

June 4, 2024

Acting Commissioner Troy Miller
U.S. Customs and Border Protection
1300 Pennsylvania Avenue NW
Washington, DC 20229

Via email

Re: Limiting CBP Detention of Pregnant, Postpartum, and/or Nursing Individuals

Dear CBP Commissioner Miller,

We write once more concerning U.S. Customs and Border Protection (CBP)'s treatment of people who are pregnant, postpartum, and/or nursing.¹ Specifically, we write to deliver a petition signed by **1,462 individuals and 138 immigrants' rights, reproductive justice, medical, and human rights organizations** urging CBP to strictly limit its detention of people who are pregnant, postpartum, and/or nursing, and their families, to the minimum time period necessary to process them for release to networks of care in the United States.

Organizational signatories include Planned Parenthood, Human Rights Watch, and Doctors for America, in addition to our organizations, the American Civil Liberties Union (ACLU), the ACLU of San Diego & Imperial Counties, the Center for Immigration Law and Policy at UCLA Law, and Jewish Family Service of San Diego, which have collectively been in dialogue with CBP and the U.S. Department of Homeland Security (DHS) about this issue for over four years.

Our communication with CBP and DHS began in April 2020, when we demanded an investigation into the harrowing experience of Ana, who was forced to give birth in CBP custody at the Chula Vista Border Patrol Station, without adequate medical care and while holding onto a

¹ American Civil Liberties Union, Center for Immigration Law and Policy at UCLA School of Law, and Jewish Family Service of San Diego, Letter to Commissioner Magnus Re: Limiting Customs and Border Protection's Detention of People Who Are Pregnant, Postpartum and/or Nursing, and Infants (Oct. 20, 2022), <https://www.aclu.org/wp-content/uploads/document/10.20.2022-Letter-to-Commissioner-Magnus.pdf>; American Civil Liberties Union, Center for Immigration Law and Policy at UCLA School of Law, and Jewish Family Service of San Diego, Letter to Commissioner Magnus Re: Limiting Customs and Border Protection's Detention of People Who Are Pregnant, Postpartum and/or Nursing, and Infants (April 25, 2023), <https://wp.api.aclu.org/wp-content/uploads/2023/04/2023-04-25-Sign-on-Letter-to-CBP-Acting-Comm-Miller.pdf>

garbage can for support, and who was forced to return to the station for a night of postpartum detention with her newborn baby.²

We acknowledge that in November 2021, CBP issued updated guidance regarding the agency's treatment of pregnant, postpartum, and nursing individuals.³ As we have previously raised, that guidance falls significantly short of what is needed to properly address the needs of this population; namely, it fails to direct agents to expedite processing and release for this population. Indeed, since the release of the November 2021 guidance, we have written to and otherwise engaged with CBP on numerous occasions to share additional disturbing accounts of mistreatment of pregnant, postpartum, and nursing individuals and their babies, including the case of a pregnant woman with an active infection who was detained for *16 days* in Border Patrol custody; and that of a nursing mother and her six-month-old baby who were verbally abused and denied medical assistance for four days, despite the baby having respiratory problems that the mother disclosed to the agents.⁴

We know that CBP could prevent each and every one of these traumatic experiences by adopting the immediate, life-saving, and common-sense policy recommendations that we have made in previous communications and repeat below—now with the support of *1,600 individual and organizational signatories*:

- Expedite CBP processing and release of people who are pregnant, postpartum, and/or nursing, and their families, to ensure that any period of CBP detention of members of this population is limited to the time period necessary to process them for release from CBP custody. In no case should custody exceed 12 hours from the time of initial apprehension.
- Ensure that, together with their families, people who are pregnant, postpartum, and/or nursing are released from CBP custody as soon as possible after any discharge from an offsite hospital and are not transferred back to CBP detention for any purposes, including processing.

As you know, adopting these recommendations would bring CBP policy in line with U.S. Immigration and Customs Enforcement (ICE)'s recognition that this vulnerable population should not be detained absent rare circumstances.⁵

² ACLU of San Diego and Imperial Counties and Jewish Family Services, Letter to Office of Inspector General Re: U.S. Border Patrol's Abuse and Mistreatment of [redacted] (April 8, 2020), https://www.aclu-sdic.org/sites/default/files/2020-04-07-oig-cmplt-final_redacted.pdf.

