

April 11, 2018

Thomas D. Homan  
Deputy Director and Senior Official Performing the Duties of the Director  
U.S. Immigration and Customs Enforcement  
500 12th St. SW  
Washington, D.C. 20536

Dear Deputy Director Homan:

As organizations that are committed to protecting civil rights and human rights, we are deeply concerned about the new U.S. Immigration and Customs Enforcement (ICE) directive—issued on December 14, 2017, and made public on March 29, 2018—which eliminates the presumption that ICE should not detain pregnant individuals except in extraordinary circumstances and removes critical reporting requirements regarding the treatment of pregnant individuals. We urge ICE to discontinue its policy of detaining pregnant individuals, who should be able to access the critical healthcare services they need, and instead release them to continue their cases outside of detention. We also call on ICE to reinstitute a presumption that pregnant individuals should not be subject to detention. No one, regardless of immigration status, should be denied necessary reproductive healthcare.

Even before ICE's recent announcement of a shift in policy, the immigration detention system had proven itself incapable of handling the healthcare needs of vulnerable populations, including those with serious medical and mental health needs. A complaint filed with the Department of Homeland Security's Office for Civil Rights and Civil Liberties (CRCL) and Office of Inspector General (OIG) in September 2017 detailed numerous cases of inadequate care and mistreatment, including reports of inaccurate pregnancy tests and delayed access to prenatal care, threatening both the pregnant individual's health and the health of their fetus.<sup>1</sup> Some women have tragically suffered miscarriages while being held in detention. Nursing mothers report not being given information about or supplied with breast pumps that would allow them to maintain their milk supply while separated from their children.<sup>2</sup> ICE's policy change will likely result in more pregnant individuals in detention and pregnant individuals detained for longer

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<sup>1</sup> Increasing Numbers of Pregnant Women Facing Harm in Detention, Administrative Complaint filed with Office for Civil Rights and Civil Liberties, and the Office of the Inspector General, September 26, 2017, available at:

[https://www.americanimmigrationcouncil.org/sites/default/files/general\\_litigation/complaint\\_increasing\\_numbers\\_of\\_pregnant\\_women\\_facing\\_harm\\_in\\_detention.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_increasing_numbers_of_pregnant_women_facing_harm_in_detention.pdf)

<sup>2</sup> National Women's Law Center, *If You Really Care about Justice for Immigrant Women in Detention, You Should Care about Reproductive Justice*, October 2013. [https://nwlc.org/wp-content/uploads/2015/08/detention\\_rj\\_factsheet\\_10-16-13.pdf?link\\_id=12&can\\_id=268daf1da4700cdc2415e42398d76660&source=email-your-apeye-on-the-hill-immigration-medicaid-jane-moe&email\\_referrer=email\\_285349&email\\_subject=your-apeye-on-the-hill-immigration-medicaid-jane-moe](https://nwlc.org/wp-content/uploads/2015/08/detention_rj_factsheet_10-16-13.pdf?link_id=12&can_id=268daf1da4700cdc2415e42398d76660&source=email-your-apeye-on-the-hill-immigration-medicaid-jane-moe&email_referrer=email_285349&email_subject=your-apeye-on-the-hill-immigration-medicaid-jane-moe)

periods of time, thus exacerbating these problems and further endangering the lives of pregnant people.<sup>3</sup> For example:

- In July 2017, a 31-year old asylum seeker was arrested and placed in immigration detention. She was four months pregnant. After her arrest, she began to experience severe pain and bleeding. Despite the emergency nature of her medical needs, she reports that her pleas for assistance were ignored. Instead, she was transferred from a Border Patrol holding facility to an ICE detention center in southern California. She miscarried there.<sup>4</sup>
- In March 2017, a 23 year-old asylum seeker was detained at a U.S. port of entry. She was 12 weeks pregnant. She remained in ICE custody for three months, during which time she was transferred between facilities six times. At one point, she was made to endure a 23-hour round trip between facilities in New Mexico and Texas, which resulted in her hospitalization due to exhaustion and dehydration. She experienced nausea, vomiting, weakness, headaches, and abdominal pain during her detention. She did not receive sufficient prenatal vitamins or adequate medical attention, and when she requested a first floor dormitory area so that she would not have to climb the stairs repeatedly, her request was denied. After repeated requests that ICE ignored, she was finally released at the end of May 2017.<sup>5</sup>
- In April 2017, a 31-year old woman was detained in Tacoma, Washington after she appeared for an appointment with ICE. At the time, she was four weeks pregnant. While in detention, she experienced great anxiety and depression after being told by ICE officials that she would be deported immediately. After three weeks of detention, she began bleeding early one morning and sought medical attention, but had to wait over an hour to be seen by a physician. Detention officers did not immediately respond to her requests for help even though she was bleeding profusely. Eventually she was taken to a local hospital, where a physician informed her that she had miscarried.<sup>6</sup>

