The woman explained that she did not have heavy vaginal bleeding.[75] The nurse then posited that the operation was for her "thick womb."[76] When the woman tried to refuse the procedure, the nurse became very angry and started yelling at her.[77] The entire experience left the detained migrant to surmise that ICDC staff "were trying to mess with [her] body."[78]

Ms. Wooten, the whistleblower-nurse named in the complaint, reported that she began to question what seemed like an unusually large number of hysterectomies performed on the women at ICDC, asserting that while there are sometimes medically necessary reasons to perform the procedure, "everybody's uterus cannot be that bad."[79] Wooten went on to describe how detained women subjected to these hysterectomies expressed confusion as to why such procedures were being performed on them in the first place: "I've had several inmates tell me that they've been to see the doctor and they've had hysterectomies and they don't know why they went or why they're going."[80] Wooten further alleged that, in violation of ICDC protocols, nurses communicate with non-English speaking patients by Googling Spanish phrases or getting other immigrants detained at the facility to interpret, rather than using the professional translation hotline.[81] As a result, it is unclear at best whether migrant women subjected to these sterilization procedures understand the full reproductive consequences of these operations. Wooten stated that in instances when the migrant women detained at ICDC did comprehend the nature of the sterilization procedure, they refused all treatment, electing instead to receive medical care in their home countries.[82]

Wooten further noted that ICDC staff themselves see the high rates of hysterectomies as problematic, asserting that with regard to the doctor contracted by ICDC, later identified in the media as Dr. Amin: "We've questioned among ourselves like goodness he's taking everybody's stuff out…That's his specialty, he's the uterus collector."[83]

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[71] *Id.*
[72] *Id.*
[73] *Id.*
[74] *Id.*
[75] *Id.*
[76] *Id.*
[77] *Id.*
[78] *Id. See also "They Wanted to Take My Womb Out": Survivor of Medical Abuse in ICE Jail Deported After Speaking Out*, DEMOCRACY NOW! (Oct. 26, 2020), https://www.democracynow.org/2020/10/26/ice_irwin_detention_center_invasive_surgeries (interview with Jaromy Floriano Navarro, survivor of medical abuse and neglect at the Irwin County Detention Center).
[79] *Id.* at 19.
[80] *Id.*
[81] *Id.* at 19-20.
[82] *Id.* at 19.
[83] *Id.*

Since the complaint became public, United States Congresswoman Pramila Jayapal stated that her office has been made aware of 17 such examples of women receiving coerced gynecological procedures at ICDC.[84] Multiple media accounts have also corroborated the allegations via reviews of detained migrants' medical records and through interviews with the women subjected to non-consensual gynecological procedures and their advocates.[85] In an interview with *The Associated Press*, Mileidy Cardentey Fernandez, a Cuban migrant detained at ICDC, revealed three small circular scars on her stomach.[86] She explained that the facility told her she needed to have an ovarian cyst removed but she remains unsure to this day about what operation she actually received.[87] "The only thing they [ICDC medical staff] told me was: 'You're going to go to sleep and when you wake up, we will have finished," Fernandez stated.[88] Similarly, another migrant woman was referred for surgery but did not understand why the operation was necessary. She went on to say that she heard from other women at ICDC that the gynecologist just "empties you all out."[89]

Another woman's medical records showed that she was referred for a psychiatric consult after she refused a dilation and curettage, a procedure for removing uterine tissue.[90] According to a summary of the psychiatric evaluation, the woman said she was worried about the procedure when she "saw someone else after they had surgery and what [she] saw scared [her]."[91] Another migrant refused to have surgery to remove an ovarian cyst and explained through tears how the doctor became angry with her and how she felt that "something strange was going on."[92]

Pauline Binam, a Cameroonian migrant who was detained at ICDC, explained to news outlets that she went to the gynecologist when she noticed abnormalities with her period.[93] She agreed to have

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[84] Congresswoman Jayapal Statement on New Details Regarding Forced Unnecessary Medical Procedures Performed on At Least Seventeen Immigrant Women (Sept. 16, 2020), https://jayapal.house.gov/2020/09/16/new-details-regarding-forced-medical-procedures-on-immigrant-women/.

[85] *See, e.g.,* Nomaan Merchant, *More migrant women say they didn't OK surgery in detention* AP (Sept. 18, 2020), https://apnews.com/f2008d23c5f9087f4214d9722dfb097e; Caitlin Dickerson, *Inquiry Ordered Into Claims Immigrants Had Unwanted Gynecology Procedures*, N.Y. TIMES (Sept. 16, 2020) https://www.nytimes.com/2020/09/16/us/ICE-hysterectomies-whistleblower-georgia.html; Jacob Soboroff, Julia Ainsley & Daniella Silva, *Lawyers allege abuse of migrant women by gynecologist for Georgia ICE detention center*, NBC (Sept. 15, 2020), https://www.nbcnews.com/news/latino/nurse-questions-medical-care-operations-detainees-immigration-jail-georgia-n1240110; Molly O'Toole, *19 women allege medical abuse in Georgia immigration detention*, LA TIMES (Oct. 22, 2020) https://www.latimes.com/politics/story/2020-10-22/women-allege-medical-abuse-georgia-immigration-detention; John Washington & Jose Olivares, *Number of Women Alleging Misconduct by ICE Gynecologist Nearly Triples*, THE INTERCEPT (Oct. 27, 2020) https://theintercept.com/2020/10/27/ice-irwin-women-hysterectomies-senate/ (confirming that 57 women had been subjected to forced or non-consensual gynecological procedures).

[86] Merchant, *supra* note 85.

[87] *Id.*

[88] *Id.*

[89] Jose Olivares & John Washington, *"He Just Empties You All Out": Whistleblower Reports High Number of Hysterectomies at ICE Detention Facility*, THE INTERCEPT (Sept. 15, 2020), https://theintercept.com/2020/09/15/hysterectomies-ice-irwin-whistleblower/.

[90] Merchant, *supra* note 85.

[91] *Id.*

[92] Olivares & Washington, *supra* note 89.

[93] Miranda Bryant, *Allegations of unwanted Ice hysterectomies recall grim time in US history,* THE GUARDIAN (Sept. 21, 2020, 3:00 PM) https://www.theguardian.com/us-news/2020/sep/21/unwanted-hysterectomy-allegations-ice-georgia-immigration.

an ovarian cyst removed via a dilation and curettage procedure, which does not entail examining a patient's fallopian tubes.[94] However, without her consent, Dr. Amin removed one of Binam's fallopian tubes claiming it was "clogged."[95] Since the non-consensual sterilization, Binam has experienced amenorrhea and mental health issues.[96] According to her attorney, when Binam first learned she would not be able to conceive children again, she was sobbing in a wheelchair "not understanding why this was happening."[97] She was subsequently scheduled for deportation after going public with her experience, though that deportation was ultimately stopped due to Congressional interventions and an emergency motion for a stay filed by her immigration attorney Vân Huynh. ICE then tried to re-arrest her following her release from detention.[98]

In a similarly coercive encounter, a woman who made her medical records available to *The Associated Press* for independent verification underwent a hysterectomy after a laboratory result revealed a carcinoma.[99] According to her attorney Andrew Free, the woman felt pressured by Dr. Amin to have the surgery and was never given an opportunity to say "no" or to consult with her family.[100] Doctors interviewed by the publication explained there were other, less intrusive options available to treat the cancer that would not have required surgical sterilization.[101]

Benjamin Osorio, an attorney for two migrant women, told NBC News that his clients both experienced non-consensual hysterectomies while detained by the United States government.[102] One woman was told she had stage 4 cervical cancer and would need a hysterectomy and chemotherapy.[103] However, after her hysterectomy, the woman saw an oncologist who told her she did not have cancer.[104] Similarly, Dr. Amin told another woman that she needed a hysterectomy because he found cancerous cysts.[105] Yet her medical records show that the doctor never performed a biopsy to confirm the cysts were cancerous.[106] In line with the statements made by nurse Wooten, a former ICDC employee summarized his impression of the gynecologist who performed these procedures as follows: "All I know is, if you go in for anything, the majority of the time, he's going to suggest surgery. I don't know why. I just — I don't know why. He does a lot of surgeries."[107]

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[94] Merchant, *supra* note 85.
[95] *Id.*
[96] Bryant, *supra* note 93.
[97] *Id.*
[98] TYT, *REPORT: ICE Trying To RE-ARREST Forced Sterilization Victim*, YOUTUBE (Oct. 1, 2020), https://www.youtube.com/watch?v=aBJOoHq_jDA.
[99] Merchant, *supra* note 85.
[100] *Id.*
[101] *Id.*
[102] Jacob Soboroff, Julia Ainsley & Daniella Silva, *Lawyers allege abuse of migrant women by gynecologist for Georgia ICE detention center*, NBC (Sept. 15, 2020, 8:02 PM), https://www.nbcnews.com/news/latino/nurse-questions-medical-care-operations-detainees-immigration-jail-georgia-n1240110.
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] *Id.*
[107] Olivares & Washington, *supra* note 89.

The doctor identified as being responsible for performing the non-consensual hysterectomies and sterilizations, Dr. Amin, is one already known to the United States government for performing unnecessary medical procedures. In 2015, the United States Justice Department investigated Dr. Amin and others at the Irwin County Hospital for submitting false claims to Medicaid and Medicare.[108] At the time, the government accused Dr. Amin of performing medically unnecessary ultrasounds and then submitting reimbursement claims to the government.[109] The hospital ultimately settled the case for $520,000.[110]

Moreover, Elizabeth Matherne, an attorney who represented migrants detained at ICDC, had conversations *two to three years ago* with ICDC management about Dr. Amin's "rough treatment" of female patients.[111] "I was so disturbed. I begged her to get my client treatment with a different doctor. I told her I had heard from multiple people that he was rough, that they were scared to go to him, that they didn't understand what he was doing," Matherne told NBC News.[112] Another lawyer, Erin Argueta, from the Southern Poverty Law Center, filed a complaint with the Warden at Irwin seeking medical care for a client, Ms. Gonalez Hidalgo, who had undergone what was described a "painful and traumatic" experience at the hands of Dr. Amin. The complaint also noted several verbal complaints that had been previously filed with the inmates' services director at ICDC.[113]

In one particularly egregious case, Matherne's client, Nancy Gonzalez Hidalgo, reported that Dr. Amin "hurt" her during past gynecological exams and never used available interpretation services to explain what he was doing or to obtain her consent for his intervention.[114] Eventually, despite excruciating pain from an undiagnosed uterine infection, Hidalgo refused to see the gynecologist who kept violating her.[115] She begged the Board of Immigration Appeals to deport her back to Mexico so that she could be free of ICDC and the waking nightmare of migrant detention in the United States.[116] "The reason I am sending this letter is because I find myself in a desperate situation...Staying in this country is not something I wish to do...I beg of you to have compassion and consideration for me, I have a serious medical condition...I renounce every and any right so that I can obtain my deportation," Hidalgo wrote.[117]

As these accounts illustrate, officials at LaSalle Corrections who operate ICDC and the U.S. government have been on notice for years about the deplorable treatment migrants encounter while detained at ICDC, that has particularly affected women's bodily integrity and reproductive health and autonomy. Nevertheless, the U.S. government continued its contract with LaSalle, which persisted in

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[108] Natalie Andrews & Michelle Hackman, *U.S. Opens Investigation Into Claims of Forced Hysterectomies on Detained Migrants*, WALL ST. J. (Sept. 16, 2020), https://www.wsj.com/articles/lawmakers-seek-investigation-into-allegations-of-mass-hysterectomies-on-detained-migrants-11600291610.
[109] Olivares & Washington, *supra* note 89.
[110] Andrews & Hackman, *supra* note 108.
[111] Soboroff, Ainsley & Silva, *supra* note 85.
[112] *Id.*
[113] Dickerson, Wessler, & Jordan, *supra* note 68.
[114] Dickerson, *supra* note 85.
[115] *Id.*
[116] Liz Vinson, *Trapped with No End in Sight: A Detained Mother's Struggle to Get Home*, SOUTHERN POVERTY LAW CENTER (Feb. 8, 2019), https://www.splcenter.org/attention-on-detention/trapped-no-end-sight-detained-mother%E2%80%99s-struggle-get-home.
[117] *Id.*

sending women under its custody to Dr. Amin, who repeatedly and with impunity, subjected migrant women to "rough"[118] gynecological examinations without their knowledge or informed consent. Interpretation services at ICDC are underutilized at best and non-existent at worst. Pain and humiliation are a routine part of gynecological "care" for women detained at ICDC, as it is for women in ICE's custody across the United States.[119] Recent reports have documented at least 57 women at ICDC treated by Dr. Amin, at least 17 of whom were still detained at ICDC as of October 25, 2020.[120] And the women ICDC officials sent to Dr. Amin for gynecological care, who were then subjected to unnecessary and non-consensual sterilizations, are left with a lifetime of irreparable harm.