³ U.S. Customs and Border Protection, *Policy Statement and Required Actions Regarding Pregnant, Postpartum, Nursing Individuals, and Infants in Custody* (Nov. 2021), <https://www.cbp.gov/sites/default/files/assets/documents/2021-Nov/pregnancy-postpartum-infants-policy-signed.pdf>.

⁴ *Supra* note 1.

⁵ U.S. Immigration and Customs Enforcement, *ICE Directive 11032.4: Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals* (July 1, 2021),

Thank you for your attention to this critical matter. We look forward to a response detailing what progress CBP has made to address these concerns and policy recommendations by July 08, 2024. Please feel free to contact us with questions or for further information.

/s/ Monika Y. Langarica

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Attachment: Petition to CBP Commissioner Miller with lists of 138 organizational and 1,462 individual signatories

CC: Nat Kaine, Chief of Staff, CBP
Tim Quinn, Executive Director, Intergovernmental Public Liaison, CBP

https://www.ice.gov/doclib/detention/11032.4_IdentificationMonitoringPregnantPostpartumNursingIndividuals.pdf.

Attachment

Dear CBP Commissioner Miller,

I urge U.S. Customs and Border Protection (CBP) to protect the health and wellbeing of pregnant, postpartum, and nursing parents, and their children. Even after numerous instances in which pregnant mothers have been subjected to unsafe conditions without access to adequate medical care — and even forced to give birth while in a CBP facility — CBP continues to detain this vulnerable population for days and sometimes weeks at a time when they need community care most. This is unacceptable.

CBP must limit its detention of people who are pregnant, postpartum, and/or nursing, and their families to the minimum time period necessary to process them for release to networks of care in the United States.

I urge immediate, life-saving, and common sense changes in CBP policy to protect people who are pregnant, postpartum, and/or nursing, and their families, including to:

- Limit the time that CBP detains people who are pregnant, postpartum, and/or nursing, and their families, to the time period necessary to process them for release. In no case should detention exceed 12 hours from the time of initial apprehension.
- Ensure that medically vulnerable individuals who receive care in an offsite hospital are not transferred back to CBP detention with their families upon discharge to ensure their safety and continuity of care.

CBP's current policies and practices are morally deficient and inhumane. They fail to protect the reproductive health of pregnant, postpartum, and nursing parents in CBP custody, and they are inconsistent with DHS's recognition that this medically vulnerable population should not be detained except in rare circumstances.

The only way to protect the health and dignity of pregnant, postpartum, and nursing parents, and their children is to limit their detention altogether.

I urge you to exercise moral leadership by protecting the health and dignity of this vulnerable population.

Signed,

Organizations

1. #WelcomeWithDignity
2. ACLU
3. ACLU of Arizona
4. ACLU of Connecticut
5. ACLU of Nebraska
6. ACLU of New Jersey
7. ACLU of New Mexico
8. Al Otro Lado
9. Alianza Nacional de Campesinas, Inc
10. American Friends Service Committee

11. Americans for Immigrant Justice
12. Asian Americans Advancing Justice | AAJC
13. Bet Tzedek Legal Services
14. Bold Futures NM
15. Border Servant Corps
16. Borderlands Resource Initiative
17. Brothers Sons Fathers
18. California Immigrant Policy Center
19. CARECEN of Northern CA
20. CASA CORNELIA LAW CENTER
21. CBFID Indivisible (San Diego)
22. Center for Immigration Law and Policy at UCLA School of Law
23. Center for Victims of Torture
24. Central American Resource Center
25. Central American Resource Center - CARECEN
26. Children's Law Center of CA
27. CHIRLA
28. Christian W Westphal
29. Church World Service
30. Clinica Monsenor Oscar A. Romero
31. Coalition on Human Needs
32. COFEM
33. Community Action Board of Santa Cruz County, Inc. (CAB)
34. Community for Children
35. Comunidad de Apoyo San Diego
36. Council on American-Islamic Relations, California
37. Del Camino Jesuit Border Ministries
38. Doctors for America
39. Doctors for Camp Closure
40. Dr. Bronner's Family Foundation
41. EL CENTRO de Igualdad y Derechos
42. El Rescate
43. Equality New Mexico
44. Espacio Migrante
45. Estrella del Paso (Formerly Diocesan Migrant and Refugee Services Inc)
46. Faith In Texas
47. Family Action Network Movement
48. FEA Foundation Ministries
49. Florence Immigrant & Refugee Rights Project
50. Frontera Fund
51. GRACE - End Child Poverty in California
52. Haitian Bridge Alliance
53. Human Rights First

