



June 18, 2015

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Monty LaFave, Assistant Field Office Director  
U.S. Immigration and Customs Enforcement  
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Re: **Violations of Policy Regarding Detention, Shackling, and Care of Pregnant Women at Mesa Verde Detention Facility**

Dear Mr. Aitken and Mr. LaFave:

We write regarding Ms. Monserrat Ruiz Cuevas, a noncitizen who suffered a miscarriage at the Mesa Verde Detention Facility (“Mesa Verde”) operated by GEO Group, in Bakersfield. Even though Ms. Ruiz was pregnant, GEO staff fully shackled her while she was transported to a hospital to receive urgent medical care related to her pregnancy. While in transit, she tripped on the shackles and fell on her stomach. She suffered a miscarriage the following day. In the subsequent month that she remained detained at Mesa Verde, GEO staff denied Ms. Ruiz necessary follow-up gynecological care and mental health services.

We are deeply concerned about Ms. Ruiz’s treatment and detention. The detention and shackling of pregnant women like Ms. Ruiz is inhumane and it violates Immigration and Custom Enforcement’s (“ICE”) policy. We therefore urge you to promptly review why GEO and ICE failed to follow these rules in Ms. Ruiz’s case, and take steps to ensure that the detention, shackling, and care of pregnant women at Mesa Verde accord with applicable detention policies.

**I. Ms. Ruiz’s Treatment at Mesa Verde Detention Center**

Ms. Ruiz was stopped at the U.S. border in San Ysidro on May 5, 2015, seeking asylum from Mexico based on the ongoing threats against her and her family. After she was apprehended, Ms. Ruiz was detained and subsequently transported to Mesa Verde in Bakersfield.

When Ms. Ruiz arrived at Mesa Verde on May 8, 2015, GEO staff conducted a pregnancy test but did not inform her of the result of the test.

Executive Director Hector O. Villagra

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\*deceased

On May 10, Ms. Ruiz began to experience heart and breathing complications. GEO staff determined she needed urgent medical care. She was tightly shackled in full arm, waist, and leg restraints, and transported to Mercy Hospital in Bakersfield. There, a doctor determined that she was pregnant and informed her that severe dehydration was causing her symptoms. She was given fluids and then returned, in shackles, to the Mesa Verde facility the following day.

On May 12, Ms. Ruiz again began experiencing health complications and asked to see a doctor. However, she was forced to wait two days, until May 14, to see GEO medical staff. After evaluating Ms. Ruiz, the medical staff determined that she was again in need of urgent care at a hospital.

Although pregnant, Ms. Ruiz was again fully shackled in leg and arm restraints while transported to the hospital. It was raining and the ground was wet. While entering the transportation van, Ms. Ruiz tripped on her shackles and fell hard onto the metal stairs—unable to break her fall because of the shackles. At the hospital, she was kept in shackles the entire time. Ms. Ruiz informed the doctor of her fall on the van steps and of her concerns about it harming her baby, but the doctor did not take any steps to address her concerns. She was returned to Mesa Verde, in shackles, that same day.

The following day, on May 15, Ms. Ruiz began bleeding heavily and experiencing other symptoms of miscarriage. After alerting GEO staff, Ms. Ruiz was transported to the hospital via ambulance in handcuffs. After several hours of waiting to see a doctor while handcuffed to a stretcher, Ms. Ruiz was transferred to a hospital bed and handcuffed to the bed. After she was evaluated, a doctor told Ms. Ruiz that she had lost her child and there was nothing more the doctor could do for her. She was transported back to Mesa Verde that same day, once again in handcuffs.

After May 15, Ms. Ruiz did not receive any follow-up gynecological care to ensure she had not contracted an infection or continued hemorrhaging, despite the fact that Ms. Ruiz was experiencing ongoing bleeding and vaginal irritation. On May 19, she was seen by GEO medical staff at Mesa Verde, but she was only given Tylenol and milk of magnesia. Ms. Ruiz's medical records from that date indicate that GEO medical staff determined that she required an urgent referral to a gynecologist, but she was not provided such care. On May 28 and June 4, her medical records again indicate that medical staff determined that she required gynecological care, but GEO never provided her that care—even though those records reflect that she was experiencing ongoing abdominal pain and vaginal bleeding.