How do you capture in words the painful indignity of having your ability to conceive a child forcibly taken from you? It is an impossible task, but one woman interviewed by Project South came close: "*I thought this was like an experimental concentration camp.*"[121]

III. THE UNITED STATES MUST UPHOLD ITS OBLIGATION TO RESPECT AND ENSURE THE FUNDAMENTAL HUMAN RIGHTS OF IMMIGRANT WOMEN IN ITS CUSTODY

a. Alleged Acts of Medical Neglect and Non-Consensual Sterilizations Constitute Clear Violations of U.S. Obligations under International Law

The Universal Declaration of Human Rights (UDHR) sets forth: "All human beings are born free and equal in dignity and rights." The United States, through its detention policies and practices that have given rise to the rights abuses set forth above, has sought to deny the women detained at ICDC recognition of their dignity, rights, reason, and conscience, rights owed to them no less than they are owed to every other human being. Specifically, the United States has failed to uphold and respect the women's rights under articles 1, 2, 3, and 25 of the UDHR, articles 2, 3, 7, 9, and 17 of the ICCPR, art. 5 of the ICERD, and art. 16 of CAT.

The medical neglect, unsanitary conditions, and failure to take adequate protective measures in light of the COVID-19 pandemic to which the women of ICDC have been subjected all act in violation of the United States' obligations to ensure the rights to security in person, guaranteed under art. 3 of the UDHR, and art. 9 of the ICCPR. Article 9 of the ICCPR guarantees every person "the right to liberty and security of person," of which no person can be deprived "except on such grounds and in accordance with such procedure as are established by law."[122] If an individual is deprived of their rights to liberty, that person must still "be treated with humanity and with respect for the inherent dignity of the human person."[123]

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[118] Dickerson, *supra* note 85.
[119] *See, e.g.*, *Systemic Indifference: Dangerous and Substandard Medical Care in U.S. Immigration Detention*, Human Rights Watch (2017), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da33f0d9297a1f84f60f2/1520280385430/HRW_Report.pdf.
[120] Washington & Olivares, *supra* note 85.
[121] Project South Complaint, *supra* note 2, at 19.
[122] ICCPR, *supra* note 32.
[123] *Id.* at art. 10.

The treatment of women and girls during the COVID-19 pandemic has already been widely commented on by multiple international and regional bodies. The UN Working Group on discrimination against women and girls has warned that "different forms of systemic discrimination already faced by women and girls will be exacerbated" as a result of COVID-19 and, in particular, has noted the threat posed by the pandemic to access to medical services.[124] The UN Subcommittee on Prevention of Torture has issued detailed advice on a range of actions governments and independent monitoring bodies should take to protect people deprived of their liberty during the COVID-19 pandemic.[125] Similarly, the UN human rights treaty bodies have "urged global leaders to ensure that human rights are respected in government measures to tackle the public health threat posed by the COVID-19 pandemic."[126] And in May 2020, UN Human Rights Experts representing multiple Special Procedures issued a statement specific to the United States urging an immediate reduction in prison populations to prevent the spread of COVID-19.[127] With regard to migrants, the experts wrote: "The authorities must urgently use readily available alternatives to detention for migrants held in overcrowded and unsanitary administrative centres to counter the risk of a COVID-19 outbreak," while also urging the United States to suspend immigration raids, deportations, and other forms of involuntary return.[128] This call has been reiterated by public health experts in the United States.[129] Unfortunately, none of this has been heeded by the United States, as evident by the situation in ICDC.

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[124] Press Release, UN Working Group on discrimination against women and girls, Responses to the COVID-19 pandemic must not discount women and girls (April, 20 2020), https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25808&LangID=E.

[125] Press Release, UN Subcommittee on Prevention of Torture, COVID-19: Measures needed to protect people deprived of liberty, UN torture prevention body says (Mar. 30, 2020), https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25756.

[126] Press Release, UN Human Rights Office of High Commissioner, UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19 (Mar. 24th, 2020), https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25742&LangID=E.

[127] Press Release, UN Human Rights Office of the High Commissioner, US Government urged to do more to prevent major outbreaks of COVID-19 in detention centres – UN experts (May 29, 2020), https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25912&LangID=E.

[128] *Id.* The UN Special Rapporteur on the human rights of migrants, together with five other mandate holders with overlapping mandates, issued a Communication to the United States specific to information received as to the Northwest Processing Center in Tacoma, Washington. In that Communication, the Rapporteurs began by noting: "We have repeatedly highlighted our concerns regarding the human rights of migrants in the U.S., notably in connection with widespread use of immigration detention (USA 23/2017, USA 12/2018), alleged human rights abuses in privately-run immigration detention facilities (USA 18/2018), and lack of access to health care in Immigration and Customs Enforcement (ICE) custody (USA 25/2018 and USA 7/2019)." They went on to state: "We would like to express our utmost concern about the physical and mental integrity of migrants detained in the NWPC and in other similar facilities, notably in light of the existing risk of an outbreak of COVID-19 in such facilities. We are particularly concerned about the unhygienic conditions, coupled with the overcrowding that does not allow detainees to observe physical distancing, the lack of protective items allocated to detainees including those completing cleaning tasks, and the lack of access to adequate healthcare. We are additionally concerned about the impact of the restriction of receiving visits from legal counsel and family members, notably on due process rights and on the mental integrity of the detainees." USA 7/2020 (Apr. 22, 2020), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25190. The situation reported from the NWPC with regard to overcrowding, lack of sanitation, lack of access to adequate healthcare, lack of protective items, as well as access concerns arising from the COVID-19 pandemic, are similar to those reported from ICDC, detailed herein.

[129] *Public Health Experts, Medical Doctors, Prison Experts, and Former ICE Officials Urge Releases from Immigration Detention to Control the Spread of COVID-19*, PHYSICIANS FOR HUMAN RIGHTS AND HUMAN RIGHTS FIRST (April 2020), https://www.humanrightsfirst.org/sites/default/files/ExpertsUrgeReleaseICEDetaineesCOVID19.pdf.

As set forth in detail above, the United States has systematically denied the women at ICDC these most fundamental of rights. The unsanitary living conditions, the refusal to accommodate religious dietary restrictions, the inedible food provided, the failure to ensure adequate interpretation, the retaliatory actions taken against women who question their treatment and assert their rights, and the overall contempt with which the women are treated, all evidence a denial of the women's inherent human rights and blatant disregard for their right to be treated with dignity. The situation taking place in ICDC is consistent with findings of the Working Group on Discrimination against women and girls who expressed in its report on the mission to the United States concern that migrant women in detention centers are subjected to conditions that "do not comply with federal mandates and agency policies."[130]

Furthermore, the detailed accountings of medical neglect and negligence by the medical staff at ICDC, including the shredding of medical requests, the denial of access to basic medical care, and the complete and total disregard for and lack of protective measures to guard against the grave health risks associated with the COVID-19 pandemic, also violate women's rights to the highest attainable standard of health and safety. The United States is obligated to ensure that all persons under its jurisdiction, without discrimination, are provided the medical care and related treatment necessary to the attainment, preservation, and enjoyment of their health, including sexual and reproductive health.[131] The United States is also obligated to take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including dangers posed by the prevalence of widespread diseases like COVID-19 and denial of full and equal access to reproductive healthcare.[132] While the United States has not ratified the Covenant on Economic, Social and Cultural Rights, interpretations of the right to the enjoyment of the highest attainable standard of physical and mental health set forth in art. 12 therein is instructive in this context. The CESCR has recognized coercive or forced medical interventions and the failure of a State to take effective steps to prevent third parties from undermining a woman's sexual and reproductive health as direct violations of ICESCR, art. 12.[133]

The non-consensual sterilizations and medically-unnecessary gynecological procedures to which the women detained at ICDC have been subjected violate migrant women's right to non-discrimination and equality set forth in Article 1 and 2 of the UDHR and Articles 2 and 3 of the ICCPR and Article 5 of the CERD which guarantees the right of equality before the law to every person, "without distinction as to race, colour, or national or ethnic origin," including the right to "State protection against violence or bodily harm."[134] CERD also protects against gender oriented racial discrimination, particularly in the context of forced sterilizations.[135] Consequently, women detained at ICDC are equally as entitled to

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[130] Report of the Working Group on the issue of discrimination against women and girls on its mission to the United States of America, ¶ 80, U.N. Doc. A/HRC/32/44/Add.2. [hereinafter WGDAWG mission report to the US].
[131] ICERD art. 5(e)(iv), Dec. 21, 1965, 660 U.N.T.S. 195; Inter-Am. Comm'n on Human Rights (IACHR), American Declaration of the Rights and Duties of Man art. XI (May 2, 1948) ("Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.").
[132] UN Human Rights Committee, General comment no. 36, Article 6 (Right to Life), ¶ 8026, CCPR/C/GC/35 (Sept. 3, 2019).
[133] UN Committee on Economic, Social and Cultural Rights, General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), ¶ ¶ 57,59, E/C.12/GC/22 (May 2, 2016).
[134] ICERD art. 5, Dec. 21, 1965, 660 U.N.T.S. 195.
[135] Office of the High Commissioner for Human Rights, General Recommendation No. 25: Gender related dimensions of racial discrimination, ¶ 2, A/55/18 (Mar. 2, 2000).

protection of their bodily integrity as are all other women, men, and children inside or outside of detention in the United States. Despite this fact, the allegations contained in Project South's September 14, 2020 report indicate that ICDC has used its considerable power to subject immigrant women to bodily, psychological, and emotional harm–harm that if inflicted instead upon a population not detained specifically due to national origin would be immediately recognized by the State as unjust and in contravention to international law. For these reasons, the U.S. has failed to uphold its duty to provide equal protection to immigrant women in its custody, and it must acknowledge and redress this grave injustice.

The rights to equality and non-discrimination are indivisible from and interdependent with other human rights, including the right to reproductive health. When women's rights to equality and non-discrimination are not fulfilled, their access to reproductive health services is limited, including their ability to make meaningful and informed choices about their reproductive lives without coercion. The Working Group on Discrimination against Women and Girls highlighted in the report on its mission to the United States that immigrant women are discriminated against in their access to appropriate healthcare services,[136] and that immigrant women are in a situation of heightened vulnerability,[137] in particular those who are deprived of liberty.[138] The Working Group also found that throughout the years, women in the United States have seen their rights to sexual and reproductive health significantly eroded [139] and that immigrant women face severe barriers in accessing sexual and reproductive health.[140]

According to international human rights standards, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which the United States has signed but not ratified, States must take all appropriate measures to ensure women's equal right to decide freely and responsibly on the number and spacing of their children.[141] Article 17 of the ICCPR indicates that, "No one shall be subjected to arbitrary or unlawful interference with his privacy" and that, "everyone has the right to the protection of the law against such interference or attacks."[142] Moreover, forced sterilization has been interpreted to be a direct violation of Articles 17 and 7.[143] States must ensure access to accurate medical information about their health, consequences of treatment and available options, and guarantee conditions where women can make their own reproductive choices without interference. For this reason, women's empowerment is intrinsically linked to their ability to control their reproductive lives.[144] The evidence shows that immigrant women at ICDC have been deprived of their right to privacy and autonomous decision-making capacity.

Article 7 of the ICCPR and Article 16 of CAT prohibit torture, cruel, inhuman, or degrading treatment or punishment.[145] These rights are non-derogable, and therefore cannot be displaced or

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[136] WGDAWG mission report to the US, *supra* note 129, at ¶¶ 62, 80.
[137] *Id.* at ¶ 87.
[138] *Id.* at ¶ 80; UN Human Rights Committee, Women deprived of liberty –Report of the Working Group on the issue of discrimination against women in law and in practice, ¶¶ 13, 59, U.N. Doc. A/HRC/41/3 (May 5, 2019).
[139] WGDAWG mission report to the US, *supra* note 129, at ¶ 28.
[140] *Id.* at ¶. 68.
[141] *Id.* at ¶. 65; CEDAW, Dec. 18, 1979, 1249 U.N.T.S. 13.
[142] ICCPR, *supra* note 32, at art. 17.
[143] Center for Reproductive Rights, *Reproductive Rights Violations as Torture and Cruel, Inhuman, or Degrading Treatment or Punishment: A Critical Human Rights Analysis* 18-19 (2010).
[144] WGDAWG mission report to the US, *supra* note 129.
[145] ICCPR, *supra* note 32, at art. 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 2481 U.N.T.S. 1513 [hereinafter CAT].

derogated from at any time by any other law.[146] The non-consensual sterilizations and other gynecological procedures rendering the women unable to bear children, as described before, may amount to torture, cruel and inhumane treatment, and violate a woman's right to privacy and to family-life[147] given the irreversible harm and profound physical and psychological effects on women. Such practices cause suffering without regard for the human being enduring that pain. ICDC's reported practices are not an acceptable form of medical care at all but rather an infliction of deeply personal harm that deprives each woman operated upon without informed consent of the freedom to decide whether she wishes to someday "found a family" [148] by having a child. The reported acts deprive women detained at ICDC both of their right to physical security of person and bodily integrity. Taking away a woman's ability to choose whether or not to become pregnant, without her consent, constitutes torture, while other reported forms of invasive and unnecessary medical treatment is cruel and inhumane. The allegations contained in Project South's report indicate that such callousness characterizes the way in which ICDC has treated women in its custody: women are repeatedly sent to be sterilized, after ICDC's failure to follow mandated language interpretation protocols disallows some of them from understanding what will be done to them, and others have been lied to and coerced into sterilization and other invasive gynecological procedures by the very medical professionals responsible for their health and wellbeing.