54. Human Rights Watch
55. Humanitarian Outreach for Migrant Emotional Health (H.O.M.E.)
56. IMMIGO
57. Immigrant Defenders Law Center
58. Immigrant Legal Resource Center (ILRC)
59. Immigration Resource Center of San Gabriel Valley
60. Indivisible Marin
61. INDIVISIBLE SANTA FE
62. Indivisible49
63. Innovation Law Lab
64. Interfaith Community Services
65. J. Walcher Communications
66. Jane's Due Process
67. Jewish Family and Children's Service of Long Beach and Orange County
68. Jewish Family Service
69. Jewish Family Service of San Diego
70. JULIAN INDIVISIBLE
71. Justice Action Center
72. KIWA
73. Labor Council for Latin American Advancement
74. Las Americas Immigrant Advocacy Center
75. LAS VANDERS
76. Latino Action Network Foundation
77. Lawyers for Good Government
78. Little Angels Pediatrics
79. Lutheran Social Services of the National Capital Area (LSSNCA)
80. MAAC
81. Mauritanian network for Human Rights
82. Miami Valley Immigration Coalition
83. Microgrid Systems Laboratory
84. Mobile Pathways
85. Muslim Advocates
86. National Immigrant Justice Center
87. National Latina Institute for Reproductive Justice
88. National Network for Immigrant and Refugee Rights (NNIRR)
89. New Jersey Alliance for Immigrant Justice
90. New Mexico Immigrant Law Center (NMILC)
91. Oasis Legal Services
92. Partnership for the Advancement of New Americans
93. Pilgrim United Church of Christ, Carlsbad CA
94. Planned Parenthood
95. Pomona Economic Opportunity Center
96. ProgressNow New Mexico

97. Rights Behind Bars
98. Safe Harbors / Christ Ministry Center
99. Samuel Lawrence Foundation
100. San Diego Immigrant Rights Consortium (SDIRC)
101. San Diego Organizing Project (SDOP)
102. San Diego Rapid Response Network (SDRRN)
103. Sanctuary for Families
104. Santa Cruz Welcoming Network
105. Services, Immigrant Rights and Education Network
106. SIREN
107. Sisters of St. Dominic of Blauvelt, New York
108. So Cal Immigration Project
109. Social Workers for Immigration Justice
110. Sojourners
111. SOLACE San Diego
112. SOUTH ASIAN NETWORK, INC
113. South Bay People Power
114. Southern Border Communities Coalition (SBCC)
115. Strong Families NM
116. Survivors of Torture, International (San Diego)
117. Team Brownsville
118. Tewa Women United
119. The 5ive Pillars Organization
120. The Children's Partnership
121. The Immigrant Health Equity and Legal Partnership (ImmHELP)
122. The Justice & Diversity Center
123. The Right to Immigration Institute
124. T'ruah: The Rabbinic Call for Human Rights
125. Tsuru for Solidarity
126. UCSC LALS
127. United Voices for Newcomer Rights
128. Universidad Popular
129. UVNR
130. Vital Immigrant Defense Advocacy and Services
131. Washington Office on Latin America
132. We All We Got San Diego
133. We Are All America
134. Wind of the Spirit Immigrant Resource Center
135. Witness at the Border
136. Women's Refugee Commission
137. World Relief Southern California
138. Young Center for Immigrant Children's Rights

Individuals

[Redacted]