On top of struggling to access needed medical care, pregnant individuals in ICE detention often are forced to cope with extreme stress. Many are separated from their families, children, and communities during detention, while waiting for the outcome of uncertain immigration processes. Many are detained while seeking protection from the violence or abuse that they survived in their countries of origin or on their journeys to the United States. These circumstances make pregnant detainees particularly vulnerable to mistreatment and abuse, and make the need for adequate care even greater.

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<sup>3</sup> Although we understand that ICE has said it may still review custody determinations for pregnant women on a case-by-case basis, there is evidence that field offices are not conducting any individualized custody determinations that would result in release of vulnerable populations. See e.g., Class Complaint for Injunctive and Declaratory Relief, *Damus v. Nielson*, filed in the U.S. District Court of the District of Columbia, March 15, 2018. [https://www.humanrightsfirst.org/sites/default/files/parole\\_litigation\\_Mar15.pdf](https://www.humanrightsfirst.org/sites/default/files/parole_litigation_Mar15.pdf)

<sup>4</sup> See note 1.

<sup>5</sup> Id.

<sup>6</sup> Id.

Several medical and mental health organizations, including the American College of Obstetricians and Gynecologists (ACOG), the Mount Sinai Human Rights Program, the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP) have stated their opposition to ICE's recent shift in policy away from a presumption of release for pregnant individuals, citing the deleterious effects of detention on the medical and mental health<sup>7</sup> of pregnant individuals and children. Medical experts state, "All pregnant women and adolescents held in federal custody, regardless of immigration status, should have access to adequate, timely, evidence-based, and comprehensive health care. Pregnant immigrant women and adolescents should have access to high levels of care, care that is not available in these facilities."<sup>8</sup>

The arbitrary detention of pregnant people also violates international human rights norms. The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has noted that the imprisonment of pregnant women must be reduced to a minimum and considered only when other alternatives are unavoidable or unsuitable.<sup>9</sup> The UN Special Rapporteur on Torture has also noted that lack of access to reproductive healthcare for women in immigrant detention facilities can amount to torture or ill treatment.<sup>10</sup> Some in detention are so fearful of the impact that prolonged detention will have on their health that they may choose deportation to countries where they may face harm and persecution over the prospect of continued detention.<sup>11</sup>

Further, the new policy also removes critical reporting requirements for oversight of the detention system, despite the evidence that oversight is desperately needed. Detention is inappropriate and dangerous for pregnant individuals, and this lack of oversight risks their health and safety even further. At minimum, the ICE detention system needs more, not less, transparency and accountability, to ensure that immigrants and asylum seekers have access to adequate and culturally sensitive reproductive healthcare.

We therefore urge ICE to reinstitute a presumption of release for pregnant individuals in its custody, develop community-based alternatives to detention for pregnant people who otherwise must be detained, such as the successful but terminated Family Case Management Program

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<sup>7</sup> Letter from Mount Sinai Human Rights Program to ICE Regarding Impact of Detention on Pregnant Women and Adolescents, April 1, 2018. <http://www.aila.org/infonet/letter-to-ice-regarding-impact-of-detention>

<sup>8</sup> Letter from American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the American Academy of Family Physicians to ICE Opposing Inhumane Detention Policies for Pregnant Women, March 29, 2018. [http://www.aila.org/infonet/medic-professionals-against-ice-detention-policies?utm\\_source=aila.org&utm\\_medium=InfoNet%20Search](http://www.aila.org/infonet/medic-professionals-against-ice-detention-policies?utm_source=aila.org&utm_medium=InfoNet%20Search)

<sup>9</sup> UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Report on Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment*, ¶¶ 28, 70 (n), U.N. Doc. A/HRC/31/57, Jan. 5, 2016.