Depriving women of their right to choose whether or not to eventually become mothers, without their consent, violates their right to autonomous decision making and, more broadly, their right to sexual and reproductive health.[149] While some of these women may never wish to have children, treating all of them as if their right to make that decision did not exist is inhuman. Those who wanted or might have wanted to have children later in life, realizing that that precious right has been usurped, will suffer doubly. As a result, non-consensual sterilization violates each individual's right "to the preservation of [her or his] health," as the wanton infliction of suffering necessarily destroys rather than preserves human health.[150]

The United States has the obligation to prohibit all forms of violence against women, including forced sterilization, which is a form of gender-based violence.[151] The Special Rapporteur on violence against women has asserted that forced sterilization is a method of medical control of a woman's fertility that violates a woman's physical integrity and security and constitutes violence against women.[152] Moreover, the Special Rapporteur on torture has defined forced sterilization as a violation of the prohibition on torture or cruel, inhuman, or degrading treatment.[153] The Special Rapporteur noted the

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[146] *Id.* at art. 2.
[147] G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 25, U.N. Doc. A/RES/217(III) (Dec. 10, 1948) [hereinafter UDHR]. The Committee Against Torture (CAT Committee) has asserted that forced sterilization violates human rights such as the right to be free from torture or ill-treatment. *See, e.g.*, CAT Committee, Concluding Observations: Peru, ¶19, U.N. Doc. CAT/C/PER/CO/5-6 (2012); CAT Committee, Concluding Observations: Czech Republic, ¶ 12, U.N. Doc. CAT/C/CZE/CO/4-5 (2012).
[148] ICCPR, *supra* note 32, at art. 23.
[149] International Federation of Obstetrics and Gynecology, *Ethical Issues in Obstetrics and Gynecology* 122-23 (Oct. 2012), https://www.glowm.com/pdf/english%20ethical%20issues%20in%20obstetrics%20and%20gynecology.pdf.
[150] Inter-Am, Comm'n on Human Rights (IACHR), American Declaration of the Rights and Duties of Man (May 2, 1948).
[151] CEDAW Committee, Gen. Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, ¶ 18. U.N. Doc. CEDAW/C/GC/35 (2017).
[152] Rep. of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Policies and practices that impact women's reproductive rights and contribute to, cause or constitute violence against women ¶ 51, U.N. Doc. E/CN.4/1999/68/Add.4 (1999).
[153] Rep. of the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013).

International Federation of Gynecology and Obstetrics' position that a woman "must be given the time and support she needs to consider her choice. Her informed decision must be respected, even if it is considered liable to be harmful to her health."[154] The Special Rapporteur emphasized that the doctrine of medical necessity cannot justify treatment provided without the free and informed consent of the person concerned.[155]

The right to informed consent and sexual and reproductive health are recognized and reinforced by public health practice, as demonstrated by a 2014 interagency statement spearheaded by the World Health Organization.[156] This statement underscores that sterilizations performed without free and informed consent amount to torture or cruel, inhuman, and degrading treatment.[157] It also sets out important sterilization practice standards that ought to be followed, with autonomous decision making and non-discrimination at their core.[158]

In light of the allegations made, the United States must provide women detained at ICDC the opportunity to have their right to an "effective remedy" determined by "competent authority provided for by the legal system of the State."[159] If such a remedy is appropriate, the U.S. must further ensure that "the competent authorities shall enforce such remedy when granted."[160] In this disturbing and heartbreaking situation, the United States is required to investigate "effectively, promptly, and impartially" the claims of non-consensual sterilizations made by women detained at ICDC, and "where appropriate, to take action against those responsible...."[161] In short, the U.S. must thoroughly investigate the claims immigrant women detained by ICDC have made against the institution, and if necessary, impose appropriate legal consequences on all individuals and entities responsible for the harm they have suffered. Finally, it is the United States' duty under international law to ensure that any woman who experiences such a brutal deprivation of her rights has a voice throughout the investigation and adjudication process; that the process itself respects the rights of any woman who has been harmed; and that any woman who may be entitled to relief receives a remedy that will allow her to move forward in her life with dignity.

b. The United States is Obligated to Ensure the Rights of All Persons within its Jurisdiction and Under its Custody and cannot Contract Away its Responsibilities and Accountability to Private Parties

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[154] *Id.* at ¶ 33.
[155] *Id.* at ¶ 32.
[156] World Health Organization et al., *Eliminating forced, coercive and otherwise involuntary sterilization: An interagency statement* (2014), https://apps.who.int/iris/bitstream/handle/10665/112848/9789241507325_eng.pdf;jsessionid=4953E4ED784DF54B6146CE70D2A42A58?sequence=1.
[157] *Id.* pp 1-2.
[158] *Id.* pp. 9-10.
[159] ICCPR, *supra* note 32, at art. 2.
[160] *Id.*
[161] G.A. Res. 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, ¶ II(3)(a) (Dec. 16, 2005), https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx.

The United States is obligated to respect, protect, and fulfill the fundamental human rights of all persons held in its custody, including those detained under its authority in privately held detention centers. The United States' failure to ensure competent and safe medical care for women held under its authority at ICDC – and specifically, its disregard for the well-being of the women at ICDC which led to the non-consensual sterilizations and other abusive treatment, is a clear violation of its obligations under the International Convention on Civil and Political Rights (ICCPR), Convention against Torture (CAT), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as well as the American Declaration of the Rights and Duties of Man.[162] These instruments protect rights relevant to conditions in immigration detention, most notably the rights to life and freedom from inhumane treatment. Forced sterilization is a well-established violation of these rights.

Concerning the United States' obligation to respect the fundamental rights of persons held in its custody, according to the law of state responsibility, states are responsible for the conduct of a person or entity which is not an organ of the state but which is empowered by the law of the state to exercise elements of "governmental authority."[163] This includes private companies or parastatal entities involved in the carrying out of functions of a public character normally exercised by state organs. This attribution of responsibility to states is well-documented in international law: in *B.d.B. v. The Netherlands*, the UN Human Rights Committee found that "a State Party is not relieved of its obligations under the Covenant when some of its functions are delegated to other autonomous groups."[164] Additionally, the Inter-American Commission on Human Rights (IACHR) has stated: "States are responsible not only for the direct actions of their agents but also for that of third parties acting at the request of the State or with its tolerance or acquiescence."[165] Similarly, the UN Working Group on the use of mercenaries stated in its recent report on the use of private contractors in immigration and security contexts that "states retain their obligations when they privatize the delivery of services that may have an impact on the enjoyment of human rights."[166]

The International Law Commission's commentary attached to the draft Articles of State Responsibility sets out a two-prong test for establishing state responsibility: firstly, the entity was empowered under internal law; and, secondly, the conduct concerned governmental or public activity.[167] Private companies contracted to run immigration detention centers, such as LaSalle, clearly meet these two prongs. These companies are empowered under United States domestic law to run facilities inherently exercising functions of a public character – detention. Consequentially, the United States is responsible for any human rights violations committed by these companies in the performance of their contractual duties. The United States (ICE) cannot escape its responsibilities and obligations through contracting out the running of immigration detention centers to LaSalle. The international human rights obligations owed to the immigrants detained under the United States' direct orders are non-delegable.

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[162] As a member of the Organization of American States (OAS), the United States is bound to uphold the rights set forth in the American Declaration on the Rights and Duties of Man. *See* Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion OC-10/89, Inter-Am. Ct. H.R. (ser. A) No. 10 (July 14, 1989).

[163] Int'l Law Comm'n, Rep. on the Work of the Fifty-Third Session, U.N. Doc. A/56/10, at 42 (2001).

[164] B. d. B. et al. v. The Netherlands, Communication No. 273/1989, U.N. Doc. Supp. No. 40 (A/44/40), at 286 (1989).

[165] Inter-American Comm'n on Human Rights, Rep. on the Human Rights of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II. Doc.64, at 188 (2011).

[166] UN Human Rights Council Working Group on the use of mercenaries, Rep. on Impact of the use of private military and security services in immigration and border management on the protection of the rights of all migrants, U.N. Doc. A/HRC/45/9 (July 9, 2020).

[167] Int'l Law Comm'n, Rep. on the Work of the Fifty-Third Session, U.N. Doc. A/56/10 (2001).

Equally, the law of state responsibility applies to subcontractors, such as the medical doctor in the present situation.

While the details of non-consensual sterilization procedures against immigrant women have only very recently come to light, the United States has been on notice of persistent violations of human rights in the context of medical care within ICE detention centers for a considerable period of time. IACHR's 2011 report revealed serious concerns over "persistent complaints of improper medical care for immigration detainees."[168] Project South and others have submitted multiple communications to Congress [169]and the U.S. Civil Rights Commission[170] detailing inhumane treatment in detention centers in Georgia. In fact, eleven UN special procedures communicated their concerns to the U.S. government regarding these human rights violations. In 2017, Project South and the Penn State Law Center for Immigrants' Rights Clinic detailed the continued medical neglect experienced by immigrants in ICDC.[171] Indeed, in 2018, a UN special procedure sent a communication outlining allegations of rights violations to LaSalle directly, and made this communication publicly accessible.

The issue of the United States' lack of supervision and accountability for rights violations committed against immigrants held in detention was raised by IACHR in its 2011 report: "current annual monitoring system is not adequately equipped to identify and reduce the violations of detention standards and human rights, particularly given the size of the U.S. immigration system."[172] The IACHR observed then that even if ICE had effective oversight and supervision mechanisms, they would have little chance of favorably affecting immigrant detention conditions. This is because the only legally binding instrument dictating detention conditions are the contracts between ICE and the private companies. These contracts contain no legal mechanisms, short of termination of the contract, whereby ICE can ensure compliance with detention standards.[173] Disappointingly, little has been done to improve accountability within the system since this report, as demonstrated by the rebuffing of earlier complaints made by the ICDC whistleblower. Worse yet, ICE persists in contracting with companies such as LaSalle Corrections, Inc., despite a documented history of abuse and medical neglect and mistreatment.

The United States has continually failed to implement a sufficient system of supervision and accountability to ensure that these centers operate in a manner that is compliant with the United States' obligations under international law. Given the well-documented history of abuse, complaints arising from ICDC of incessant medical neglect and other rights violations, and complaints raised specific to Dr. Amin who has been identified as the doctor responsible for carrying out non-consensual sterilizations and other forms of patient mistreatment, the United States seeks to now deny responsibility.

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[168] Inter-Am. Comm'n on Human Rights, *Report on Immigration in the United States: Detention and Due Process,* OEA/Ser.L/V/II, at 97 (Dec. 30, 2010), https://www.oas.org/en/iachr/migrants/docs/pdf/migrants2011.pdf.
[169] Letter from Project South to Georgia Delegation to the 116th United States Congress, Requesting the Immediate Release of Immigrants in ICE Custody in Georgia (Mar. 31, 2020), https://projectsouth.org/wp-content/uploads/2020/04/Congressional-Letter-Requesting-the-Immediate-Release-of-Immigrants-in-ICE-custody-in-Georgia.pdf.
[170] Letter from Project South to Members of the U.S. Commission on Civil Rights (May 13, 2019), https://projectsouth.org/wp-content/uploads/2019/05/Comment-to-U.S.-Commision-on-Civil-Rights-Georgia-Detention-Centers.pdf.
[171] Project South *Imprisoned Justice*, *supra* note 30, at 47.
[172] Inter-Am. Comm'n on Human Rights, *Report on Immigration in the United States: Detention and Due Process,* OEA/Ser.L/V/II, at 88 (Dec. 30, 2010), https://www.oas.org/en/iachr/migrants/docs/pdf/migrants2011.pdf.
[173] *Id.* at 92.

c. The United States must ensure that the women who come forward to assert their rights are protected from retaliation and are guaranteed their right of access to the courts and to full redress for the allegations set forth

As set forth above, the United States must take all possible measures to protect the rights of the women held in ICE custody. That includes ensuring the rights of the women who step forward to assert their rights are fully protected, and all measures must be taken to guard against any possible retaliation. As noted above, many of the women who came forward to raise their concerns regarding exposure to the COVID-19 virus and lack of adequate hygiene, sanitation, and access to medical care were put into solitary confinement following the release of their video pleading for help. In the time since the report of forced sterilizations and other medical abuse was released in September 2020, several of the complaining witnesses have had their deportations seemingly expedited.[174] At least five women subjected to treatment by Dr. Amin were deported in the month following submission of the September Complaint.[175] Alma Bowman, whose deportation was ultimately stopped following interventions by her lawyer Van Huynh and advocates with Georgia Detention Watch, Project South, and South Georgia Immigrant Support Network, assisted by Congressman Johnson, has claims to U.S. citizenship.[176] These apparent acts of retaliation directly interfere with the women's rights to petition and access redress, while also working to silence future women from stepping forward to assert their rights, and directly impeding the ongoing investigation into persistent rights abuses at ICDC, in direct violation of Arts. 2 and 10 of the ICCPR.