On May 21, after Ms. Ruiz was visibly weeping and depressed for several days after her miscarriage, she was finally taken to meet with a psychiatrist at Mesa Verde. However, when she explained her circumstances, the psychiatrist chuckled and said that all he could do for her was prescribe sleeping medication. Otherwise, Ms. Ruiz has not received any mental health care after her miscarriage, or as a trauma survivor.



On June 5, an asylum officer determined that Ms. Ruiz has a “credible fear” of persecution or torture in Mexico, and referred her case to the immigration courts for a full hearing on her claims for asylum. ICE granted her parole request, with a \$10,000 bond, on June 11. On June 15, after over a month in detention, Ms. Ruiz was released to live with her partner, a legal permanent resident, and her U.S. citizen aunt.

## **II. Ms. Ruiz’s Detention and Treatment Violated the Detention Standards**

Ms. Ruiz’s detention and treatment raises a number of grave concerns regarding whether ICE and GEO have complied with the detention standards and applicable ICE policy.

### **A. Detention of Pregnant Women**

As an initial matter, as a pregnant woman, Ms. Ruiz should not have been detained at all, and certainly not for weeks after she suffered a miscarriage. Department of Homeland Security Secretary Jeh Johnson issued a memorandum in November 2014 providing that pregnant women should not be detained unless there are “extraordinary circumstances” or mandatory detention is required.<sup>1</sup> In cases of mandatory detention, field office directors are encouraged to contact their local Office of Chief Counsel for guidance.<sup>2</sup> Therefore, Ms. Ruiz should have received consideration for release as soon as ICE received notice of her pregnancy on May 10, and after she suffered a miscarriage on May 15.<sup>3</sup> While Ms. Ruiz was ultimately able to post bond and has been released, ICE unnecessarily prolonged her incarceration for weeks and caused her further trauma by not evaluating her for release at an earlier date, and then imposing a high monetary bond that was unnecessary for someone in her circumstances.

### **B. Shackling of Pregnant Women**

We are deeply concerned by GEO’s decision to repeatedly fully shackle or handcuff Ms. Ruiz while she was pregnant, *including while she was experiencing symptoms of miscarriage*. This shackling violated the 2011 PBNDS, which bars the restraint of pregnant women absent “extraordinary circumstances that render restraints absolutely necessary.”<sup>4</sup> This proscription on

<sup>1</sup> See Jeh Johnson, POLICIES FOR THE APPREHENSION, DETENTION AND REMOVAL OF UNDOCUMENTED IMMIGRANTS at 5, Section C (Nov. 20, 2014), [http://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_prosecutorial\\_discretion.pdf](http://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf) (hereinafter “Johnson Memo”).

<sup>2</sup> *Id.*

<sup>3</sup> ICE has taken steps to adhere to this policy elsewhere. Recently, ICE released five pregnant women from the detention facility in Karnes City, Texas. Unfortunately, ICE only released these women after – like Ms. Ruiz – a detained pregnant woman miscarried in the Karnes City detention facility. See Franco Ordonez, *Family Detention Center Rocked by Suicide Try, Release of Pregnant Detainees*, MCCLATCHY DC (Jun. 4, 2015), <http://www.mcclatchydc.com/2015/06/04/268923/family-detention-center-rocked.html>; Unitarian Universalist Service Committee, *Press Release: Latest Karnes Center Shame* (Jun. 5, 2015), <http://www.uusc.org/latest-karnes-center-shame>.