<sup>10</sup> UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, *Report on Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment* A/HRC/31/57, ¶32, U.N. Doc. A/HRC/31/57, Jan. 5, 2016.

<sup>11</sup> See Women's Refugee Commission, *Prison for Survivors: The Detention of Women Seeking Asylum in the United States* (p. 33), October 2017. <https://www.womensrefugeecommission.org/rights/resources/document/download/1528>

(FCMP)<sup>12</sup> and reinstate robust reporting requirements that will ensure oversight of the detention system. In addition, we urge your offices to cooperate fully with the Government Accountability Office's investigation and audit of the conditions for pregnant women in prisons and detention centers,<sup>13</sup> and any investigation into the complaint filed with the Department of Homeland Security's Office for Civil Rights and Civil Liberties and Office of the Inspector General.<sup>14</sup>

Sincerely,

18MillionRising.org  
AB 540 Ally Training Project  
Access Reproductive Care-Southeast  
American Civil Liberties Union  
Adhikaar  
The Advocates for Human Rights  
Advocates for Immigrant Rights and Reconciliation  
Advocates for Youth  
African American Ministers In Action  
Ahora Latino Journal  
Al Otro Lado  
Aldea - The People's Justice Center  
Alianza Americas  
Alliance of Baptists  
American Academy of Nursing  
American GI Forum of the US  
American Immigration Council  
American Immigration Lawyers Association  
Americans for Immigrant Justice  
America's Voice Education Fund  
Arizona Coalition to End Sexual & Domestic Violence  
Arkansas United Community Coalition  
Asian American Psychological Association  
Asian Americans Advancing Justice | AAJC  
Asian Americans Advancing Justice-LA  
Asian and Pacific Islander American Health Forum  
Asian Pacific American Labor Alliance  
Asian Pacific Institute on Gender-Based Violence  
ASISTA Immigration Assistance  
Association of Asian Pacific Community Health Organizations

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<sup>12</sup> Aria Bendix, ICE shuts down program from asylum seekers, *The Atlantic*, June 9, 2017  
<https://www.theatlantic.com/news/archive/2017/06/ice-shuts-down-program-for-asylum-seekers/529887/>

<sup>13</sup> Letter from Members of Congress to Gene Dorado, Comptroller General of the United States, November 9, 2017.  
<https://grijalva.house.gov/uploads/GAO%20Report%20Request%20on%20Pregnant%20Women%2011-09-17.pdf>

<sup>14</sup> See note 1.

Association of Reproductive Health Professionals  
Asylum Seeker Advocacy Project  
Asylum Seeker Assistance Project  
Athlete Ally  
Atlas: DIY  
Black Alliance for Just Immigration  
Black Women's Health Imperative  
Brooklyn Defender Services  
California Partnership to End Domestic Violence  
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities  
Catholic Charities of Southern New Mexico  
Center for Constitutional Rights  
Center for Gender & Refugee Studies  
Center for Law and Social Policy (CLASP)  
Center for Reproductive Rights  
Center on Immigration and Child Welfare  
Center on Reproductive Rights and Justice at UC Berkeley School of Law  
CenterLink: The community of LGBT Centers  
Central American Resource Center (CARECENDC)  
Central Indiana Jobs With Justice  
Centro de los Derechos del Migrante, Inc.  
Charleston Alliance for Fair Employment  
The Chavarria Law Firm  
Chicago Jobs With Justice  
Chicago Religious Leadership Network on Latin America  
Church World Service  
Cleveland Jobs with Justice  
Coalicion de Derechos Humanos  
Coalition for Humane Immigrant Rights (CHIRLA)  
Coalition on Human Needs  
Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)  
Columbia Law School Immigrants' Rights Clinic  
Community Legal Services in East Palo Alto  
Council for Native Hawaiian Advancement  
CREDO  
DC Coalition Against Domestic Violence  
DC Jobs with Justice  
Demos  
Desiree Alliance  
Detained Migrant Solidarity Committee-EI Paso  
Detention Watch Network  
Diocesan Migrant & Refugee Services, Inc.  
Disability Rights Education & Defense Fund  
Disciples Refugee & Immigration Ministries