IV. CONCLUSION

In light of the egregious violations wrought against the women detained at ICDC, violations that have persisted with impunity and with callous disregard – at best – for the health and well-being of the immigrant women held in immigration detention, the undersigned organizations herein respectfully request the following:

- Seek an invitation from the United States to conduct a site visit to conduct an independent investigation into the alleged abuses and mistreatment of immigrant women held at ICDC;
- Issue a statement that recognizes the persistent medical neglect and rights abuses endured by immigrants held at ICDC and other immigrant detention centers in Georgia and across the United States, and the complete impunity with which these violations are carried out, creating an environment in which the most recent reported instances of forced sterilizations were allowed to happen;
- Issue a call for the United States to conduct a thorough and immediate investigation that meaningfully:
    - protects the right to life with dignity for all women who may have been subjected to the abuses set forth herein, including the right to be free from torture, women's sexual and reproductive health, the right to family life, the right not to be subjected to gender-based violence or other cruel, inhuman or degrading treatment, and the right to privacy;

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[174] John Washington & Jose Olivares, *ICE Medical Misconduct Witness Slated for Deportation is a U.S. Citizen, Says Lawyer*, THE INTERCEPT (Nov. 2, 2020, 12:55 PM), https://theintercept.com/2020/11/02/ice-medical-misconduct-us-citizen-deportation/.
[175] Washington & Olivares, *supra* note 118.
[176] Washington & Olivares, *supra* note 173.

- ensures accountability not only for the medical personnel who specifically engaged in the non-consensual gynecological procedures, but for all those who failed in their oversight duties to ensure proper medical care for those held under their authority and jurisdiction; and
- protects those detained at ICDC from any retaliatory actions taken for asserting rights and participating in any investigation, including suspension of expedited removal and deportation procedures for all women treated by Dr. Amin and who have raised complaints about treatment at ICDC; and
- ensures full and equal access to remedies that are driven by the needs and interests of the women whose rights have been violated, including access to physical and mental health care necessitated by the treatment previously received.

- Call for an end to immigrant detention, and, in the interim, call for the protection and fulfillment of the full and equal rights of all persons, regardless of their migration status or detention status, to the rights to dignity, health and safety, bodily integrity, and other fundamental human rights to which the U.S. is obligated (under the ICCPR, the CAT, the AmDecl., and as a matter of customary int'l law).

We look forward to working with each of your respective offices in furtherance of the above recommendations.

Respectfully submitted,

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Joining in support of this submission are:

Detention Watch Network, Georgia Detention Watch, Georgia Latino Alliance for Human Rights (GLAHR), the South Georgia Immigrant Support Network, the Center for Reproductive Rights, the Feminist Alliance for Rights, and the Continental Network of Indigenous Women of the Americas.

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WOMEN'S REFUGEE COMMISSION

Pregnant Immigrants and Asylum Seekers During COVID-19

U.S. Government Abuses at the Border and Beyond

For general inquiries please reach out to mbaumont@reprorights.org

For inquiries about U.S. Border/CBP usmexborder@afsc.org or urselao@wrcommission.org

For inquiries related to ICE detention/alternatives katharinao@wrcommission.org

Maternal Health

Sept. 14, 2020

The U.S. government has exploited the COVID-19 pandemic to further eviscerate humanitarian and human rights protections for immigrants and people seeking asylum along the U.S.-Mexico border.

Since March 2020, the Department of Homeland Security (DHS) has used a Centers for Disease Control and Prevention (CDC) order to block and expel more than 109,000 migrants and people seeking asylum, including unaccompanied children. That CDC order has been indefinitely extended. Pregnant people are among the marginalized populations acutely affected by this order. Since the start of the pandemic, immigrant rights organizations have documented harrowing accounts of pregnant people who were mistreated in DHS custody, denied medical treatment while in labor, and forcibly expelled to unsafe locations in Mexico days after giving birth.

This issue brief outlines evidence of the mistreatment of pregnant immigrants and people seeking asylum at the U.S.-Mexico border and in U.S. immigration detention, and discusses how existing policies have created the conditions for escalating human rights abuses during COVID-19. This issue brief supports public health guidance and human rights standards directing the release of all people in immigration detention during the pandemic, but focuses on a subset of reforms that are urgently needed to ensure the health and safety of pregnant asylum seekers and immigrants during and long after the pandemic.

Immediate action is needed to ensure the health, safety, and well-being of pregnant migrants and asylum seekers during and long after the pandemic.

- In addition to the urgent need for releases from immigration detention during the pandemic, we call upon Immigration and Customs Enforcement (ICE) to, at minimum, reinstate and implement the policy of presumptive release for pregnant people. DHS can further strengthen protections by issuing a directive immediately prohibiting ICE from detaining any person who is pregnant or postpartum and requiring the release of any person found to be pregnant or postpartum in detention.
- As Customs and Border Protection (CBP) processes people seeking asylum and other protections at the border, the amount of time those individuals, including pregnant people and their families, spend in CBP custody should be minimized and need not exceed a few hours.
- Congress should direct ICE and CBP to allow third party monitoring and meaningful government oversight of the treatment of pregnant people in their custody.
- To ensure the protection of pregnant people seeking asylum, the CDC and the Department of Health and Human

Services should immediately withdraw the CDC order, and DHS should restore the orderly and safe processing and parole or release of people seeking asylum.

COVID-19 HAS EXACERBATED LONG-STANDING HUMAN RIGHTS VIOLATIONS AGAINST PREGNANT MIGRANTS AND ASYLUM SEEKERS

Migrants and people seeking asylum are vulnerable to human rights violations perpetrated on the basis of their immigration status, gender, age, disability, real or perceived sexual orientation, gender identity or expression, race, primary language, ethnicity, and other status. Pregnant migrants and asylum seekers are at added risk of discrimination and adverse health outcomes.

Instead of creating policies that ensure the rights of asylum seekers and migrants are respected, the current administration has eroded already limited protections and undertaken efforts contrary to U.S. law, international law, and treaty obligations—to block and punish people seeking asylum, including pregnant people. Pregnant migrants and asylum seekers have fallen squarely at the intersection of the administration's anti-women and anti-immigrant agendas, where they have been subject to egregious human rights violations.

The U.S. government's response to COVID-19 has further exacerbated these abuses. Pregnant people in immigration detention face heightened threats to their health as ICE refuses to provide adequate medical care or exercise existing statutory authority to release them to safety. Pregnant people continue to face abuse and deplorable conditions in CBP custody. People seeking asylum at the U.S.-Mexico border face additional harms as a result of current policies such as the CDC order that DHS has used to block and expel asylum seekers and other migrants, including unaccompanied children, without regard for particular harms falling on pregnant people.

These policies deny migrants the asylum and anti-trafficking protections required under U.S. law as well as due process. Asylum seekers turned back and/or returned to Mexico under other DHS policies have been forced to remain in makeshift camps or crowded shelters in Mexican border towns for months or years, where they lack access to basic hygiene and quality health care and face increased risks of sexual violence, kidnapping, and assault. Meanwhile, throughout the world, including Central America, the pandemic has led to marked increases in gender-based violence. By effectively eliminating human rights and humanitarian protections at the U.S.-Mexico border during COVID-19, the U.S. government is not only violating its domestic and international legal obligations, but is actively endangering people seeking asylum.

Documentation of the impact of immigration policies and COVID-19 responses on pregnant migrants and people seeking asylum remains limited. The evidence that does exist, however, paints a disturbing picture. Initial evidence suggests that rather than safeguarding the health and rights of pregnant people during COVID-19, the current administration has exploited the pandemic to further dehumanize and degrade this group. Further documentation and transparency are urgently needed to understand the scope and scale of abuses and danger facing migrants and people seeking asylum, particularly marginalized groups.

Discriminatory policies eroded human rights protections before COVID-19

In the last decade, there has been an increase in both the number and percentage of women and girls crossing the U.S.-Mexico border fleeing violence and political instability in Central America. A century of U.S. military and economic intervention in Central American countries has played an instrumental role in undermining democracy and stability in the region, creating conditions of poverty and gang violence. In interviews with the United Nations High Commissioner for Refugees (UNHCR), refugee women from Central America report being threatened, targeted, raped, and assaulted by criminal armed groups that exercise control over large swathes of territory in their home countries while also facing escalating levels of domestic violence. Many also report experiencing sexual and physical abuse while fleeing and making their journey to the United States.

Under the 1951 Refugee Convention, the principle of *non-refoulement* forbids governments from returning refugees to a country where they face serious threats to life or freedom. The Convention also generally prohibits governments from punishing individuals for the manner in which they entered a country in order to seek asylum. As a party to the 1967 Protocol relating to the Status of Refugees, the United States is bound to the requirements of the Refugee Convention and has codified these obligations into U.S. law. The United States has also ratified the Convention Against Torture, which prohibits *refoulement* of people to torture, and the International Covenant on Civil and Political Rights (ICCPR), which requires states to provide protection for individuals who claim a risk of a violation to their right to life even if they are not entitled to refugee status.

UNHCR has long recognized that the refugee definition encompasses gender-related persecution. Likewise, the U.N. Committee Against Torture stated in General Comment No. 4 that the principle of *non-refoulement* applies in situations where an individual would be victim to gender-based torture if deported.

Repeated attempts to eviscerate asylum protections

Despite its obligations under U.S. law and treaty obligations, the current administration has attempted to eviscerate asylum protections for women and girls, including pregnant people. Regressive policies have dehumanized and degraded pregnant immigrants from specific countries and portrayed them as undeserving of humane treatment.

For instance, in 2018, Attorney General Jeff Sessions issued a decision that attempted to effectively ban refugee protection in cases of domestic or gang violence, stating that "generally, claims by aliens pertaining to domestic violence . . . will not qualify for asylum." This decision directly contravenes U.S. law and treaty obligations. Numerous federal courts of appeal have ruled that survivors of domestic violence and other persecution at the hands of non-government actors may qualify for asylum and that women are a protected group under U.S. asylum law.

The administration has also deployed a range of illegal procedural blocks at the border to thwart access to asylum, including for pregnant people, such as:

1. Metering, in which CBP officers artificially limit the number of people seeking asylum processed at ports of entry and force them to wait in Mexico for months to even apply for asylum;
2. The Migrant Protection Protocols (MPP), in which people seeking asylum and other migrants are returned to Mexico to await U.S. immigration court hearings, often after having already suffered long wait times due to metering;
3. Asylum Cooperative Agreements, in which people seeking asylum and other migrants are arbitrarily blocked from requesting humanitarian protections in the United States and are sent to Guatemala or potentially other unsafe third countries with which the United States has made these agreements;
4. The Third Country Transit Bar (currently blocked by courts as of the time of publishing), which made the vast majority of people seeking asylum at the southern border ineligible for asylum after July 16, 2019; and
5. Fast-track deportation programs such as the Humanitarian Asylum Review Process for Mexican nationals and Prompt Asylum Claim Review programs. These fast-track deportation programs keep people seeking asylum, including pregnant people, in substandard conditions in freezing CBP holding cells and effectively cut them off from legal counsel and due process during preliminary fear screenings, in which people seeking asylum must establish a significant possibility that they are eligible for asylum in order to have their request for protection considered by an immigration judge.

Together, these policies have systematically eroded the rights and protections available to people seeking asylum, exposing them to unprecedented levels of risk. The harms of these policies are felt acutely by pregnant people and other marginalized populations.

Pregnant people seeking asylum stranded in Mexican border cities

Before COVID-19, DHS was implementing metering and MPP to block, return, and strand people seeking asylum, including pregnant people, in Mexico for months with limited access to medical care and at heightened risk of physical and sexual violence. While DHS's internal MPP policy theoretically exempts certain vulnerable populations, pregnant people are not explicitly exempted. According to DHS officials, "pregnancy may not be observable or disclosed and may not in and of itself disqualify an individual from participating in the Program." Immigration attorneys have stated that pregnant people seeking asylum have been routinely denied parole and returned to danger in Mexico, even while in the third trimester. CBP has specifically blocked some pregnant people from attending their MPP hearings without explanation, prolonging the time they are stranded in Mexico under dangerous conditions.

People seeking asylum along the U.S.-Mexico border are exposed to high levels of violence and face risks of kidnapping, rape, extortion, and assault while awaiting court hearings. The indefinite postponement of MPP hearings during the pandemic has vastly increased the amount of time

> A pregnant woman from El Salvador was returned to Matamoros, Mexico in August 2019 under MPP while six months pregnant. Prior to being returned to Mexico, she was held by CBP in an overcrowded holding cell where she did not even have enough room to lie on the floor. She asked for medical treatment but was told there was no doctor. After four days in CBP custody, she was transported to Matamoros with five other pregnant women. She attempted to re-enter the United States due to fear for her safety in Mexico but was returned once again.

A Guatemalan asylum seeker was forced to give birth in a Border Patrol Station. Despite repeated requests for medical attention from the woman who was eight months pregnant when she arrived at the southern border in February 2020, coughing and in severe pain, Border Patrol agents instead took her to the Chula Vista Border Patrol Station. Within 30 minutes, the woman's pain became excruciating, and she soon gave birth into her pants while standing up and bracing herself against the edge of a garbage can. She was then finally hospitalized. Two days later, she and her newborn were returned to the Border Patrol station, where Border Patrol agents repeatedly harassed her. She was not provided with a blanket for the baby or access to a shower for days after giving birth.

migrants are made to wait in Mexico, elevating their risk of experiencing violence. One study estimates that one in three migrants under MPP has experienced some form of violence. Due to high levels of violence, the U.S. State Department has issued a Level 4 "Do Not Travel" advisory for Tamaulipas, a region that includes the border cities of Nuevo Laredo and Matamoros, one of the areas where people seeking asylum have been blocked from applying for asylum under metering and returned to danger under MPP. This threat assessment is the same level of danger that has been assigned to Syria.

