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5

6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF ALASKA

8 Valeria MENDOZA SANTIAGO

9 Petitioner,

10 v.

11 Laura HERMOSILLO, Acting Field Office  
Director of Enforcement and Removal  
Operations, Seattle Field Office,  
12 Immigration and Customs Enforcement;  
Brandon JONES, Superintendent, Hiland  
13 Mountain Correctional Center, Alaska  
Department of Corrections; Todd LYONS,  
14 Acting Director of Immigration and  
Customs Enforcement; Kristi NOEM,  
15 Secretary, U.S. Department of Homeland  
Security; U.S. DEPARTMENT OF  
16 HOMELAND SECURITY; Pamela BONDI,  
U.S. Attorney General.

17 Respondents.  
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Case No.

**MEMORANDUM IN SUPPORT OF  
EMERGENCY TEMPORARY  
RESTRAINING ORDER**

1                   **MEMORANDUM IN SUPPORT OF EMERGENCY TEMPORARY**  
2                   **RESTRAINING ORDER**

3                   **I. INTRODUCTION:**

4                   Petitioner Valeria Mendoza-Santiago is a pregnant Mexican national who entered  
5 the United States without inspection in June 2021 and has remained physically present  
6 in the United States since that time. She was not apprehended upon arrival, but rather  
7 was later encountered from within the United States. She was detained this morning in  
8 Anchorage Alaska, by Agents with Immigration and Customs Enforcement's Homeland  
9 Security Investigations (HIS). Respondents know that she is pregnant, yet they  
10 continue to hold her in civil immigration detention notwithstanding ICE's own  
11 governing policy that individuals known to be pregnant, postpartum, or nursing  
12 generally should not be detained unless release is prohibited by law or exceptional  
13 circumstances exist. Dep't of Homeland Sec., *Response to Senator Patty Murray and*  
14 *Others' September 18, 2025 Letter 1–2* (as of Feb. 16, 2026). The Petitioner was  
15 informed that she will be taken to Tacoma tomorrow Saturday, March 21st and placed at  
16 the North West Immigration Processing Center.

17                   This case presents a straightforward failure by the government to follow its own  
18 detention framework in a setting where liberty and bodily integrity are directly at stake.  
19 ICE Directive 11032.4 establishes a release-oriented policy for known pregnant  
20 individuals and requires notification, custody review, and medical reevaluation in the  
21 limited circumstances where detention continues. *Id.* at 2. Yet Respondents continue to  
22 detain Ms. Mendoza-Santiago despite her known pregnancy and, on information and  
23 belief, without complying with that framework or identifying any legal bar to release or  
any exceptional circumstance warranting continued detention. Because that detention is  
unlawful under the Administrative Procedure Act, the Accardi doctrine, 28 U.S.C. §  
2241, and the Fifth Amendment, temporary restraining relief is warranted.

## II. FACTUAL BACKGROUND

Valeria Mendoza-Santiago is a national and citizen of Mexico. She entered the United States without inspection in June 2021 and has remained in the United States since that time. She was detained by ICE agents with HIS and has not been served with a Notice to Appear in removal proceedings. Petitioner has also filed for a bond reconsideration request with the Portland Immigration Court which is the proper venue for Alaska detainees.

Ms. Mendoza-Santiago is currently pregnant. Respondents knew, or reasonably should have known, that she is pregnant. Despite that knowledge, Respondents detained, and/or continued to detain, her in civil immigration custody without there being an exception to the implementation of the Agency's policy on detention of pregnant women.

On information and belief, Respondents did not comply with the procedural safeguards governing detention of known pregnant individuals, including meaningful custody review, approval by the appropriate Field Office leadership, medically informed consideration of continued detention, and a determination whether release was prohibited by law or whether exceptional circumstances existed. DHS has publicly confirmed that the decision whether to detain should be made separately from the decision whether to initiate removal proceedings and that, in the limited circumstances in which detention continues, ICE conducts regular custody and medical reevaluation. Dep't of Homeland Sec., *Response to Senator Patty Murray and Others' September 18, 2025 Letter 2* (as of Feb. 16, 2026).

Each additional day of detention inflicts ongoing harm to Ms. Mendoza-Santiago's liberty, prenatal well-being, and physical and emotional health. DHS has reported that, as of February 16, 2026, there were 86 detainees identified as pregnant and that sixteen miscarriages occurred during the covered reporting period in ICE custody. *Id.* at 1, 3.

