

RICHARD BLUMENTHAL  
CONNECTICUT

COMMITTEES:

AGING

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JUDICIARY

VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510

706 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510

(202) 224-2823  
FAX: (202) 224-9673

90 STATE HOUSE SQUARE, TENTH FLOOR  
HARTFORD, CT 06103  
(860) 258-6940  
FAX: (860) 258-6958

915 LAFAYETTE BOULEVARD, SUITE 304  
BRIDGEPORT, CT 06604  
(203) 330-0598  
FAX: (203) 330-0608

<http://blumenthal.senate.gov>

October 26, 2017

The Honorable Elaine Duke  
Acting Secretary of Homeland Security  
U.S. Department of Homeland Security  
3801 Nebraska Avenue NW  
Washington, D.C. 20528

The Honorable Thomas D. Homan  
Acting Director  
U.S. Immigration and Customs Enforcement  
500 12th Street, SW  
Washington, D.C. 20536

Dear Acting Secretary Duke and Acting Director Homan:

I am writing to express my concern regarding recent reports about the mistreatment of pregnant women in Immigration and Customs Enforcement ("ICE") custody. These reports indicate that pregnant women have been detained contrary to existing policy and denied timely medical care. In some cases, these detainees have suffered miscarriages. I ask that your Department provide statistical data and clarify its policies on detention and treatment of pregnant women.

Reports indicate that immigration arrests of women have surged since the beginning of the Trump administration. According to media reports, ICE arrests of women from January through April of 2017 are 35 percent higher than during the same time period last year.<sup>1</sup> Over the past fiscal year, ICE had 525 pregnant women in custody.<sup>2</sup> Detention of pregnant women is an extremely risky practice, since these detainees require special medical attention.

As you know, established ICE policy requires officials to generally avoid detention of pregnant women and to provide proper medical treatment to them. In an August 2016 memorandum from you to your staff, entitled *Identification and Monitoring of Pregnant Detainees*, you wrote that pregnant women will "generally not be detained by ICE" absent "extraordinary circumstances or the requirement of mandatory detention."<sup>3</sup> You also asked field operations officials to reevaluate

<sup>1</sup> Liz Jones, *Her miscarriage in ICE detention raises questions about care*, KUOW, July 19, 2017, <http://kuow.org/post/her-miscarriage-ice-detention-raises-questions-about-care>.

<sup>2</sup> Roque Planas, *Two Women Say They Lost Pregnancies In Immigrant Detention Since July*, HUFFINGTON POST, September 28, 2017, [https://www.huffingtonpost.com/entry/immigrant-detention-pregnancy\\_us\\_59cbae4e4b05063fe0e211b](https://www.huffingtonpost.com/entry/immigrant-detention-pregnancy_us_59cbae4e4b05063fe0e211b).

<sup>3</sup> *Identification and Monitoring of Pregnant Detainees*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, August 15, 2016, [https://www.ice.gov/sites/default/files/documents/Document/2016/11032.2\\_IdentificationMonitoringPregnantDetainees.pdf](https://www.ice.gov/sites/default/files/documents/Document/2016/11032.2_IdentificationMonitoringPregnantDetainees.pdf).

pregnant women on a weekly basis to determine whether they must continue to be detained. In addition, the *2007 ICE Family Residential Standards* and *Revised 2016 ICE Performance-Based National Detention Standards* lay out requirements for proper treatment of pregnant women, including mandating access to pregnancy testing, pregnancy management services, and more.<sup>4</sup> They also generally prohibit the use of force. Detentions of pregnant women must also be approved by the Field Office Director, with notice sent to ICE headquarters.<sup>5</sup>

Despite this guidance, there have been numerous reports that ICE has mistreated pregnant detainees. A complaint filed by the American Civil Liberties Union, American Immigration Council, and five other advocacy groups on September 26 documents 10 cases in which ICE delayed or denied the release of pregnant women, provided inadequate medical care, or simply ignored pregnant women when they asked for medical assistance.<sup>6</sup> This may have led to physical illness, depression, and miscarriage. Monica,<sup>7</sup> a 31-year-old woman from Mexico, was allegedly taken into custody in April when she appeared for an appointment with ICE. She was four weeks pregnant. Three weeks into the detention, she suffered a miscarriage after having to wait over an hour for any medical help. ICE continued to detain Monica for a total of over two months, even after three separate attempts by her attorney to push for her release.

