



One Hundred Sixteenth Congress  
Committee on Homeland Security  
U.S. House of Representatives  
Washington, DC 20515

April 20, 2020

The Honorable Mark A. Morgan  
Acting Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Ave. NW  
Washington, DC 20229

Dear Acting Commissioner Morgan,

Building on the Committee's ongoing investigation of the treatment of children in the custody of Customs and Border Protection (CBP), we write with profound concerns regarding the treatment of another vulnerable group in CBP detention: pregnant women.<sup>1</sup> Given that CBP has detained nearly twice as many pregnant women in 2018 as it did in 2017,<sup>2</sup> allegations that these women are not receiving proper care and medical treatment while in custody are alarming. Our concerns are heightened by the current coronavirus pandemic, which poses significant risks for all individuals held in CBP custody but particularly for those with underlying medical conditions.

We are deeply troubled by what appears to be a pattern of mistreatment of pregnant women in CBP custody. Earlier this month, the American Civil Liberties Union (ACLU) and Jewish Family Service (JFS) of San Diego filed a complaint with the Department of Homeland Security's (DHS or the Department) Office of the Inspector General detailing an appalling incident from February 2020 in which a Guatemalan woman gave partial birth into her pants while holding onto the rim of a trash can, after Border Patrol agents ignored her distress and pleas for help from her family.<sup>3</sup>

In their January 2020 complaint,<sup>4</sup> the ACLU documents other deeply disturbing allegations of mistreatment, neglect, and abuse suffered by migrant women in CBP custody during 2019. In one case, a Honduran woman who was 6-months pregnant alleges she was shoved face-first into a

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<sup>1</sup> See e.g., Letter to Acting Secretary Chad Wolf, Department of Homeland Security, from Chairman Bennie G. Thompson, Committee on Homeland Security (Feb. 11, 2020); Committee on Homeland Security, "DHS Inspector General Amends Public Summary of Report on Child Death in CBP Custody After Shortcomings Identified by Chairman Thompson" (April 14, 2020) (online at <https://homeland.house.gov/news/press-releases/dhs-inspector-general-amends-public-summary-of-report-on-child-death-in-cbp-custody-after-shortcomings-identified-by-chairman-thompson>).

<sup>2</sup> U.S. Gov't Accountability Off., GAO-20-36, Immigration Enforcement: Arrests, Detentions, and Removals, and Issues Related to Selected Populations 38 (2019).

<sup>3</sup> Letter from ACLU & Jewish Family Service to Joseph V. Cuffari, Department of Homeland Security Office of Inspector General, Re: U.S. Border Patrol's Abuse and Mistreatment of a Woman at the Chula Vista Border Patrol Station, April 8, 2020, available at [https://www.aclusandiego.org/wp-content/uploads/2020/04/2020-04-07-OIG-Cmplt-Final\\_Redacted.pdf](https://www.aclusandiego.org/wp-content/uploads/2020/04/2020-04-07-OIG-Cmplt-Final_Redacted.pdf)

<sup>4</sup> Letter from ACLU to Joseph V. Cuffari, Department of Homeland Security Office of Inspector General, Re: U.S. Customs and Border Protection and Border Patrol's Mistreatment of Detained Pregnant People, Jan. 22, 2020, available at <https://www.aclusandiego.org/wp-content/uploads/2020/01/2020-01-22-OIG-Complaint-1-FINAL-1.pdf>

chain link fence. In another case, a pregnant woman alleges she was held for more than ten days with no access to hygiene products, a shower, or clean clothing. She also claims that the food she was served was spoiled, the water smelled of chlorine, and that the cell in which she was held was so crowded she feared being accidentally stepped on, kicked, or elbowed by other detainees.<sup>5</sup>

The ACLU also highlighted in this same complaint the experience of a 35-year-old, HIV-positive Honduran woman who miscarried in a Border Patrol facility. Despite reportedly fainting, losing a significant amount of blood, and asking for help, the woman was not given any medical assistance, provided with sanitary napkins or hygienic supplies, allowed to take a shower, or even allowed to speak with her husband following the miscarriage.<sup>6</sup>

The Department's Office for Civil Rights and Civil Liberties (CRCL) has also received dozens of complaints regarding CBP's treatment of pregnant women throughout this Administration. Among other allegations, these complaints allege that CBP has: denied a pregnant woman medical attention during and after a miscarriage; separated a pregnant minor from her mother; denied and delayed medical care to pregnant minors; verbally abused pregnant women; and conducted invasive searches.<sup>7</sup>