A tent encampment began along the Mexican border in Matamoros of asylum seekers returned there under MPP who feared leaving the port of entry area due to targeting of migrants by organized criminal groups in the city and region. People in the encampment lack access to adequate medical care, including prenatal and obstetric care, safe shelter, security, sanitation, adequate food, and clean water. The Executive Director for Global Response Management, a nonprofit that works in combat and disaster zones, describes conditions in Matamoros as "one of the worst situations that I've seen." Migrant shelters along the border have been the frequent targets of attacks by cartels. Migrants and staff at these shelters have been the victims of kidnapping, assault, and rape.

Human Rights First has documented cases in which pregnant women returned to Mexico under MPP experienced miscarriages and suffered violence from Mexican police, kidnapping, rape, and other persecution. In another report, Human Rights First identified at least 1,114 incidents of murder, rape, kidnapping, torture, and assault of asylum seekers and migrants returned to Mexico under MPP from January 2019 through early May 2020, including the beating and attempted kidnapping of a pregnant Cuban doctor. The ACLU of Texas has also documented numerous accounts of pregnant people, including individuals with high-risk pregnancies, sent back to Mexico under MPP, where they lack access to adequate shelter and medical care.

Migrants and asylum seekers with infants have also been subjected to egregious treatment under MPP. According to Human Rights Watch, families with young children have been required to arrive at border crossings between 3 and 4 a.m. for court hearings, making them highly vulnerable to attacks in the middle of the night. Human Rights Watch documented cases in which parents were verbally abused and threatened that their court hearing would be cancelled if their infants made noise or were unable to sit still.

Pregnant people mistreated in immigration detention

For years, the United States has been placing pregnant people in immigration detention, often in the custody of CBP or ICE, where they frequently lack access to adequate medical care and face health-threatening conditions.

Pregnant People in CBP Custody

According to government data, the U.S. Border Patrol processed more than 750 pregnant people from March 2017 to March 2019. From March 2018 to September 2019, the CBP Office of Field Operations (OFO), which is responsible for the ports of entry, reported processing more than 3,900 pregnant women. CBP facilities, including Border Patrol stations, lack basic necessities such as beds and showers, and are intended only for short-term custody. According to CBP policy,[1] which applies to Border Patrol and OFO, individuals should not be held longer than 72 hours in CBP facilities, while Border Patrol policy, which applies only to Border Patrol facilities, indicates that persons should not be held longer than 12 hours in these conditions.

While the current system requires that all people be held for a short period of time for processing, a complaint submitted by the ACLU to the DHS Office of Inspector General reported that pregnant people are regularly held in CBP facilities for prolonged periods of time well beyond 72 hours, where they face abusive and degrading treatment. In interviews conducted by the ACLU, pregnant people in CBP detention report experiencing excessive force, verbal abuse from Border Patrol agents, forced separation from their partner or newborn, medical neglect, and deplorable conditions. Investigations conducted by Human Rights Watch have found that CBP facilities are uncomfortably cold, fail to provide sleeping mats or bedding, and lack showers, hygiene materials, and adequate nutritious food.

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A Cuban doctor seeking asylum who miscarried while in CBP custody was nonetheless returned to Mexico under MPP. Due to CBP's practice of metering asylum seekers, the woman and her partner, who fled Cuba in July 2019 to seek asylum, were forced to wait for months in Ciudad Juárez, where she was beaten and nearly kidnapped while pregnant. In March 2020, the woman miscarried while in CBP custody awaiting an MPP fear-screening interview, which she did not pass. She and her partner were returned to Mexico, where they have struggled to pay rent and afford medical care.

According to an ACLU report of a pregnant person in CBP custody,

> "the food she received was spoiled and served cold....the available drinking water had a burning smell of chlorine... [she] was not provided with any hygiene products... [and] was neither permitted a change of clothing nor provided a chance to shower for the duration of her detention."

Many CBP facilities lack full-time medical staff or trained personnel to ensure adequate treatment of vulnerable populations. According to the ACLU complaint, while experiencing heavy bleeding or significant pain and asking for medical assistance, pregnant people in CBP custody have been accused by Border Patrol agents of "lying" or being "dramatic." U.S. Senators have repeatedly expressed concern regarding CBP's treatment of pregnant people, including shackling of pregnant people during transfers across facilities or to the hospital. The U.N. Committee Against Torture has stated that the use of restraints on pregnant people in detention constitutes cruel, inhuman, and degrading treatment. Inhuman conditions and lack of medical care in CBP facilities make them woefully inadequate and inappropriate for extended periods, particularly for vulnerable populations such as pregnant people.

Pregnant People in ICE Custody

In recognition of the health needs of pregnant people, a 2016 ICE policy included a presumption of release for pregnant people unless their detention was considered mandatory or "extraordinary circumstances" warranted detention; even in these rare cases the policy suggested additional review. In 2017, the administration ended this policy of presumptive release for pregnant people.

Under the Trump administration, there was a 52% increase in the detention of pregnant people in ICE custody in 2018 as compared to 2016. Based on government data, ICE detained pregnant people 1,380 times in 2016 but 2,098 times in 2018. The length of ICE detention also increased, with 13% of detentions of pregnant people in 2018 lasting more than 30 days. Many of these individuals were previously in CBP custody, resulting in cumulative health harms from CBP and ICE detention facilities.

As the Center for Reproductive Rights and more than 250 organizations warned after the elimination of the presumptive release policy, the practice of arbitrarily detaining pregnant people contravenes international human rights norms. According to the U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the detention of pregnant women and women with young children must be reduced to a minimum and should only be considered when alternatives are unavoidable or unsuitable.

Despite guidance on the care of pregnant people in ICE custody,[2] numerous complaints submitted to DHS over the last several years have exposed rampant policy violations and a persistent pattern of cruel, inhuman, and degrading treatment of pregnant people in ICE detention. According to a complaint jointly filed by numerous immigrant rights organizations, ICE officials have repeatedly transferred pregnant people between ICE facilities, harming their health. In one instance, a woman who was 12 weeks pregnant was transferred between facilities six times, with one transfer taking 23 hours, resulting in hospitalization for exhaustion and dehydration. The complaint also documented a trend of ICE failing to provide timely medical care to people in their custody, even to those who are pregnant and experiencing severe bleeding and other health emergencies. The U.S. Government Accountability Office found that from January 2015 to July 2019, 58 pregnant women reportedly miscarried while in ICE custody.

Refusal to provide timely medical care to people in ICE custody raises significant human rights concerns. In General Comment 2, the Committee Against Torture noted that in the context of detention and deprivation of medical treatment, particularly reproductive decisions, immigration status and gender can intersect to increase the risk of torture and ill-treatment. Despite repeated instances of miscarriage and negative health outcomes for pregnant people in detention, ICE has continuously denied or delayed the release of pregnant people without adequate justification. Due to the highly stressful and harmful conditions in ICE detention, attorneys and pregnant women in ICE detention have reported that some pregnant people have been so desperate to be released that they have abandoned their asylum cases altogether.

INADEQUATE CONDITIONS, ABUSIVE TREATMENT, AND TRAUMA NEGATIVELY IMPACT MATERNAL HEALTH

Through policies such as MPP, the U.S. government is forcing asylum seekers and migrants to wait in Mexico in dangerous and unsanitary conditions while awaiting U.S. immigration court hearings. Asylum seekers and migrants have been forced to live in crowded shelters, makeshift encampments, and migrant hostels, where

conditions pose significant risks to the health of pregnant people. In 2019, a doctor visiting the encampment in Matamoros on behalf of Physicians for Human Rights and the ACLU described the scene as "unsafe, unsanitary, and inhumane." Residents of the encampment lack access to basic needs such as potable water, nutritious food, sanitation, and prenatal or obstetric care, and face exposure to extreme weather conditions. Meanwhile, pregnant people in CBP custody lack access to adequate food, clean water, and bedding.

Good maternal nutrition is necessary for the development of the fetus due to the increased need for specific vitamins and minerals during pregnancy. Lack of access to prenatal care and adequate nutrition increases the risk of pregnancy complications, preterm birth, low-birth-weight infants, and stillbirths. Crowded and unsanitary living conditions along the U.S.-Mexico border place pregnant people at increased risk of dehydration, diarrheal diseases, and infectious and mosquito-borne diseases.

Pregnant people in ICE and CBP custody, as well as individuals subject to MPP, face increased risk of adverse maternal health outcomes due to sustained levels of stress and trauma. This stress can lead to increased risk of infection or illness during pregnancy, postnatal depression, and in extreme cases, maternal mortality. Negative impacts to the fetus can include the disruption of fetal development, future developmental challenges long after birth, and fetal defects. For some pregnant people forced to remain in the border region, constant stress and fleeing from persecution has led to miscarriages. For those in detention, the continued use of shackling, including during labor and delivery, can increase the risk of falls and venous thrombosis, delay diagnosis of pregnancy complications, and obstruct medical care before and during labor.

PREGNANT MIGRANTS AND ASYLUM SEEKERS FACE ADDITIONAL ABUSES AND THREATS TO THEIR HEALTH DURING COVID-19

Increasingly inhuman and unlawful policies at the U.S.-Mexico Border

In an escalation of anti-asylum policies, the current administration is exploiting the COVID-19 pandemic to violate human rights and effectively eliminate humanitarian protections at the border required under U.S. law and international treaty obligations. Since March 20, 2020, DHS has used a CDC order to block and expel more than 109,000 migrants and people seeking asylum, including many unaccompanied children, either to Mexico or to their home countries.

CBP is also using the CDC order to turn away asylum seekers who had already waited months due to metering to request protection at ports of entry. According to a report by Human Rights First, one pregnant person seeking asylum was returned to Mexico by Border Patrol agents in late April while having contractions and asking for medical care. Five days after giving birth another woman was returned to Mexico during the pandemic, where she was left homeless after being turned away by a shelter.

On May 19, 2020 the CDC order was indefinitely extended. While the CDC order claims to protect public health during the pandemic, public health experts have derided the discriminatory intent of the order, which specifically targets individuals based on immigration status—a distinction with no public health rationale.

On June 15, 2020, the administration again sought to dismantle humanitarian protections through a new proposed asylum regulation. The proposed rule would drastically narrow eligibility for asylum, specifically bar asylum for individuals seeking protection on the basis of "gender," and, among other things, make it much more difficult to qualify for asylum where the persecution is carried out by non-government persecutors, as in many cases of gender-based violence. The proposed rule directly violates U.S. law and treaty obligations, which recognize gender-based persecution as grounds for asylum.

Most recently, on July 9, 2020, the Department of Justice and DHS published a proposed rule that seeks to again use public health as a pretext to bar virtually all asylum seekers on public health grounds

A pregnant Honduran woman who crossed the U.S.-Mexico border in late March 2020 with her three-year-old child to seek asylum was expelled to Mexico under the CDC order just five days after giving birth. Border Patrol agents returned the woman along with her two children to Reynosa, Mexico, an incredibly dangerous city. Due to COVID-19, the family was turned away by a shelter in Mexico.

A recent survey conducted by the International Organization for Migration (IOM) found that approximately 3.4% of migrant and asylum-seeking women in Ciudad Juárez, more than 200, were pregnant. Global Response Management estimates that approximately 300 pregnant asylum seekers and migrants were living in Matamoros as of May 2020.

In late April 2020, Border Patrol agents in Arizona expelled a pregnant Honduran asylum seeker and her two daughters to Mexico under the CDC order. The agents expelled the woman, who became pregnant as a result of rape in Mexico, while she was having contractions and asking for medical attention. They refused to give her a fear screening despite her expressed fear of returning to Mexico and Honduras.

A 38-year-old community organizer, who fled Haiti with her husband and two-year-old child after receiving threats, gave birth in an ambulance in Mexico while waiting to be granted entry into the United States. Due to the CDC Order, the family was unable to seek asylum at the border and was forced to wait in the dangerous city of Reynosa, Tamaulipas. Due to severe overcrowding at the shelter in Reynosa, the pregnant woman and her family lived in a tent while awaiting the birth of their child. In April 2020, she gave birth in a Red Cross ambulance, since the local maternity hospital lacked available doctors due to COVID-19.

regardless of whether they have a disease covered by the rule or have even been exposed to such a disease. In a letter, 170 leading public health and medical experts condemned this rule as "xenophobia masquerading as a public health measure."

Eliminating protections for people seeking asylum and unaccompanied children is particularly deplorable in the context of documented increases in intimate partner violence during COVID-19 that may cause people to flee their countries for protection. In the Dominican Republic, for instance, the Ministry of Women's helpline received 619 calls during the first 25 days of quarantine, while reports of domestic violence during lockdown increased 175% in Colombia, compared to the same time period last year, and calls to the family violence helpline in Mexico City shot up 97%.

Escalating human rights abuses at the border

Policies put in place during COVID-19 have emboldened CBP officials, resulting in heightened levels of mistreatment and abuse. Pregnant people in CBP custody have faced harassment, verbal abuse, separation from their partners, risk of forced separation form their newborns, and forced expulsion without due process soon after giving birth. News reports and a complaint by the ACLU have documented cases of new mothers being coerced by Border Patrol to agree to be expelled to Mexico under the CDC order days after giving birth to avoid losing custody of their U.S.-born infants. While Border Patrol has discretion to parole families together in the U.S., they have repeatedly forced families with newborn children to return to Mexico, despite expressed fear for their safety.