ICE has an obligation to protect individuals that it holds in its custody, especially those who require special care. Given my concern over recent reports, I ask that you provide answers to the following questions within 30 days.

#### GENERAL STATISTICS

Please provide the following statistics.

- The number of pregnant women taken into custody by ICE, by month and detention center, starting from the inception of the pregnant detainee policy in August 2016.
- The average length of stay for pregnant women in ICE custody, by month and detention center, starting from the inception of the pregnant detainee policy in August 2016.
- The number of newly admitted detainees released within 72 hours after they are identified as pregnant, by month and detention center starting from the inception of the pregnant detainee policy in August 2016.
- The number of newly admitted detainees not released within 72 hours after they are identified as pregnant, by month and detention center starting from the inception of the pregnant detainee policy in August 2016.

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<sup>4</sup> *ICE Family Residential Standards*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (2007), <https://www.ice.gov/detention-standards/family-residential>; *ICE Performance-Based Detention Standards*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Rev. 2016), <https://www.ice.gov/doclib/detention-standards/2011/4-4.pdf>.

<sup>5</sup> *ICE Performance Based Detention Standards*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Rev. 2016), <https://www.ice.gov/doclib/detention-standards/2011/2-2.pdf>.

<sup>6</sup> *U.S. Immigration and Customs Enforcement's Detention and Treatment of Pregnant Women*, AMERICAN CIVIL LIBERTIES UNION ET AL., September 26, 2017, <https://www.aclu.org/legal-document/pregnant-women-ice-custody-complaint-dhs-office-civil-rights-and-civil-liberties-and>.

<sup>7</sup> Monica is a pseudonym used for confidentiality purposes.



- The number of recorded violations of the policy articulated in the August 2016 memorandum, *Identification and Monitoring of Pregnant Detainees*, by month and detention center, starting from the inception of the policy in August 2016.

## POLICIES

- Can you confirm that the policies outlined in the August 2016 memorandum titled *Identification and Monitoring of Pregnant Detainees*, remain in force?
- Per the August 2016 memorandum, pregnant women will “generally not be detained by ICE” absent “extraordinary circumstances or the requirement of mandatory detention.” How does ICE evaluate “extraordinary circumstances”?
- Absent extraordinary circumstances, how long does it take, on average, to release newly admitted pregnant detainees, from the moment they are identified as pregnant? Please provide this statistic for the time period of January through September 2017 by detention center.
- What information does ICE collect and require to determine when a detainee is pregnant?
- Absent extraordinary circumstances, how long does it take, on average, to release detainees from the moment ICE is notified that they are pregnant (by the detainee, their attorney, a medical assessment, or otherwise)? Please provide this statistic for the time period of January through September 2017 by detention center.
- Per the August 2016 memorandum, “At least weekly, ERO Field Operations shall, in consultation with IHSC HQ and OPLA management, evaluate whether each pregnant detainee’s continued detention is appropriate.” In practice, how frequently are pregnant detainees reevaluated? Please provide this statistic for the time period of January through September 2017 by detention center.
- What training do ICE officers and agents receive on complying with the policies laid out in the August 2016 memorandum? How often do they receive this training? Who conducts the training?
- What are the consequences when an ICE officer or agent violates existing policies regarding the treatment and detention of pregnant women?

To provide your response, or if you have any questions, please contact Sam Simon in my office at [sam\\_simon@judiciary-dem.senate.gov](mailto:sam_simon@judiciary-dem.senate.gov).

Sincerely,



Richard Blumenthal  
United States Senator