

United States Senate

February 19, 2019

Acting Inspector General John V. Kelly
Office of Inspector General/MAIL STOP 0305
Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528-0305

Dear Acting Inspector General Kelly:

Public reports indicate that Federal law, Federal regulations and detention standards promulgated by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), may have been violated when a double amputee detainee had his prosthetics broken during apprehension and not replaced for approximately five months. The reporting also raises concern that the Federal contractor operating the Contract Detention Facility (CDF) may have violated its contract terms.

As you are aware, facilities that house ERO detainees shall comply with Section 504 of the Rehabilitation Act of 1973 and Section 4.8 of the 2011 Performance-Based National Detention Standards, as revised in December 2016 (PBNDS 2011). In addition, it is reasonable to presume that the Federal contract terms require the private sector operator of the Webb County Detention Center in Laredo, Texas to comply with applicable Federal laws, regulations and the PBNDS 2011, which clearly states:

“This detention standard requires that facilities housing ICE/ERO detainees act affirmatively to prevent disability discrimination. It outlines the necessary processes to ensure that detainees with a disability will have an equal opportunity to participate in, access, and enjoy the benefits of the facility’s programs, services, and activities. Such participation will be accomplished in the least restrictive and most integrated setting possible, through the provision of reasonable accommodations, modifications, and/or auxiliary aids and services, as necessary, and in a facility that is physically accessible.”

Given the underlying accessibility requirements found in statute, along with the detailed and comprehensive set of performance standards described in Section 4.8 of the PBNDS 2011, it appears implausible that ICE ERO and personnel working for the contractor could have complied with these requirements and allowed a double amputee detainee to wait approximately five months to have his prosthetics replaced. Such a long wait period to have a prosthetic replaced exceeds any reasonable definition of the term “interim accommodation.”

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Accordingly, I request that the DHS Office of Inspector General (OIG) investigate ICE ERO compliance with Federal law, regulation and agency policy, including the PBNDS 2011 in this particular instance. In addition, I urge DHS OIG to investigate whether the Federal contractor complied with the terms and conditions of its contract and applicable Federal law, regulation and policy.

If your preliminary investigation uncovers evidence of systemic violations of statute, regulation or policy, I would also request that you provide my office with an update, so that we may discuss potentially expanding the engagement to include other regions and types of facilities that house ICE ERO detainees with disabilities.

It is not enough to have good laws in place, effective regulations on the books and high standards, if such requirements are regularly violated with impunity. It is particularly unacceptable when such abuse comes at the expense of the health and dignity of individuals who are in the custody of the United States Government. Thank you in advance for considering my request for a thorough investigation.

Sincerely,

A handwritten signature in blue ink that reads "Tammy Duckworth". The signature is written in a cursive style with a long horizontal flourish at the end.

Tammy Duckworth
United States Senator