Dolores Street Community Services  
Domestic Abuse Intervention Services, Inc.  
Embrace Services, Inc.  
End Domestic Abuse WI  
Enlace International  
Equality California  
Family Advocates, Inc.  
Feminist Majority Foundation  
The Florence Immigrant and Refugee Rights Project  
Florida Coastal School of Law Immigrant and Human Rights Clinic  
Florida Immigrant Coalition  
Fordham Law School Feerick Center for Social Justice  
Forward Together  
Freedom for Immigrants  
Freedom Network USA  
Friends of Broward Detainees  
Fund Texas Choice  
Gay and Lesbian Activists Alliance  
Gay Asian Pacific Islander Men of New York (GAPIMNY)  
Georgia Association of Latino Elected Officials (GALEO)  
Government Information Watch  
Grassroots Alliance for Immigrant Rights (GAIR)  
Grassroots Leadership  
GreenLatinos  
Hadassah, The Women's Zionist Organization of America, Inc.  
HEAL Trafficking  
HELP of Door County, Inc.  
Herd on the Hill  
Hip Hop Caucus  
Hispanic Association of Colleges and Universities  
Hispanic Federation  
Hispanic National Bar Association  
Hope Border Institute  
Human Rights Campaign  
Human Rights First  
Human Rights Watch  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Defense Project  
Immigrant Legal Advocacy Project  
Immigrant Legal Resource Center  
Immigration Justice Clinic of John Jay Legal Services, Inc.  
In Our Own Voice: National Black Women's Reproductive Justice Agenda  
Inland Coalition for Immigrant Justice  
Interfaith Center on Corporate Responsibility

Interfaith Movement for Human Integrity  
International Rescue Committee  
International Women's Health Coalition  
Iowa Coalition Against Sexual Assault  
The Institute for Women in Migration (IMUMI)  
Irish International Immigrant Center  
Japanese American Citizens League  
Jobs With Justice  
Justice Center of southeast Massachusetts  
Justice Strategies  
Lambda Legal  
Latin America Working Group  
Latino Victory Project  
LatinoJustice PRLDEF  
LCLAA  
The Leadership Conference on Civil and Human Rights  
Linesch Firm, P.A  
Long Island Jobs with Justice  
Los Angeles LGBT Center  
Lutheran Immigration and Refugee Service  
Make the Road New York  
MALDEF (Mexican American Legal Defense and Educational Fund)  
MANA, A National Latina Organization  
Mano Amiga San Marcos  
The Masliah Firm PC  
Massachusetts Immigrant and Refugee Advocacy Coalition  
Medical Students for Choice  
Mennonite Central Committee U.S. Washington Office  
Mi Familia Vota  
Migrant and Immigrant Community Action Project  
Migrant Center for Human Rights  
MinKwon Center for Community Action  
Mississippi Immigrants Rights Alliance  
Missouri Immigrant & Refugee Advocates  
Mobilization for Justice, Inc.  
MomsRising  
NAACP  
NARAL Pro-Choice Texas  
National Abortion Federation  
National Action Network  
National Advocacy Center of the Sisters of the Good Shepherd  
National Advocates for Pregnant Women  
National Asian Pacific American Women's Forum  
National Association of County and City Health Officials