<sup>4</sup> See 2011 PBNDS § 2.15 (“Use of Force and Restraints”) at 213, *available at* [http://www.ice.gov/doclib/detention-standards/2011/use\\_of\\_force\\_and\\_restraints.pdf](http://www.ice.gov/doclib/detention-standards/2011/use_of_force_and_restraints.pdf); 2011 PBNDS § 4.4 (“Medical



restraint of pregnant women applies during “transport, in a detention facility, or at an outside medical facility.”<sup>5</sup> In 2013, Congress’s appropriation bill signed into law by President Obama further reinforced the 2011 PBNDS practice standards. The appropriation bill included a provision asserting: “The [2011 PBNDS § 2.15] Use of Force, issued by ICE, specifically prohibits the use of restraints on pregnant women . . . . The Committee expects ICE to make certain that all detention or other contracts and agreements ensure that the Use of Force exception for pregnant women is fully implemented for all women held under an ICE detainer.”<sup>6</sup>

GEO staff fully shackled Ms. Ruiz—that is, her ankles, wrists, and torso were all restrained—during transportation to a hospital for urgent medical care, even after staff had received notice that she was pregnant on May 10. It is particularly egregious that GEO restrained Ms. Ruiz in handcuffs several days later when she was again transported to the hospital while she was bleeding and suffering obvious signs of miscarriage.

In sum, Ms. Ruiz was fully shackled while pregnant both during transport and at the outside medical facility. This restraint was unnecessary, and therefore violated the 2011 PBNDS.<sup>7</sup> Moreover, the very harm this rule is intended to prevent—harm to the pregnant detainee and danger to her pregnancy—was realized when Ms. Ruiz fell and was unable to protect her body due to GEO’s improper application of restraints.

### C. Access to Reproductive Healthcare Services

GEO also has failed to provide Ms. Ruiz with the reproductive healthcare services mandated by the 2011 PBNDS.

First, GEO medical staff should have provided Ms. Ruiz with the results of her initial pregnancy test. If the results were inconclusive, then they should have provided her with a follow-up pregnancy test within 24 hours of her arrival to conclusively determine whether she was pregnant. The 2011 PBNDS guarantees a detainee a “thorough evaluation and assessment of the reproductive system.”<sup>8</sup> Specifically, it provides that “[i]f the initial medical intake screening indicates the possibility of pregnancy . . . an initial health appraisal shall be completed

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Care (Women)”) at 304, *available at* [http://www.ice.gov/doclib/detention-standards/2011/medical\\_care\\_women.pdf](http://www.ice.gov/doclib/detention-standards/2011/medical_care_women.pdf).

<sup>5</sup> 2011 PBNDS §§ 2.15, 4.4.

<sup>6</sup> 113th Congress, Report 113–77, Dept. of Homeland Security Detention of Pregnant Women, *available at* <http://www.gpo.gov/fdsys/pkg/CRPT-113srpt77/pdf/CRPT-113srpt77.pdf>.

<sup>7</sup> There is no indication that Ms. Ruiz’s situation presented extraordinary circumstances rendering restraint absolutely necessary. Assuming *arguendo* that even if any of the conditions for restraint applied, the method and duration of the restraints must be the safest and the least restrictive as necessary. *See* 2011 PBNDS § 4.4 (“Medical Care (Women)”) at 307, *available at* [http://www.ice.gov/doclib/detention-standards/2011/medical\\_care\\_women.pdf](http://www.ice.gov/doclib/detention-standards/2011/medical_care_women.pdf). Even if Ms. Ruiz absolutely needed to be restrained, being fully shackled does not meet this least-restrictive-means policy.

<sup>8</sup> 2011 PBNDS § 4.4 at 306.



as soon as possible, but no more than 24 hours after arrival.”<sup>9</sup> GEO failed to comply with these requirements. Even though Ms. Ruiz informed GEO staff that she thought she was pregnant upon arrival and received an “inconclusive” pregnancy test on initial screening, GEO failed to provide another test within the mandated 24 hours. She was only confirmed to be pregnant after a medical emergency necessitated a trip to the hospital two days later. The failure to provide a timely pregnancy test delayed Ms. Ruiz’s access to treatment and provision of services that may be necessary to avoid complications, such as the miscarriage that tragically took place here.

