

**Congress of the United States**  
Washington, DC 20515

July 20, 2018

The Honorable Kirstjen Nielsen  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
Washington, DC 20528

Dear Secretary Nielsen:

We write to express our grave concern with the continued mistreatment of pregnant women held in the custody of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). We are outraged by reports that multiple pregnant women in ICE and CBP custody were shackled and denied appropriate medical care. It is our firm belief that no pregnant woman should be detained in a facility that lacks adequate medical care or where conditions may endanger her unborn child.

On July 9, 2018, BuzzFeed News published a piece detailing heartbreaking stories of neglect, mistreatment, and abuse of pregnant women in CBP and ICE facilities.<sup>1</sup> The article details the medical neglect of three women who identified themselves as pregnant to Border Patrol officers when they requested asylum—a lawful act under U.S. and international law. Instead of being treated with care, dignity, and respect, these pregnant women were shackled around their hands, legs, and bellies, and were transferred without medical care between DHS facilities. One woman in her second trimester of pregnancy suffered severe bleeding for five days before finally receiving medical attention from an on-site medical professional in an ICE detention center. However, she failed to receive an ultrasound, a routine and crucial component of prenatal care. A second asylum seeker in that same detention facility suffered from severe bleeding for eight days during her fourth month of pregnancy before she received medical attention. ICE officials denied a third woman medical attention because the officials could not speak Spanish. Tragically, all three women suffered miscarriages.

We are particularly concerned that these pregnant women were inappropriately shackled, in contravention of CBP and ICE policies and against the recommendations of medical providers. ICE’s policy clearly prohibits the shackling of vulnerable pregnant women: “A pregnant woman or woman in post-delivery recuperation shall not be restrained absent truly extraordinary circumstances that render restraints absolutely necessary as documented by a supervisor and directed by the on-site medical authority.”<sup>2</sup> The American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health

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<sup>1</sup> Ema O’Connor & Nidhi Prakash, *Pregnant Women Say They Miscarried In Immigration Detention And Didn’t Get The Care They Needed*, BUZZFEED NEWS (Jul. 9, 2018) available at:

<https://www.buzzfeed.com/emaconnor/pregnant-migrant-women-miscarriage-cpb-ice-detention-trump>

<sup>2</sup> 2011 Performance-Based National Detention Standards 2.15 (Use of Force and Restraints), available at: <https://www.ice.gov/doclib/detention-standards/2011/2-15.pdf>.

Association have opposed the shackling of pregnant women during delivery, birth, and postpartum care.<sup>3</sup> They note that such shackling restricts a woman's ability to receive emergency medical care and forces pregnant women to endure pain. Not only are these actions negligent, but they exemplify a systemic lack of oversight in our nation's detention facilities.

In December 2017, ICE issued a new Directive on the Identification and Monitoring of Pregnant Detainees, which ended its presumption of release for detained pregnant women.<sup>4</sup> Following this new policy, between December 14, 2017 and April 7, 2018, ICE reported that it held a total of 590 pregnant women in their custody. This number eclipses the 525 pregnant women detained in all of FY 2017. Given the inhumane treatment of pregnant women in detention, we remain concerned that the number of pregnant women in detention has increased.

This article illuminates a number of additional harmful practices in six different CBP and ICE facilities in California, Texas, New Mexico, and Arizona. These include incidents of improper x-rays, lack of regular prenatal vitamins, and acts of physical violence against pregnant women at the hands of CBP officials. On April 12, 2018, you testified before the House Appropriations Subcommittee on Homeland Security and expressed your concern about the mistreatment of pregnant detainees. Like you, we believe it is a high priority that these expectant mothers are treated with the respect and care they need. We therefore seek answers to the following questions, and request a written response within 30 days:

1. How many pregnant women have miscarried while in the custody of CBP or ICE in FY 2017 and up to this point in FY 2018 (disaggregated by component agency and between family detention and ICE facility type, e.g. Intergovernmental Service Agreement, U.S. Marshals Intergovernmental Agreement, Service Processing Center, Contract Detention Facility)?
  - a. Of these cases, how many received care from a state-licensed medical professional within 24 hours of their miscarriage?
  - b. Of these cases, how many facilities have ICE Health Service Corps (IHSC) on site?
2. ICE policies state that if a pregnant woman or woman in post-delivery recuperation is restrained, documentation of the use of restraints must be noted in the detainee's A-file and detention file. How many pregnant women or women in post-delivery recuperation were restrained while in DHS custody in FY 2017 and up to this point in FY 2018 (disaggregated by component agency and between family detention and ICE adult detention facilities)?
3. During a hearing before the House Appropriations Subcommittee on Homeland Security, you supported establishing a reporting requirement that would notify you of any pregnant detainees in the custody of DHS. What is the status of a reporting mechanism to the

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<sup>4</sup> U.S. Immigration and Customs Enforcement, *Directive Number 11032.3: Identification and Monitoring of Pregnant Detainees* (Dec. 14, 2017) available at: <https://www.ice.gov/directive-identification-and-monitoring-pregnant-detainees>.

Secretary? If this reporting mechanism is active, how are these notifications handled?

4. We remain concerned that CBP and ICE may not have a concrete method to collect data on the number and care of pregnant women in detention. What is the status on creating a method to determine the length of stay of pregnant women in CBP and ICE facilities, and the daily population of pregnant women in CBP and ICE facilities (disaggregated by component agency and between family detention and ICE adult detention facilities)?
5. Please detail the reporting mechanisms and disciplinary procedures for the mistreatment of pregnant women at the hands of CBP and ICE officials.
6. We remain concerned that non-ICE Health Service Corps (IHSC) facilities are held to different contractually applicable standards than IHSC facilities. Please elaborate on the difference in the quality of care and ability to receive prenatal care between IHSC staffed facilities and non-IHSC staffed facilities, given the fact, for example, that women in non-IHSC facilities are not guaranteed a pregnancy test.

We thank you in advance for your timely response to this matter.

Sincerely,

  
LUCILLE ROYBAL-ALLARD  
Member of Congress

  
PRAMILA JAYAPAL  
Member of Congress