

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.¹ 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.² ICE's policy change will likely result in more pregnant individuals in detention and pregnant individuals detained for longer

¹ 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

² 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

periods of time, thus exacerbating these problems and further endangering the lives of pregnant people.³ 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.⁴
- 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 2017.⁵
- 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.⁶

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.

³ 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

⁴ See note 1.

⁵ Id.

⁶ 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 health⁷ 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."⁸

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.⁹ 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.¹⁰ 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.¹¹

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

⁷ 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>

⁸ 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

⁹ 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.

¹⁰ 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.

¹¹ 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)¹² 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,¹³ 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.¹⁴

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

¹² 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/>

¹³ 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>

¹⁴ 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