Conditions for pregnant people at the border have continued to deteriorate, as they face homelessness, violence, inadequate medical care, and increased risk of COVID-19. During the pandemic, many shelters along the border have closed their doors to new asylum seekers or shut down altogether, resulting in increased displacement. Pregnant people face additional risks as MPP hearings are suspended, forcing them to wait indefinitely. For months, DHS required people seeking asylum, including pregnant people with underlying conditions, to travel to the border multiple times to receive updated hearing notices when their hearings were postponed, needlessly exposing them to additional danger and risks to their health. As the administration prolongs the time people seeking asylum are forced to remain at the border, individuals face higher risk of violence and amplified risk of COVID-19 due to crowded, unhygienic conditions, with little access to medical care. On June 30, 2020 the first case of COVID-19 was confirmed in the migrant encampment in Matamoros.

These reports represent only the tip of the iceberg. The scale and scope of human rights abuses at the border during COVID-19 remain largely unknown. Anecdotal reports, however, have suggested that DHS's use of the CDC order to effectively eliminate humanitarian protection at the border has had devastating and far-reaching impacts on the rights, health, and safety of people seeking asylum, including vulnerable populations. Swift policy action must be accompanied by documentation efforts to better understand the impacts of the CDC order and the accompanying risks of COVID-19 on pregnant people.

Heightened risks in ICE detention

DHS's failure to heed warnings from public health and detention experts to release detainees and halt transfers between facilities has resulted in significant outbreaks of COVID-19 in ICE detention centers, placing all detained individuals and staff at high risk of infection. Inspectors have reported a lack of adequate soap, disinfectant, and personal protective

A 24-year-old pregnant woman, who fled Honduras after the father of her unborn baby was murdered and she had been threatened, was expelled before dawn to Mexico under the CDC order. In July 2020, Border Patrol agents swiftly returned the woman, who was eight-months pregnant without an opportunity to request asylum. U.S. officers brought her to the Paso del Norte bridge and forced her to walk across the border into the dangerous Mexican border city of Ciudad Juárez at 4:56 am. With no money and no cell phone, the woman had no means to find assistance.

equipment in ICE facilities, and people in detention have described overcrowded conditions and poor sanitation. According to a peer-reviewed study modeling COVID-19 transmission in ICE detention facilities containing at least 25 people, in the most optimistic scenario, 72% of individuals would be infected with the virus within 90 days. As of July 31, 2020 ICE reported that nearly 20% of people tested in its custody had contracted COVID-19; at least six detainees have died after contracting COVID-19. The actual number of cases and deaths is likely to be much higher.

While the risk of contracting COVID-19 for all people in immigration detention is alarmingly high, the CDC lists pregnant people among those who may be at increased risk of severe illness. Prior research has indicated that when infected with influenza and other viral respiratory infections, pregnant people have typically been at higher risk of experiencing severe illness. Recent evidence published by the CDC found that pregnant people who tested positive for COVID-19 were significantly more likely to be admitted to the intensive care unit and receive mechanical ventilation compared to nonpregnant women with COVID-19.[3] The potential for increased risk of severe illness among pregnant people with COVID-19 requires additional precautions to reduce the exposure of pregnant people to the virus.

Crowded and unsanitary conditions and unsafe employee practices in ICE detention facilities preclude pregnant people and other individuals in detention from maintaining a safe distance from other detained people, maintaining personal hygiene, or receiving timely medical care. According to a correctional officer who worked at Eloy Detention Center, employees were instructed to ration masks and gloves, water down sanitizers, continue transferring detainees during outbreaks, and keep working even after showing COVID-19 symptoms. Whistleblowers from an ICE detention facility in Louisiana reported similar mismanagement of facilities during COVID, including mixing healthy detainees and staff with those exposed to COVID-19, banning the use of protective equipment for several weeks, deporting individuals who contracted COVID-19 in detention, and failing to sanitize spaces frequently. A lawsuit filed by the ACLU in August 2020 alleged that ICE intentionally barred COVID-19 testing at some facilities after receiving testing kits. Moreover, Inland Coalition for Immigrant Justice and Freedom for Immigrants has provided first-person reports from people in ICE detention that chemical disinfectants used in some ICE detention centers during the pandemic are causing bleeding, pain, and respiratory problems. Such practices have exacerbated the pre-existing risk of outbreaks in detention facilities and increased the risk of spreading the virus through continued deportations.

ICE has not only failed to take the necessary measures to protect people in its custody, but has also failed to ensure the release of detainees, including pregnant people. As of August 21, 2020, more than 21,000 individuals remain in ICE custody. In its COVID-19 Pandemic Response Requirements, ICE arbitrarily rejected the CDC's inclusion of pregnant people among those at high risk for COVID-19 infection, and omitted pregnant people from the list of detainees at higher risk of harm. This intentional omission is consistent with ICE's pattern of disregard for the health, welfare, and treatment of pregnant people. In response, numerous immigration advocates across the country have filed and won lawsuits for the release of high-risk individuals from ICE detention during the pandemic, including pregnant people.

RECOMMENDATIONS

The health, safety, and rights of marginalized populations must remain central to the COVID-19 response and beyond. When government policies and actions jeopardize the health and safety of migrants and people seeking asylum, the additional risks and harms imposed on pregnant people must be considered in developing adequate remedies.

Human rights, immigration, and public health experts have repeatedly issued recommendations to address long-standing abuses as well as harmful actions by the administration during COVID-19. The following subset of recommendations are urgently needed to ensure the health and safety of pregnant asylum seekers and migrants during and long after the pandemic:

- **In accordance with U.S. law, treaty obligations, and the recommendations of public health experts, the CDC and the Department of Health and Human Services should immediately withdraw the March 20 CDC order and its extension, and DHS should restore the orderly and safe processing and parole of people seeking asylum.** CBP should immediately stop expelling pregnant people and ensure they are released, along with

family members, into U.S. shelters or with personal support networks. A study of people seeking asylum at the U.S.-Mexico border found that 92% have family or friends they could live with in the U.S. while pursuing their claims. Rather than being forced to remain in limbo at the border, people in MPP, including pregnant people who face particular health harms should be permitted to safely shelter in place in the United States with access to medical care.

- **CBP should ensure the safe and timely processing of asylum seekers and unaccompanied children at the border, as required by U.S. law, and minimize the amount of time pregnant people and their family or partner spend in CBP detention during processing.** To ensure the safe and timely processing of people seeking asylum, CBP should not use metering or impose other restrictions on asylum seekers at ports of entry, and should make use of recommended public health measures to safeguard asylum seekers and DHS staff during processing. Due to inadequate conditions in CBP facilities, which impose particular risks on pregnant people, CBP should minimize the amount of time people are held for processing and ensure no individual is held in these facilities for more than a few hours. CBP should prioritize family unity in all instances by ensuring that family members and partners are released along with the pregnant person.
- **ICE should cease the detention of all migrants during the COVID-19 pandemic and prohibit the detention of pregnant and postpartum migrants.** During the COVID-19 pandemic, ICE should cease all new detentions and release persons from immigration detention, including pregnant people along with their families. Parole and appropriate, community-based alternative to detention programs that were formerly available should be resumed, improved, and expanded. ICE has statutory authority and broad discretion to release individuals in its custody, and there is overwhelming evidence that ICE detention facilities are inadequate to safeguard the health and well-being of asylum seekers and immigrants, including pregnant people. Expanding the use of parole and release will reduce risks of COVID-19 transmission in crowded detention facilities, while also ensuring pregnant people have access to essential services.
  Given the significant health risks associated with detention, ICE should at minimum reinstate and implement the presumption of release for pregnant people and ensure appropriate community-based alternative to detention programs, such as the Family Case Management Program, are in place for pregnant people and their families long after the pandemic. DHS can and should further strengthen protections for pregnant people by issuing a directive immediately prohibiting ICE from detaining any person who is pregnant or postpartum and requiring the release of any person found to be pregnant or postpartum in detention.
- **Congress should direct ICE and CBP to allow third party access and monitoring of their facilities and request a robust investigation by the DHS Office of Inspector General.** Lack of accountability and transparency within the U.S. immigration system has created the conditions for rampant abuses of power and human rights violations. Both during and after the pandemic, meaningful independent monitoring efforts must be undertaken to review ICE's and CBP's treatment of pregnant people they expel, detain or return to Mexico. Regular monitoring by independent subject matter experts is necessary to ensure the treatment of pregnant migrants and asylum seekers is consistent with U.S. and international law and treaty obligations.

While immediate action is essential, persistent systemic abuses require long-term efforts to reform the immigration and asylum systems to ensure the human rights of all immigrants and people seeking asylum are protected, and that pregnant people and other marginalized groups are not subjected to abusive treatment.

COVID-19 has underscored the need for policies that comply with existing U.S. law, align with international treaty obligations, and promote transparency and accountability. Long-term failure to address inequitable and discriminatory systems provides the conditions for amplified abuses and health disparities during public health crises.

Endnotes

1 CBP facilities are governed by the TEDS standards (National Standards on Transport, Escort, Detention, and Search), which require officials to identify whether an individual is pregnant and considered "at-risk," but does not specify what additional care or oversight should be provided to vulnerable individuals in detention.

2 ICE facilities are typically governed by one of four sets of detention standards, including the 2008 and 2011 ICE Performance Based National Detention Standards (PBNDS), the 2019 National Detention Standards, and the Family Residential Standards, all of which address medical care for women in some way, and ICE Health Service Corps policies on medical standards for pregnant women. ICE also issued a directive on the care of pregnant women in 2018 that weakened and superseded requirements from the 2016 policy.

3 Due to large gaps in the data, additional studies should be conducted to verify the results.

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Mandates of the Special Rapporteur on the human rights of migrants; the Working Group on Arbitrary Detention; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on the human rights to safe drinking water and sanitation; and the Working Group on discrimination against women and girls

REFERENCE:
UA USA 34/2020

15 January 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the human rights of migrants; Working Group on Arbitrary Detention; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the human rights to safe drinking water and sanitation; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/6, 42/22, 44/15, 42/16, 42/9, 43/20, 41/17, 42/5 and 41/6.

In this connection, we would like to bring the attention of your Excellency's Government to information we have received concerning **the lack of appropriate protection measures in light of the COVID-19 pandemic, denial of access to appropriate health care, ill-treatment, and medical abuses by government-contracted doctors, including medically unnecessary gynecological procedures performed on migrant women without their full informed consent in the Irwin County Detention Center, and the use of solitary confinement to punish those who have attempted to speak out against such abuses. The Irwin County Detention Center (ICDC) is operated by LaSalle Southwest Corrections (subsidiary of La Salle Corrections), a private company.**

We have repeatedly highlighted various concerns regarding the human rights of migrants in the United States of America, most recently in connection with the lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention at the Northwest Processing Centre and other immigration detention facilities (UA USA 7/2020), the increased use of immigration detention (USA 12/2018, USA 23/2017), alleged human rights abuses in privately-run immigration detention facilities, including the ICDC, in Irwin County (USA 18/2018), and lack of access to health care

in the U.S. Immigration and Customs Enforcement (ICE) custody (USA 7/2019 and USA 25/2018).

We thank your Excellency's Government for the reply dated 21 September 2020 to the Urgent Appeal (USA 7/2020) highlighting concerns about the lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention, including at the Northwest Processing Center (NWPC) in Tacoma, Washington. In your response, Your Excellency's Government referred to annual onsite inspections conducted under ICE's inspection program to ensure that facilities comply with ICE detention standards and that any deficiencies noted are quickly and efficiently addressed. It was also mentioned in your response that onsite investigations were conducted by the Department of Homeland Security's Office for Civil Rights and Civil Liberties at ICE and ICE-contracted detention facilities to examine alleged violations of civil rights and civil liberties related to the care and custody of individuals in detention. In light of the current health pandemic and the new information received, we would appreciate an update on the situation and procedures in place at the ICE and ICE-contracted detention facilities, including in relation to the result of the mentioned investigations and inspections that were conducted at NWPC.

We would like to reiterate our concerns expressed in the letter dated 12 October 2018 (with reference AL USA 18/2018), regarding the increased use of immigration detention and the alleged human rights abuses including lack of adequate access to water and health care, racial discrimination, and violation of due process guarantees in the ICDC, in Irwin, Georgia, an immigration detention facility run by a private company, "LaSalle Southwest Corrections," a subsidiary of LaSalle Corrections, that contracts with ICE.

According to the new information received:

The ICDC operated by LaSalle Southwest Corrections (subsidiary of La Salle Corrections), is one of more than 100 ICE detention centers run by private corporations. In the United States in late 2016, 73 percent of the approximately 40,000 migrants detained by the authorities were held in facilities operated by private companies. As of January 2020, 81 percent of people detained in ICE custody were held in facilities owned or managed by private prison corporations. Reportedly, in 2019, LaSalle Corrections alone held more than 7,000 migrants in detention.

