

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
APPROPRIATIONS
BUDGET
ENVIRONMENT AND
PUBLIC WORKS
FOREIGN RELATIONS

June 27, 2019

Acting Inspector General Jennifer L. Costello
Office of Inspector General/MAIL STOP 0305
United States Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528-0305

Re: Dangerous Detention Conditions Harming Children

Dear Acting Inspector General Costello,

Request for Immediate Investigation

I am writing to request that the Office of Inspector General (OIG) immediately initiate an investigation into causes and decisionmaking surrounding the mistreatment and neglect of migrant children in DHS custody and to determine whether DHS officials or staff are culpable for violations of applicable laws, regulations, policies and procedures causing or contributing to the mistreatment of migrant children in DHS custody.

The reasons for this request are obvious. Shocking conditions and staff practices exist at Customs and Border Protection Facilities now being used to detain migrant children – in particular at Border Station Clint in El Paso, Texas. Two letters I sent to the DHS Acting Secretary concerning this subject, dated June 21, 2019 and June 26, 2019, summarize media reports and my office's additional investigative efforts describing, among other abuses:

- no staff care for tender age children under 5;
- inadequate and substandard child care, particularly with respect to health, sanitation and nutrition;
- no effort to reunify children with families;
- unsuitable space for children;
- unreasonable delay in moving children to more appropriate settings;
- arbitrary punishment of children;
- movement of hundreds of children out of the Clint facility in days only after its atrocious conditions were or were about to be exposed; and
- the return of 100 children to Clint days later only after the media reported on their removal.

While the evidence remains to be gathered, I believe it's likely that hundreds of children may have been irreparably – and needlessly – harmed.

To be clear, none of this happened by chance; nor was it unforeseeable. Specific DHS staff and officials made decisions and acted – or failed to make decisions or act – in ways that specifically caused and contributed to likely harms. Moreover, I expect that the evidence will demonstrate that officials and staff acted knowingly or at least recklessly, in violation of the applicable laws, regulations, policies and procedures.

OIG's mission is "[t]o provide independent oversight and promote excellence, integrity, and accountability within DHS." I accordingly request that OIG immediately initiate an investigation to ascertain how decisions regarding detention conditions and allocation of resources were made and who made those decisions. I expect that an OIG investigation will identify specific individuals within DHS responsible for this, ascertain specific levels of culpability for each individual and, if warranted, refer the responsible individuals to appropriate authorities for discipline and prosecution.

Requests for Information

I am also writing to request that OIG provide, by July 26, 2019, information responsive to the following five requests directly related to the subject of this letter.

1. Identify all DHS staff and officials for the decisions (or the failure to make decisions) that have caused or contributed to the current detention conditions described above. These individuals should be identified by their respective agencies, titles and locations. In addition, and with respect to each individual, identify: (a) whether they received reports, warnings or alarms concerning these conditions; (b) their response to this information, including whether the information was ignored; (c) evidence revealing their intent concerning the foregoing, including any evidence of willful or reckless intent.
2. To the extent not encompassed by #1, identify all DHS staff and officials responsible for the current level of detention conditions within DHS facilities which detain children. These individuals should be identified by their respective agencies, titles and locations.
3. Identify and produce written policies and procedures regarding minimum standards for sanitation, nutrition, and safety at DHS detention facilities for children and particularly at Border Patrol facilities.
4. Identify and produce written policies and procedures identifying measures to audit or oversee compliance with minimum detention standards, enforce compliance and impose sanctions or penalties for non-compliance.
5. Produce data showing, from January 1, 2018 to the present: (a) the number and nature of reports received regarding any failure to comply with applicable laws, regulations, policies and procedures pertaining to the detention of children in DHS facilities; (b) the number of individuals who have not complied, identified by their respective agencies, titles and locations; (c) the nature of any discipline or other sanction imposed on each individual; and (d) the number of individuals who have been referred to agencies outside of DHS for further action.

I look forward to hearing from you.

Thank you.

Sincerely,



Jeffrey A. Merkley
United States Senator