

United States Senate

WASHINGTON, DC 20510

April 5, 2018

Thomas D. Homan
Deputy Director and Senior Official
Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
Washington, DC

Dear Deputy Director Homan:

We write to request information about U.S. Immigration and Customs Enforcement's (ICE's) recent policy change allowing for the increased detention of pregnant women in ICE detention facilities.¹ In light of reports that ICE has failed to provide critical medical care to pregnant women in immigration detention—resulting in miscarriages and other negative health outcomes²—this policy change is particularly alarming. Accordingly, we ask that you clarify the steps ICE is taking to ensure that pregnant women are not held in immigration detention absent extraordinary circumstances and, in cases where extraordinary circumstances exist, that pregnant women are treated with dignity and provided prompt and appropriate medical care.

Pregnant women face unique needs and challenges. In addition to requiring access to specialized, consistent medical care, pregnant women must also be monitored for a number of environmental and physical stress factors that pose health risks to them and their future children.³ Because immigrant detention centers are ill-equipped to address pregnant women's health needs,⁴ in 2016 ICE implemented a policy of presumptive release for such individuals “absent extraordinary circumstances or the requirement of mandatory detention.”⁵

Though this policy was in place until December 2017, ICE apparently stopped following it earlier—with tragic consequences for the pregnant women in its custody. In July 2017, for example, a pregnant Honduran woman arrived in the United States seeking asylum from gang violence and sexual abuse. After reportedly alerting ICE officials of her pregnancy, and

¹ Dan Levine, “U.S. ends presumed freedom for pregnant immigrants,” *Reuters* (March 29, 2018) (online at <https://www.reuters.com/article/us-usa-immigration-women/u-s-ends-presumed-freedom-for-pregnant-immigrants-idUSKBN1H52VK>).

² Melissa Etehad, “Complaint alleges harm to pregnant women in immigration centers,” *Los Angeles Times* (September 28, 2017) (online at <http://www.latimes.com/nation/la-na-pregnant-women-ice-20170928-story.html>).

³ U.S. Department of Health and Human Services, Office on Women's Health, “You're pregnant: Now What? Staying healthy and safe” (online at <https://www.womenshealth.gov/pregnancy/youre-pregnant-now-what/staying-healthy-and-safe>).

⁴ Human Rights Watch, “In the Freezer: Abusive Conditions for Women and Children in US Immigration Holding Cells” (February 28, 2018) (online at <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells>).

⁵ U.S. Immigration and Customs Enforcement, *Memorandum: Identification and Monitoring of Pregnant Detainees* (August 15, 2016) (online at https://www.ice.gov/sites/default/files/documents/Document/2016/11032.2_IdentificationMonitoringPregnantDetainees.pdf).

informing them that she was “bleeding and needed immediate medical attention,” she expected to receive medical care. Instead, she was detained, and reportedly did not receive medical care for 48 hours. Several days later, she had a miscarriage.⁶

Immigration detention facilities, particularly when they fail to meet basic standards of humane treatment, are especially ill-suited for pregnant women. A December 2017 report from the Department of Homeland Security (DHS) Inspector General highlighted “significant issues” at four of the five inspected ICE detention facilities that threaten the health and wellbeing of immigrants in ICE custody—including pregnant women.⁷ Deficiencies included failure to provide detainees with prompt and adequate medical care; a lack of cleanliness; limited hygienic supplies like toilet paper, soap, and toothpaste; and failure to properly classify and separate high- and low-risk detainees.

In spite of reports of the mistreatment of pregnant ICE detainees in 2017, as well as the DHS Inspector General’s identification of significant health-related issues in ICE detention facilities, you issued a directive in December 2017 officially reversing ICE’s policy of presumptive release of pregnant women. Under your new policy, ICE will determine whether to detain or release pregnant women on a case-by-case basis.⁸ The directive also eliminates specific policies that help ensure pregnant women in immigration detention are timely and properly identified and provided with appropriate care. Instead, it merely requires that specific officials be notified when a pregnant woman is in ICE custody and that ICE monitor and track her condition and transfer her to another detention facility or off-site treatment in specific circumstances. Since the directive was issued, ICE has reportedly detained 506 pregnant women and, as of March 20, ICE holds 35 pregnant women in custody. An ICE spokesman was unable to answer whether the no-longer-detained pregnant women had been released or deported.⁹

Once immigrants are in the custody of ICE officials, it is the responsibility of ICE to ensure that their basic medical and health needs are met. By reducing protections available to pregnant immigrants, this new policy jeopardizes the health and wellbeing of an exceptionally vulnerable group of people—many of whom are fleeing sexual and physical violence, or experience it as they travel to the United States¹⁰—and threatens to exacerbate the trauma that led many of those women to seek refuge in the United States in the first place. In order to clarify

⁶ Melissa Etehad, “Complaint alleges harm to pregnant women in immigration centers,” *Los Angeles Times* (September 28, 2017) (online at <http://www.latimes.com/nation/la-na-pregnant-women-ice-20170928-story.html>).

⁷ U.S. Department of Homeland Security Office of the Inspector General, “Concern About ICE Detainee Treatment and Care at Detention Facilities” (December 11, 2017) (online at <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>).

⁸ Maria Sacchetti, “Trump administration ends automatic release from immigration detention for pregnant women,” *Washington Post* (March 29, 2018) (online at https://www.washingtonpost.com/local/immigration/trump-administration-ends-automatic-release-from-detention-for-pregnant-women/2018/03/29/8b6b1bc0-3365-11e8-8abc-22a366b72f2d_story.html?utm_term=.bef77bacd870).