1 **III. LEGAL STANDARD**

2 A temporary restraining order is warranted where the movant shows that she is  
3 likely to succeed on the merits, is likely to suffer irreparable harm in the absence of  
4 preliminary relief, that the balance of equities tips in her favor, and that an injunction is  
5 in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).  
6 In the Ninth Circuit, serious questions going to the merits and a balance of hardships  
7 that tips sharply toward the movant may also support temporary relief, so long as  
8 irreparable harm and public interest are shown. *Alliance for the Wild Rockies v.*  
*Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

9 **IV. ARGUMENT**

10 **A. Petitioner is likely to succeed on the merits.**

11 **1. Respondents are violating ICE’s own pregnancy directive.**

12 ICE’s governing policy is clear. DHS has publicly stated that, under ICE Directive  
13 11032.4, “generally, ICE should not detain, arrest, or take into custody for an  
14 administrative violation of immigration laws aliens known to be pregnant, postpartum,  
15 or nursing unless release is prohibited by law or exceptional circumstances exist.” Dep’t  
16 of Homeland Sec., *Response to Senator Patty Murray and Others’ September 18, 2025*  
17 *Letter* 1–2 (as of Feb. 16, 2026). DHS further explained that “[t]he decision whether to  
18 detain should be made separately from the decision whether to initiate removal  
19 proceedings or take any other immigration enforcement actions,” and that, where  
20 detention continues, ICE conducts “regular custody and medical reevaluation.” *Id.* at 2.

19 Here, Respondents are continuing to detain Ms. Mendoza-Santiago despite her  
20 known pregnancy. On information and belief, Respondents did not comply with the  
21 governing review, approval, consultation, and reevaluation framework. Nor have  
22 Respondents identified any legal bar to release or any exceptional circumstance  
23 justifying detention. Where the agency has adopted procedures that directly affect  
liberty and bodily integrity, it cannot ignore them and continue detention as though they  
do not exist.



1 **2. Petitioner is likely to succeed under *Accardi* and the APA.**

2 Federal agencies must follow their own rules and procedures when individual  
3 rights are affected. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68  
4 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). The principle is not confined to  
5 formal regulations alone. *See, e.g., Damus v. Nielsen*, 313 F. Supp. 3d 317, 336–37  
(D.D.C. 2018).

6 There is now persuasive authority applying that principle to ICE Directive  
7 11032.4. In *Maria Concepcion Banegas Santos v. Bondi*, No. 26-cv-63-wmc, slip op. at  
8 2–5 (W.D. Wis. Feb. 19, 2026), the district court granted habeas relief and ordered  
9 immediate release where ICE detained a nursing petitioner contrary to Directive  
10 11032.4. The court quoted the directive’s operative language that ICE “should not  
11 detain” covered individuals absent a qualifying reason, *id.* at 2–3, and held that, because  
12 respondents identified “no exceptional circumstance or other legal reason why her  
13 release is impermissible under ICE Directive 11032.4,” they were “in violation of  
14 *Accardi* for failure to comply with an agency policy that plainly affects individual rights.”  
*Id.* at 3–4. The court then granted the petition and ordered respondents to “release  
15 petitioner from custody immediately.” *Id.* at 4–5.

16 That reasoning squarely supports relief here. Although *Banegas Santos* involved  
17 a nursing detainee, the same directive governs individuals known to be pregnant,  
18 postpartum, or nursing. Where ICE has identified no legal bar to release and no  
19 exceptional circumstance, continued detention of a pregnant detainee in disregard of  
20 that directive is unlawful under *Accardi* and arbitrary and capricious under the APA.

21 **3. Even if the Court hesitates on APA finality, habeas independently lies.**

22 Even if the Court were to hesitate as to whether the detention decision challenged here  
23 constitutes final agency action under the APA, Ms. Mendoza-Santiago is independently  
entitled to relief in habeas. She is not challenging an abstract policy or seeking advisory  
review. She is challenging present physical detention maintained contrary to governing  
law and agency procedure.