The ACLU reports it also interviewed multiple pregnant women who remained in CBP custody for extended periods of time during 2019, including one woman who remained in custody for eighteen days but was not given clean undergarments for two weeks and consequently developed a persistent infection that needed medical care.<sup>8</sup> The CRCL complaints document other cases in which pregnant women were apparently held well beyond the 72-hour standard for detention set by National Standards on Transportation, Escort, Detention and Search (TEDS) for CBP facilities.<sup>9</sup>

Although CBP has a legal obligation to refer all unaccompanied minors in its custody within 72 hours to the Department of Health and Human Services (HHS), CRCL was also made aware by HHS in June 2019 of three cases of pregnant minors who were held for 10 days or longer in CBP facilities.<sup>10</sup> Prolonged detention in CBP facilities is particularly dangerous for young, vulnerable, expectant mothers—who need close monitoring and routine medical care even when their pregnancies are not considered to be high risk.

The accounts of the treatment pregnant women have received in CBP care are shocking and the Committee requests that CBP provide by May 1, 2020 documents sufficient to show:

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<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Letter from ACLU to Joseph V. Cuffari, Department of Homeland Security Office of Inspector General, Re: U.S. Customs and Border Protection and Border Patrol's Abuse and Mistreatment of Detained Pregnant People— Addendum to Complaint of January 22, 2020, March 4, 2020, available at <https://www.aclusandiego.org/wp-content/uploads/2020/03/2020-03-04-OIG-compl-preg-persons-addendum-appendix-FINAL.pdf>

<sup>8</sup> Letter from ACLU to Joseph V. Cuffari, Department of Homeland Security Office of Inspector General, Re: U.S. Customs and Border Protection and Border Patrol's Abuse and Mistreatment of Detained Pregnant People, Jan. 22, 2020, at 8, available at <https://www.aclusandiego.org/wp-content/uploads/2020/01/2020-01-22-OIG-Complaint-1-FINAL-1.pdf>

<sup>9</sup> Letter from ACLU to Joseph V. Cuffari, Department of Homeland Security Office of Inspector General, Re: U.S. Customs and Border Protection and Border Patrol's Abuse and Mistreatment of Detained Pregnant People— Addendum to Complaint of January 22, 2020, March 4, 2020, at 39, available at <https://www.aclusandiego.org/wp-content/uploads/2020/03/2020-03-04-OIG-compl-preg-persons-addendum-appendix-FINAL.pdf>

<sup>10</sup> Id.

1. the number of pregnant women held in custody from January 20, 2017 through the present, including the length of detention of each woman;
2. the number of miscarriages and stillbirth that have occurred among women in CBP custody in any location from January 20, 2017 through the present, including the age of each woman, the length of her detention in CBP custody at the time of the miscarriage or stillbirth, and the location of the miscarriage or stillbirth; and
3. the number of pregnant women held in custody from January 20, 2017 through the present who began any stage of labor while in CBP custody, including the age of each woman, the actions taken by CBP after labor began, and the location of delivery of each woman.

Please also provide all documents referring or relating to:

1. CBP policies, protocols, and guidance regarding the treatment of pregnant women in agency custody, including their access to medical care, prescribed medications, and pre-natal nutritional supplements;
2. CBP policies, protocols, and guidance regarding the treatment of women in custody who begin any stage of labor, including policies, protocols, and guidance regarding the transportation of women in labor to medical facilities;
3. CBP policies, protocols, and guidance regarding women who have given birth in CBP custody and been returned to detention in a CBP facility, including access to basic necessities such as showers, blankets, baby formula, bottles and other essential items for post-partum mothers who may be nursing and recovering from birth;
4. the shackling or restraint in any form of a pregnant detainee; and
5. CBP policies, protocols, and guidance regarding the application of the Migrant Protection Protocols, Asylum Cooperation Agreement, Prompt Asylum Case Review, and Humanitarian Asylum Review Process programs to pregnant women.

The Committee notes that any ongoing investigation by any entity of any incident in CBP custody involving a pregnant woman does not alter the responsibility of CBP to respond to Congressional requests for documents and information in a timely manner. CBP has a duty of care for those in its custody, and the responsibility to provide proper, timely, and compassionate care for vulnerable populations, including pregnant women. The Committee has both the responsibility and the authority to conduct comprehensive and timely oversight of CBP's care for those in its custody.

Thank you for your timely attention to this urgent matter.

Sincerely,

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is fluid and cursive, with the first name being the most prominent.

Bennie G. Thompson  
Chairman

A handwritten signature in black ink that reads "Kathleen M. Rice". The signature is cursive and somewhat stylized, with a long horizontal stroke at the end.

Kathleen M. Rice  
Chairwoman  
Subcommittee on Border Security,  
Facilitation, and Operations