Since 2017, migrants detained in the ICDC have reported human rights abuses, including due process violations, unsanitary detention conditions, inadequate health care access, and most recently, lack of prevention measures in light of the COVID-19 pandemic. The facility houses some 800 migrants, both men, and women. The hygienic conditions at ICDC were already of concern before the global pandemic. A review conducted by ICE in 2017 found that floors and patient examination tables were dirty. In 2020, we received reports that the facility is filthy, and in each unit, detained migrants have access only to one bathroom and one shower for more than fifty people. Food is reportedly not

adequately protected from insects and pest infestation. In September 2020, it was reported that several detained migrants complained to staff that bathroom facilities were dirty and that toilets and sinks at the facility often malfunction.

According to ICE, as of 4 January 2021, more than 8,500 migrants detained and ICE staff have contracted coronavirus at more than 95 detention facilities, including those run by private prison companies.[1] Reportedly, at least eight detained migrants have died after contracting COVID-19 in ICE custody.

Allegations concerning unsanitary detention conditions and lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention in the ICDC

In August 2020, ICE reported that 41 migrants detained in the ICDC tested positive for COVID-19. The real number of infections is believed to be higher as the ICDC had allegedly not been actively testing detained migrants. Since the outbreak of the COVID-19 pandemic, over a dozen persons with symptoms indicative of the virus have been reported in the ICDC. According to the information received, between March and 18 August 2020, migrants detained in the ICDC did not have access to test for COVID-19.

Reportedly, medical staff of ICDC often downplayed the need for COVID-19 testing. Despite that a rapid-testing COVID-19 machine was purchased and available at the facility since June 2020, it was seldom used. Allegedly, as of August 2020, no medical staff had been trained to use it. In unit C of ICDC, which accommodates approximately 100 women, many people reported health problems, including coughing, fever, and other discomforts, but were never tested for COVID-19. Similarly, during July and August 2020, two migrant women detained at unit G-2 complained that despite having symptoms such as fatigue, headaches, loss of smell and taste, and although three women in their unit were tested positive for COVID-19, they did not get tested nor received medical attention until 18 August. When they were taken to the medical unit, they had their temperatures checked and were brought back to the general unit without being tested for COVID-19. Only when the two women became very sick, they were transferred to the quarantine unit and were subsequently tested for COVID-19. Despite multiple requests from several women to be tested, including reported exposure to COVID-19, and the fact that several migrant women had pre-existing conditions such as diabetes and hypertension, ICDC refused to test them for COVID-19. Similarly, we received reports that detained men with COVID-19 symptoms were also refused COVID-19 testing for months despite multiple requests.

In addition, after migrants inside the facility were finally tested for COVID-19 on 18 August 2020, several new arrivals were transferred into the cells of migrants who were still waiting for their results of the test. This was done

[1] US Immigration and Customs Enforcement, ICE Guidance on COVID-19, Confirmed Cases.

despite the fact that ICE Guidance on its response to the Covid-19 pandemic, as of 12 August 2020, required that all new arrivals were tested for COVID-19 and housed separately from the rest of the detained migrants. Concerns are raised that the lack of preventive measures, such as medical quarantine for new arrivals, physical distancing, and separation between individuals that had been tested for COVID-19, expose more individuals to the virus. Nonetheless, the few migrants that were put in quarantine were allegedly subjected to unsanitary conditions in the quarantine unit. Reportedly, during the quarantine period, the quarantine cells were not regularly cleaned, and disinfected, and detained migrants were not provided with adequate cleaning supplies to disinfect them. Furthermore, some of the migrants detained reportedly experienced humiliating treatment by guards in the quarantine cells for not speaking English.

We have also received reports that employees of ICDC and detained migrants only received one mask per person since the beginning of the pandemic. Some migrants complained that they were not provided masks at any point. Reportedly, neither detained migrants nor ICDC staff could follow physical distancing protocols due to overcrowding. Staff also reported not having proper personal protective equipment nor sanitization material. ICDC employees were allegedly instructed to continue working even when they had COVID-19 symptoms, were awaiting a COVID-19 test result, or had a positive COVID-19 test result. Concerns are raised over ICDC's COVID-19 policies that impact both working and living conditions at the facility.

Inadequate health care, ill treatment and discrimination against migrants in the ICDC

According to the information received, several requests for medical attention in the ICDC have been ignored and left unattended. Migrants with serious medical conditions and grave illnesses reportedly have been facing unreasonable delays in receiving appropriate treatment. We have also received reports that ICDC medical staff shredded medical request forms from detained migrants without checking on the requestors. Medical staff allegedly fabricated the medical records of some migrants, including by falsifying their vital signs, which were not taken, but made-up results were documented. Several detained migrants had not been examined but inaccurately reported as they were in the patient's records. In addition, there have been reports concerning the poor treatment of detained migrants as well as discrimination against migrants from Latin American countries, particularly those who do not speak English, by certain medical staff of ICDC. Reportedly, despite having a phone language line available in the ICDC, for language interpretation services, this line was rarely used.

Some migrants went on hunger strikes on several occasions to demand better conditions, including better health care and protection against COVID-19. Reportedly, it has been a common practice to shut off the water for those on

hunger strike as a means of deterrence. Consequently, one of them had to allegedly drink out of the toilet as it was the only source of water available.

Allegations concerning medical abuses, including gynecological surgeries, performed without migrant women's full informed consent

We have also received reports of gynecological or other medical procedures performed on migrant women detained at the center without their fully informed consent, partly due to lack of language interpretation. According to the information received, a number of migrant women from Latin American countries or of African descent reported medical abuses by the government-contracted primary gynecologist of the facility. Some of them were allegedly pressured to undergo surgeries without their fully informed consent. These include procedures that were believed medically unnecessary; some are believed to have affected their ability to bear children. In this connection, we also received reports of retaliatory actions against victims and witnesses of medical abuse in order to silence them, including by placing some of them in solitary confinement and allegations of retaliatory deportations of the victims to prevent them from testifying on ongoing medical abuse investigations and access justice.

Allegations concerning Ms. Yuridia Rocha Jaramillo's non-consensual gynecological surgery

In this context, we also received information concerning the case of Ms. Yuridia Rocha Jaramillo, 36-year-old, who was allegedly subjected to an unwarranted gynecological surgery when detained in the ICDC. The surgery was reportedly performed without her full informed consent, partially due to lack of language interpretation.

On 16 May 2020, Ms. Rocha, a Mexican national, was allegedly arrested by the police after calling 911 reporting domestic violence by her male partner. Despite having a valid work permit and a protection visa under the Violence Against Women Act,[2] Ms. Rocha was detained at Clayton prison facility. She was not informed of the legal basis of her detention. Neither by the police officers that arrested her nor other authorities.

On 22 May 2020, Ms. Rocha was transferred from Clayton prison to ICDC, where she recounted the facility's unsanitary detention conditions, lack of personal protective equipment for COVID-19, and denial of consular access and legal assistance.

[2] VAWA allows an abused spouse or child of a U.S. Citizen or Lawful Permanent Resident or an abused parent of a U.S. Citizen to self-petition for lawful status in the United States, receive employment authorization, and access public benefits. https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-vawa-self-petitioner.

At ICDC, Ms. Rocha requested a medical consultation due to pain in the ribs related to physical attacks reportedly suffered in the context of domestic violence. The nurse who received Ms. Rocha showed discomfort towards her for not speaking English and did not offer her interpretation or translation services. As a result of the language barrier and despite not having stomach pain, Ms. Rocha received gastritis medicine. Since Ms. Rocha was still having pain in her ribs, she contacted the ICDC medical unit again. Later, she was transferred handcuffed to a doctor's office, who turned to be a gynecologist. Ms. Rocha was surprised to learn at that moment that he was a gynecologist, as she thought the doctor would examine her pain in the ribs. The doctor asked for the handcuffs to be removed so she could undress and sit in the gynecological chair. After a hysteroscopy and based on the nurse's attempts to interpret roughly, Ms. Rocha learned that she had a cyst and an infection but at no time she was shown the screen to see it nor did she receive any diagnostic report or prescription. In fact, Ms. Rocha never requested to see a gynecologist and said that she had no gynecological discomfort or pain during the consultation.

Two weeks after, Ms. Rocha was told by the same gynecologist that she still had an infection. He ordered a surgery to remove the cyst. Reportedly, Ms. Rocha was not given appropriate information about the medical procedure planned, and her consent was not sought.

On 28 August 2020, Ms. Rocha was transferred handcuffed from her cell to a hospital. She had difficulties to walk due to the handcuffs in her ankles. She tripped, fell on her knees, and busted into tears. She was then taken to a room where she has given anesthesia and then transferred to the surgery room. When Ms. Rocha woke up after the surgery, she was still not aware of what had happened and was simply told to get dressed. She felt pain in the abdominal area and her knees. She was made to sign a document on a tablet screen, whose content she could not read, as it was in English and the only visible part of the text was the line for her to sign in. Guards took her back to the ICDC facility. Once back at the facility, she was given a pill for the pain. This was the only pill she received as post-surgical treatment. The first night after the surgery, Ms. Rocha was made to sleep on the floor.

On 30 August 2020, at approximately 3 am, Ms. Rocha was taken by guards from ICDC and transferred to the airport. A border officer made her sign a document in English that she could not understand. She did not want to sign because she did not know its content, but the officer took her finger and put her fingerprint on it. Other women in the same situation also refused to sign and were treated in the same way. The deportation of Ms. Rocha took place only three days after the surgery while she was in severe pain. The handcuffs, which were pressing on the area that had been operated on, increased the pain. She was bruised, and her clothes were stuck to her skin because of the dry blood. Ms. Rocha was deported to Mexico on 31 August 2020.

In Mexico, Ms. Rocha consulted a gynecologist to find out what had been done to her. The medical certificate established by the doctor on 21 September 2020 indicates that she had had a laparoscopy for an unspecified cyst and presented scars from laparoscopy with good healing.

While we do not wish to prejudge the accuracy of the information made available to us, we would like to express our utmost concern about the physical and mental integrity of migrants detained in the ICDC and other similar facilities, notably in light of the existing risk of further COVID-19 spread in such facilities. We are particularly concerned about the unhygienic conditions, coupled with the overcrowding that does not allow detained migrants to observe physical distancing, the lack of protective items allocated to both staff and detained migrants, and the lack of access to adequate health care and water. We are also concerned about allegations that ICDC employees have been instructed to work if they exhibit COVID-19 symptoms, are awaiting a COVID-19 test result, or have had a positive COVID-19 test result, which expose other detained migrants and staff at the facility to the virus, risking COVID-19 spread in the larger community. Maintaining health in detention centers is in the interest of not only the persons deprived of liberty but also of the staff of the facility and the general public. Persons deprived of liberty face higher vulnerabilities as the spread of the virus can expand rapidly in confined spaces, given the restricted access to hygiene and health care in some contexts. International standards highlight that States should ensure that persons in detention have access to the same standard of health available in the community, which applies to all persons regardless of citizenship, nationality, or migration status (see WGAD Deliberation No. 11, paras. 23-24).

We also express our serious concern regarding the allegations of unwarranted gynecological surgeries performed without migrant women's full informed consent, including the case of Ms. Yuridia Rocha, highlighted in this letter. Informed consent for any medical treatment, including those related to reproductive health services and childbirth is a fundamental human right. Women have the right to receive full information about recommended treatments so that they can make informed and well-considered decisions. Withholding information or misleading women into consenting, including by the failure to provide interpretation or translation services where necessary, may amount to a gross disregard to the autonomy and choice of a patient. The World Health Organization (WHO) has repeatedly condemned coercive or unconsented medical procedures (including sterilization) and failure to get fully informed consent, recognizing that such treatment not only violates the rights of women to respectful care but can also threaten their rights to life, health, bodily integrity and freedom from discrimination.[3] We would also like to draw the attention of your Excellency's Government to report of the Special Rapporteur on violence against women, a human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence (A/74/137). In her report, the Expert noted that "women are frequently denied their right to make informed decisions about the health care they receive during childbirth and other reproductive health services; this lack of informed consent constitutes a

[3] World Health Organization (WHO) statement, "The prevention and elimination of disrespect and abuse during facility-based childbirth," WHO/RHR/14.23 (2015).

human rights violation that could be attributed to States and national health systems." Similarly, the Committee on the Elimination of Discrimination against Women, in its General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, para. 18, stated that: "Violations of women's sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment." The Working Group on Discrimination against Women and Girls, in its country visit report to the United States (A/HRC/32/44/Add.2) affirmed that "Migrant women are often victims of trafficking and violence, including sexual violence, during their journey to the United States. The experts received complaints that appropriate health care services were not systematically provided to these women in a timely manner, despite the horrifying physical and emotional ordeals they endured and in violation of detention standards."

We are also concerned about the allegations concerning Ms. Yuridia Rocha's arbitrary detention as well as lack of access to legal and consular assistance, notably as it is reported that Ms. Rocha reached out to the police after a domestic violence attack and she already had a protection visa under the Violence Against Women Act as a victim of previously reported domestic violence. The Special Rapporteur on the Human Rights of Migrants has affirmed on numerous occasions that States should ensure that there is a strict separation ("firewall" protections) between public services and immigration authorities, allowing migrants to exercise and enjoy their rights without fear of being reported to the immigration authorities (see A/73/178/Rev.1). In his report, he recommended States to establish firewalls to allow access to justice for migrant women and girls who may become victims of any form of violence or abuse, including gender-based violence and sexual abuse. Thus, allowing them to report the crimes, obtain legal assistance, and gain access to the courts to defend their rights.