⁹ Maria Sacchetti, “Trump administration ends automatic release from immigration detention for pregnant women,” *Washington Post* (March 29, 2018) (online at https://www.washingtonpost.com/local/immigration/trump-administration-ends-automatic-release-from-detention-for-pregnant-women/2018/03/29/8b6b1bc0-3365-11e8-8abc-22a366b72f2d_story.html?utm_term=.bef77bacd870).

¹⁰ Anja Parish, “Gender-Based Violence against Women: Both Cause for Migration and Risk along the Journey,” *Migration Policy Institute* (September 7, 2017) (online at <https://www.migrationpolicy.org/article/gender-based-violence-against-women-both-cause-migration-and-risk-along-journey>).

ICE's current policy regarding detention of pregnant women, we request that you respond to the following questions by April 19, 2018, and provide us with a staff-level briefing on your responses no later than April 26, 2018:

1. What was your rationale for replacing ICE Policy 11032.2: *Identification and Monitoring of Pregnant Detainees* (August 15, 2016) with ICE Directive 11032.3: *Identification and Monitoring of Pregnant Detainees* (December 14, 2017)? Provide any reports, studies, or data that you relied upon in making your decision.
2. Please provide a list of the pregnancy-related health services available at each ICE detention center. How have the health care services to pregnant women in immigration detention changed since December 14, 2017?
3. ICE's August 2016 directive required the ICE Health Service Corps (IHSC) to "maintain information regarding all pregnant detainees in ICE custody" and "develop a system for maintaining this information, providing for ongoing monitoring, tracking, and communication with the field concerning the medical condition of the pregnant detainee and/or the fetus."¹¹ The December 2017 directive identifies IHSC as responsible for "developing and maintaining a system for tracking and monitoring all pregnant detainees in ICE custody."¹² Please provide an overview of ICE's system for tracking and monitoring pregnant detainees, including a description of any planned or enacted changes to the monitoring system since December 14, 2017.
4. How many women are currently in immigration detention?
 - a. How many of those women have been placed in immigration detention since December 14, 2017?
 - b. Of these women, how many reported to ICE that they were fleeing sexual and/or physical abuse in their home country?
 - c. Of these women, how many reported to ICE that they had been raped in the past 12 months?
 - d. In what facilities is ICE holding these women in custody? Please provide a list of the ICE detention facilities that have held female immigrants since December 14, 2017, with an aggregate total of the number of women that have been in custody at each facility.
5. How many pregnant women are currently in immigration detention?
 - a. How many of those women have been placed in immigration detention since December 14, 2017?
 - b. Of these women, how many reported to ICE that they were fleeing sexual and/or physical abuse in their home country?


¹¹ U.S. Immigration and Customs Enforcement, *Memorandum: Identification and Monitoring of Pregnant Detainees* (August 15, 2016) (online at https://www.ice.gov/sites/default/files/documents/Document/2016/11032.2_IdentificationMonitoringPregnantDetainees.pdf).

¹² U.S. Immigration and Customs Enforcement, *ICE Directive 11032.3: Identification and Monitoring of Pregnant Detainees* (December 14, 2017) (online at https://www.ice.gov/sites/default/files/documents/Document/2018/11032_3_PregnantDetainees.pdf).

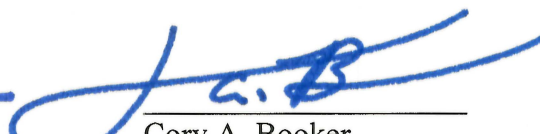
- c. Of these women, how many reported to ICE that they had been raped in the past 12 months?
 - d. In what facilities is ICE holding these pregnant women in custody? Please provide a list of the ICE detention facilities that have held pregnant immigrants since December 14, 2017, with an aggregate total of the number of pregnant women that have been in custody at each facility.
 - e. On average, how long have those women been detained?
 - f. How many pregnant women are subject to mandatory detention?
 - g. Since December 14, 2017, how many women entered ICE facilities while pregnant but later experienced a miscarriage or other negative pregnancy outcome while within ICE custody?
 - h. Of the pregnant women who are no longer in ICE custody, how many were released? How many were deported? Of pregnant women who were deported, how many reported to ICE that they had experienced sexual or physical abuse in their home countries?
6. What training and guidance has been provided to ICE officials regarding implementation of the December 14, 2017 directive?

Please do not hesitate to reach out to Stephanie Akpa (stephanie_akpa@warren.senate.gov) of Senator Warren's staff or Danny Smith (daniel_smith@booker.senate.gov) of Senator Booker's staff with any questions or concerns. We look forward to your prompt response.

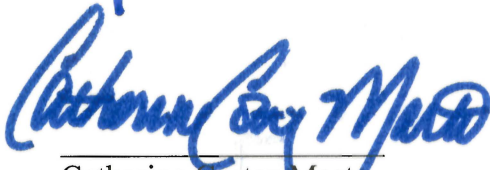
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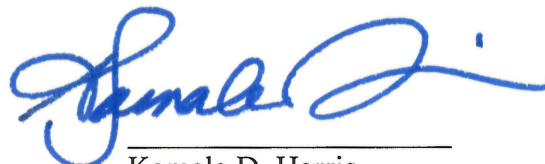
Elizabeth Warren
United States Senator



Cory A. Booker
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Catherine Cortez Masto
United States Senator



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