Second, the medical care that Ms. Ruiz received after GEO staff was notified of her pregnancy fails to meet the detention standards. The 2011 PBNDS requires that a pregnant detainee “be given close medical supervision” throughout her pregnancy, as well as “access to prenatal and specialized care, and comprehensive counseling inclusive of, but not limited to: nutrition, exercise, complications of pregnancy, prenatal vitamins, labor and delivery, postpartum care, lactation, family planning, abortion services and parental skills education.”<sup>10</sup> Despite these clear, extensive requirements, when Ms. Ruiz complained of back pain and other distressing symptoms on May 12, she did not receive any medical care until she looked ill enough to be taken to the hospital two days later, on May 14.

Finally, Ms. Ruiz did not receive adequate mental health or gynecological health care in the aftermath of her miscarriage. The 2011 PBNDS requires facilities to provide counseling and mental health assessments “to any detainee who has recently given birth, miscarried or terminated a pregnancy.”<sup>11</sup> In Ms. Ruiz’s case, the psychiatrist was dismissive of the trauma she had experienced and merely prescribed her sleeping pills, rather than providing a substantive mental health assessment or counseling. Furthermore, Ms. Ruiz is guaranteed “routine, age appropriate gynecological and obstetrical health care, consistent with meeting recognized community guidelines for women’s health services.”<sup>12</sup> After a miscarriage, timely follow-up gynecological health care is routine and medically necessary.<sup>13</sup> Nevertheless, Ms. Ruiz did not receive gynecological health care at Mesa Verde, including after her miscarriage on May 15.

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Ms. Ruiz’s detention and treatment by ICE and GEO violate ICE policy and is inhumane and unacceptable. We urge ICE to take several steps to address Ms. Ruiz’s mistreatment and ensure that no other detainees are at risk of suffering a similar fate.

First, ICE should take steps to ensure that its policies and procedures at Mesa Verde comply with the 2011 PBNDS and Secretary Johnson’s November 2014 Memorandum,

<sup>9</sup> 2011 PBNDS § 4.4 at 305.

<sup>10</sup> 2011 PBNDS § 4.4 at 306-307.

<sup>11</sup> 2011 PBNDS § 4.4 at 308.

<sup>12</sup> 2011 PBNDS § 4.4 at 304.

<sup>13</sup> See THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, FREQUENTLY ASKED QUESTIONS: EARLY PREGNANCY LOSS (Aug. 2013), <http://www.acog.org/~media/For%20Patients/faq090.pdf> (discussing the need for follow-up medical and mental health care after a miscarriage).

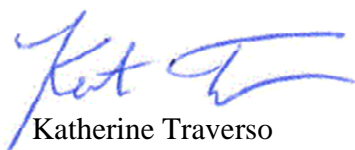


including: the prohibitions on (1) the detention of pregnant women absent “extraordinary circumstances; and (2) the shackling of pregnant women absent “extraordinary circumstances that render restraints absolutely necessary.”

Second, ICE should take steps to ensure that GEO staff at Mesa Verde are properly trained on and follow the detention standards. Specifically, ICE should ensure that GEO has policies and procedures in place to: (1) identify pregnant detainees within 24 hours of arrival, which includes providing follow-up pregnancy tests; (2) closely monitor pregnant detainees and be responsive to their medical needs; and (3) provide gynecological services and substantive mental health counseling to women who have suffered pregnancy complications.

We look forward to your prompt attention to these matters. If you have any questions, please contact Katherine Traverso at 213-977-5234 or [ktraverso@acluscocal.org](mailto:ktraverso@acluscocal.org). Because ICE continues to detain pregnant women at Mesa Verde who are at risk of similar treatment, we ask that you respond to us on or before Wednesday, June 24.

Sincerely,



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