National Association of Hispanic Federal Executives  
National Association of Latino Arts and Cultures  
National Association of Social Workers  
National Black Justice Coalition  
National Center for Lesbian Rights  
National Center for Transgender Equality  
National Center for Youth Law  
National Coalition for Asian Pacific American Community Development  
The National Council of Asian Pacific Americans (NCAPA)  
National Council of Churches  
National Council of Jewish Women  
National Domestic Violence Hotline (NDVH)  
National Equality Action Team (NEAT)  
National Health Law Program  
National Hispanic Medical Association  
National Immigrant Justice Center  
National Immigration Law Center  
National Institute for Reproductive Health (NIRH)  
National Justice for Our Neighbors  
The National Korean American Service & Education Consortium  
National Latina Institute for Reproductive Health  
National Latina/o Psychological Association  
National LGBTQ Task Force  
National Network for Immigrant and Refugee Rights  
National Network of Abortion Funds  
National Network to End Domestic Violence  
National Organization for Women  
National Partnership for Women & Families  
National Queer Asian Pacific Islander Alliance (NQAPIA)  
National Resource Center on Domestic Violence  
National Women's Law Center  
NC Coalition Against Domestic Violence  
Nebraska Coalition to End Sexual & Domestic Violence  
Neighbors Link Community Law Practice  
NETWORK Lobby for Catholic Social Justice  
New Mexico Immigrant Law Center  
New Voices for Reproductive Justice  
New York Law School Asylum Clinic  
New York Lawyers for the Public Interest  
NM Dream Team/ United We Dream  
Northern Illinois Jobs With Justice  
Nurses for Sexual and Reproductive Health  
OCA - Asian Pacific American Advocates  
OneAmerica

Pangea Legal Services  
PASO - West Suburban Action Project  
PAVE  
Pennsylvania Immigration Resource Center  
People For the American Way  
Physicians for Human Rights  
Physicians for Reproductive Health  
PICO National Network  
PIVOT  
Planned Parenthood Federation of America  
Population Institute  
Positive Women's Network - USA  
Presbyterian Church (U.S.A.)  
Presente.org  
Progressive Leadership Alliance of Nevada  
Public Counsel  
Public Leadership Institute  
Queer Detainee Empowerment Project  
Rainbow House Domestic Abuse Services, Inc.  
Reformed Church of Highland Park  
Refugee and Immigrant Center for Education and Legal Services (RAICES)  
Religious Institute  
The Resurrection Project  
Rhode Island Jobs with Justice  
RISE Law Center  
Rocky Mountain Immigrant Advocacy Network (RMIAN)  
Sanctuary for Families  
Services, Immigrant Rights, and Education Network (SIREN)  
Sexuality Information and Education Council of the United States (SIECUS)  
SIA Legal Team  
Sikh American Legal Defense & Education Fund  
SisterLove, Inc.  
Sisters and Brothers of Immigrants, Inc.  
SisterSong: National Women of Color Reproductive Justice Collective  
South Asian Americans Leading Together (SAALT)  
South Carolina Progressive Network Education Fund  
Southeast Asia Resource Action Center (SEARAC)  
Southern Poverty Law Center  
St. Joseph Valley Project Jobs with Justice  
Sull and Associates, PLLC  
Tahirih Justice Center  
Tewa Women United  
T'ruah: The Rabbinic Call for Human Rights  
U.S. Committee for Refugees and Immigrants

UC Davis School of Law Immigration Law Clinic and King Hall Detention Project  
Ujima, Inc: The National Center on Violence Against Women in the Black Community  
UltraViolet  
UndocuBlack Network  
The United Methodist Church - General Board of Church and Society  
United Migrant Opportunity Services/UMOS  
United States Hispanic Leadership Institute  
United We Dream  
University Leadership Initiative  
UnLocal, Inc.  
URGE: Unite for Reproductive & Gender Equity  
USC International Human Rights Clinic  
UURISE - Unitarian Universalist Refugee & Immigrant Services & Education  
Vermont Network Against Domestic and Sexual Violence  
Violence Intervention Project  
Voces de la Frontera  
Voto Latino  
Waco Immigrants Alliance  
Washington Office on Latin America  
Washoe Legal Services  
We Belong Together  
Whitman-Walker Health  
Women's Refugee Commission  
Woodhull Freedom Foundation  
Youman, Madeo, & Fasano, LLP  
Young Women United

Cc:

Secretary Kirstjen Nielsen, Secretary of the Department of Homeland Security (DHS)  
Tae Johnson, Assistant Director, Custody Management and Removal Operations, ICE  
Claire Trickler-McNulty, Assistant Director, Office of Detention Planning and Policy, ICE  
Cameron Quinn, Officer for Civil Rights and Civil Liberties, DHS  
John Kelly, Acting Inspector General, DHS