In connection with the above allegations, we wish to recall that any form of administrative detention or custody of adults in the context of migration must be used as an exceptional measure of last resort, for the shortest period of time and only if justified by a legitimate purpose. Alternatives to detention in the context of migration are to be sought whenever possible. We also wish to recall that persons detained in the course of migration proceedings enjoy as a minimum the same rights as those detained in the criminal justice or other administrative context, and migrant persons have the right to bring proceedings before a court to challenge the legality of their detention and to obtain appropriate remedies if their challenge is successful. We further wish to draw your Excellency's Government attention to the United Nations' Working Group on Arbitrary Detention Revised Deliberation No. 5 on deprivation of liberty of migrants. Similarly, we would like to draw the Government's attention to the country visit report presented by the Working Group before the Human Rights Council (A/HRC/36/37/Add.2), in relation to its visit to the United States of America in 2016, where many of the issues related to the deprivation of liberty in the context of

immigration where addressed, with particular conclusions and recommendations formulated.

We also express our grave concern regarding retaliatory actions against migrant women victims and witnesses of medical abuse, including allegations of retaliatory deportations of victims. All migrants, irrespective of their legal status, should enjoy access to justice, protection, redress, and compensation. In this regard, States should repeal or amend laws and practices that prevent undocumented migrant women from accessing courts or other systems of redress in order to ensure effective access to justice, giving due consideration to the unique barriers and obstacles faced by undocumented migrant women (CEDAW/C/2009/WP.1/R). Including by including robust protections from retaliation and suspending deportation orders and/or issuing temporary residence permits for migrant victims as a means of protection and allowing them to access justice, compensation or participating in additional criminal investigations against perpetrators if they so wish to do so (A/74/191). We would also like to raise concerns on ICE's reversal policy that ended, in 2018, its general presumption of release for pregnant immigrant women.

In light of the above, we also express our grave concern regarding the apparent lack of effective government oversight, including a proper monitoring and accountability mechanism for human rights violations committed in such immigration detention facilities run by private corporations, including by physicians against medical ethics. While the outsourcing of detention centers by nature is highly problematic, to do so through companies such as LaSalle Corrections raises additional concerns, as private prison contractors, which reap sizeable annual profits from detaining migrants, often compromise the protection of human rights of detainees, lack adequate monitoring and accountability mechanisms. The outsourcing does not preclude States or any other private actors acting on the territory of that State to comply with their international and national human rights obligations. This is underscored by the obligations under the international human rights framework for your Excellency's Government to protect against human rights abuse within its territory by business enterprises. The companies themselves are also responsible for respecting national law and relevant international law.

Regarding the allegations of unsanitary detention conditions, insufficient and malfunctioning washing facilities, and lack of necessary protection measures in light of the COVID-19 pandemic for migrants in detention, we would like to refer your Excellency's Government to Rules 15 and 20 of the Nelson Mandela Rules[4] requiring that persons in detention be provided with water and with such toilet articles as are necessary for health and cleanliness; as well as with drinking water. We would also wish to refer to the joint statement by UN Special Procedures mandate-holders on the "Covid-19 pandemic and the human rights to water and sanitation"[5], which deplored the lack of hygiene facilities resulting from inadequate and insufficient water and sanitation services in prisons and detention centers. We would also like to refer to the Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of

[4] United Nations Standard Minimum Rules for the Treatment of Prisoners
[5] https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26510&LangID=E

Migrants, of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and UN Special Rapporteur on the human rights of migrants.[6] The Experts called on States to establish protocols and create adequate conditions in shelters and other structures designed for the reception or stay of migrants, considering the health requirements for protection against the spread of COVID-19 and particular vulnerabilities of people affected by humanitarian crises, such as those displaced and/or living in camps, in readiness and response operations. They also called States to integrate migrants into national COVID-19 prevention and response plans and policies, including by ensuring that the provision of tests, essential medicines, prevention measures, and treatment are provided in a non-discriminatory manner.

Concerning the allegations of deprivation of drinking water to punish migrants that went on hunger strike to protest detention conditions, we would like to refer to Rule 43 of the Nelson Mandela Rules[7], which specifically prohibits the reduction of a prisoner's drinking water as a form of punishment amounting to torture or other cruel, inhuman or degrading treatment or punishment. In addition, we wish to reiterate the explicit recognition of the human rights to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights. In addition, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall explicit recognition that "the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living."

Concerning reports that there continue to be new arrivals to ICDC during the pandemic, we would like to underline that alternatives to detention should be used to relieve the overcrowding situation and allow for the necessary physical distancing for detained migrants awaiting an administrative decision on their immigration status. We urge your Excellency's Government to implement mechanisms to review the use of immigration detention with a view to reducing their populations to the lowest possible level and expand the use of non-custodial community-based alternatives to immigration detention with full access to rights and services, including health care. As research shows, such measures are more cost-effective and address many concerns related to overcrowding of places of detention, which is especially crucial in light of the current pandemic.

In relation to the ICDC, several human rights experts have regularly expressed concerns regarding the outsourcing of inherent State functions, including prisons and immigration detention facilities, to private security companies. In this respect, we would like to note that the heightened duty of care of States to take necessary measures to protect the lives and bodily integrity of individuals deprived of their liberty by the

[6] Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants.
[7] United Nations Standard Minimum Rules for the Treatment of Prisoners.

State also extends to individuals held in private incarceration facilities operating pursuant to an authorization by the State, such as the ICDC and other immigration-related detention facilities run by private companies. The Working Group on the use of mercenaries has repeatedly raised concerns on the use of private security companies in places of deprivation of liberty, including immigration-related detention facilities and called States to terminate this practice (see A/72/286 and A/HRC/45/9, paras. 46-50). Furthermore, the State is required to monitor privatized immigration-related detention facilities and to intervene whenever necessary to protect the human rights of those deprived of their liberty, irrespective of the private operator's obligations. Business entities running such centers have a responsibility to comply with and respect human rights standards in carrying out their operations.

The United Nations Guiding Principles on Business and Human Rights clarify the respective obligations and responsibilities of states and business enterprises in relation to business-related human rights abuses. States may be considered to have breached their international human rights law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights abuses committed by private actors. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication" (Guiding Principle 1). The Guiding Principles underscore that States should exercise adequate oversight in order to meet human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights (Guiding Principle 5). States do not relinquish their international human rights law obligations when they privatize the delivery of services that may impact upon the enjoyment of human rights. In addition, States should "enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights…" (Guiding Principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy for business-related adverse human rights impacts. Moreover, business enterprises have an independent responsibility to respect internationally recognized human rights (Guiding Principles 11 and 12). To discharge this responsibility, they are expected to conduct human rights due diligence in meaningful consultation with affected stakeholders (Guiding Principles 17-21) and remediate adverse impacts which they caused or contributed to (Guiding Principle 22).

We recognize the positive measures taken by your Excellency's Government, including the updated ICE Guidance on COVID-19 to minimize the spread of the virus, as well as the efforts to reduce the detained population.[8] The Guidance specifically mentions alternatives to detention in order to reduce the number of detainees and allow for the necessary physical distancing. Based on the information received, the implementation of this guidance has already led to the release of some migrants from ICE detention, notably older persons and pregnant women. Nonetheless, we are concerned that the response of ICE and the LaSalle Corrections to COVID-19 may not

[8] https://www.ice.gov/coronavirus#wcm-survey-target-id.

be sufficient to contain the spread of COVID-19 in the ICDC and beyond. There is a serious risk that without immediate actions to protect all migrant and staff in the facility, providing them with adequate COVID-19 related measures including prevention, testing and treatment; more migrants, staff and the wider community will face an increased risk of COVID-19 infections.

We would like to appeal to your Excellency's Government to establish protocols and create adequate conditions in shelters and other structures designed for the reception or stay of migrants, including immigration detention centers and the ICDC, considering the health requirements for protection against the spread of COVID-19. We also call your Excellency's Government to take all necessary measures to include migrants in the national response to counter the COVID-19 pandemic in line with the World Health Organization's advice to Governments to control the spread of the virus and avert a catastrophe, by ensuring migrants' equal access to COVID-19 related measures including prevention, testing and treatment in order to protect the rights of refugees and migrants and the public health and stem the global spread of COVID-19.[9]

We also call your Excellency's Government to exercise adequate oversight over business enterprises such as private prison contractors and other companies providing services that may impact upon the enjoyment of human rights and to put in place adequate monitoring and accountability mechanisms. It has long been recognized that impartial, independent scrutiny of the treatment of those in detention plays a vital role in the prevention of torture and other human rights abuses. In this regard, we appeal to your Excellency's Government to allow the conduction of unannounced inspection and visits by independent international and national bodies, such as NHRIs and civil society organizations, on a regular basis, to places where people are deprived of their liberty, in order to prevent ill treatment and human rights abuses.

We also urge your Excellency's Government to conduct prompt, thorough, independent and impartial investigations into allegations of unwarranted gynaecological surgeries performed on migrant women detained in the ICDC facility without their full informed consent, partially due to lack of interpretation, including the case of Ms. Yuridia Rocha, highlighted in this letter. As well as ensure access to the mechanisms of justice for victims of these violatins regardless of their migratory status and, as provided for by national legislation, to just and effective remedies for the harm they have suffered. Including by suspending deportation orders and/or issuing temporary residence permits for migrant victims as a means of protection and to allow them to access justice, helping them to access compensation or to participate in additional criminal investigations against perpetrators, if they so wish to do so.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

[9] https://www.who.int/news/item/31-03-2020-ohchr-iom-unhcr-and-who-joint-press-release-the-rights-and-health-of-refugees-migrants-and-stateless-must-be-protected-in-covid-19-response.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations, particularly concerning the conditions of detention in the ICDC.

2. Please provide information on the measures taken at the facility to contain the spread of COVID-19 and protect the physical and mental integrity of the detained migrants, staff and wider community.

3. Kindly indicate any specific measures taken to ensure adequate access to safe drinking water, facilities for handwashing, sanitation and other hygiene needs in the ICDC.

4. Please provide an update on the result of any independent inspections or investigations carried out in the ICDC or provide an explanation of the absence of such investigations.

5. Please highlight the steps that your Excellency's Government has taken, or is considering to take, including policies, legislation, and regulations, to uphold its obligations to protect against human rights abuse by business enterprises under its territory and/or jurisdiction, and ensuring that business enterprises conduct effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operation, as set forth by the UN Guiding Principles on Business and Human Rights.

6. Please indicate specific initiatives taken to ensure that those affected by business-related human rights abuse within your territory and/or jurisdiction have access to effective remedy.

7. Please indicate any measures taken by your Excellency's Government to ensure the effective oversight of private companies such as LaSalle Corrections, in line with the United Nations Guiding Principles on Business and Human Rights, such as clarifying the State's expectations that this enterprise, with which it has entered into a contractual agreement, respects human rights and will establish adequate independent monitoring and accountability mechanisms. Further, please inform of any steps to hold LaSalle Corrections personnel accountable for alleged human rights abuses, including those previously raised in AL USA 18/2018, and afford victims access to effective remedies.

8. Please indicate what steps has your Excellency's Government taken to ensure the promotion and respect of the International Code of Conduct Association for Private Security Providers Service Providers' Association, including when contracting private corporations for immigration detention.

9. Please provide information on the number of detainees released to non-custodial alternatives to detention since March 2019 when COVID-19 was declared a pandemic. Further, please inform any steps taken to implement mechanisms to review the use of immigration detention with a view to reducing their populations to the lowest possible level and expand the use of non-custodial community-based alternatives to immigration detention.

10. Please highlight the steps that your Excellency's Government has taken or is considering taking to protect migrant women against violations of women's sexual and reproductive health rights, particularly concerning the above-mentioned allegations of non-consensual gynaecological procedures. Please provide information on any protocols or safeguards to guarantee the adequate provision of interpretation services in the delivery of health care services and ensure migrants' right to make informed decisions about the health care they receive.

11. Please provide information on actions taken by your Excellency's Government to ensure effective access to justice for migrant women, including Ms. Yuridia Rocha Jaramillo, in relation to the allegations of non-consensual gynecological procedures at ICDC. Please provide the details, where available the results, of any investigation, medical examinations, and judicial or other inquiries that may have been carried out. Please indicate any steps taken to sanction those responsible and to ensure victims' effective access to justice, remedy and reparation for the harm suffered.

12. Please provide detailed information on the legal basis and procedural safeguards for the deprivation of liberty of Ms. Yuridia Rocha. Please provide detailed information on the steps your Excellency's Government has undertaken to provide effective access to justice for migrant women and girls who may become victims of any form of violence or abuse, including gender-based violence and sexual abuse, without fear of being reported to the immigration authorities. In this regard, please provide information on the use of "firewalls" protections between public services and immigration authorities.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudge any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We would also like to inform your Excellency's Government that a letter addressing similar allegations and concerns as mentioned above has also been sent to LaSalle Corrections.

Please accept, Excellency, the assurances of our highest consideration.

Felipe González Morales
Special Rapporteur on the human rights of migrants

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Dante Pesce
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Jelena Aparac
Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination against women and girls