1 Habeas lies where a petitioner is “in custody in violation of the Constitution or  
2 laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Habeas proceedings under  
3 § 2241 are an appropriate mechanism for immigrants in removal proceedings to  
4 challenge ongoing detention. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).  
5 *Banegas Santos* confirms that habeas is an available and practical vehicle for this exact  
6 type of unlawful-custody claim under Directive 11032.4. *Maria Concepcion Banegas*  
*Santos*, No. 26-cv-63-wmc, slip op. at 2–5.

7 **4. Petitioner is likely to succeed on her due process claim.**

8 The Fifth Amendment prohibits arbitrary deprivation of liberty. Civil  
9 immigration detention of a known pregnant person without the process the agency itself  
10 has deemed necessary is fundamentally unfair. The failure to provide meaningful  
11 review, medically informed assessment, and ongoing reevaluation to a pregnant  
detainee is a procedural due process violation.

12 Continued detention under these circumstances also violates substantive due  
13 process. Civil detention may not be imposed or prolonged in a manner that is arbitrary,  
14 punitive, or deliberately indifferent to a detainee’s known medical condition and  
15 heightened vulnerability. ICE’s own policy reflects that pregnancy is a serious condition  
16 presumptively counseling against continued detention absent narrow exceptions. Dep’t  
17 of Homeland Sec., *Response to Senator Patty Murray and Others’ September 18, 2025*  
*Letter 1–2* (as of Feb. 16, 2026).

18 **B. Petitioner will suffer irreparable harm absent immediate relief.**

19 Irreparable harm is obvious and ongoing. Each day of detention deprives Ms.  
20 Mendoza-Santiago of physical liberty. But the harm here is more acute. Continued  
21 detention during pregnancy interferes with prenatal care, increases physical and  
emotional stress, and heightens risk to both mother and pregnancy.

22 DHS’s own reporting confirms the seriousness of those risks. DHS reported that  
23 there were 86 detainees identified as pregnant as of February 16, 2026, and that sixteen  
miscarriages occurred during the covered period in ICE custody. Dep’t of Homeland

1 Sec., *Response to Senator Patty Murray and Others' September 18, 2025 Letter 1, 3* (as  
2 of Feb. 16, 2026). No later remedy can cure the harm inflicted by being held unlawfully  
3 during pregnancy. Once time in detention passes, it cannot be restored.

4 **C. The balance of equities tips sharply in Petitioner's favor.**

5 The balance of hardships overwhelmingly favors Ms. Mendoza-Santiago. On one  
6 side are her liberty, pregnancy, physical well-being, and constitutional rights. On the  
7 other side, Respondents can claim no legitimate harm from being required to comply  
8 with governing law and their own detention procedures.

9 ICE's own policy is that known pregnant individuals generally should not be  
10 detained absent a legal bar to release or exceptional circumstances. Dep't of Homeland  
11 Sec., *Response to Senator Patty Murray and Others' September 18, 2025 Letter 1–2* (as  
12 of Feb. 16, 2026). Requiring compliance with that policy does not injure the  
13 government; it merely requires the government to do what it has already said its  
14 standards require.

15 **D. A TRO is in the public interest.**

16 The public has a strong interest in ensuring that federal agencies comply with  
17 their own rules, especially where liberty and medical vulnerability are at stake. The  
18 public also has a strong interest in preventing unlawful civil detention and in ensuring  
19 humane treatment of pregnant persons in government custody.

20 Granting temporary relief serves the public interest by enforcing lawful detention  
21 standards, safeguarding the integrity of judicial review, and preventing avoidable harm  
22 to a pregnant detainee.

23 **E. The Court should waive security.**

Rule 65(c) permits the Court to require security, but courts routinely waive bond  
where the plaintiff is indigent, the case seeks to vindicate important constitutional and  
statutory rights, or the injunction merely requires the government to comply with law.  
That is this case. No bond should be required.

1 **V. CONCLUSION**

2 For these reasons, Petitioner respectfully requests that the Court enter a  
3 temporary restraining order immediately enjoining Respondents from continuing to  
4 detain Valeria Mendoza-Santiago during the pendency of this action, or remove her  
5 from the State of Alaska or, in the alternative, requiring Respondents immediately to  
6 provide a lawful individualized custody determination consistent with ICE Directive  
7 11032.4, the Fifth Amendment, and this Court's order, and waive any bond requirement  
8 under Rule 65(c).

8 **RESPECTFULLY SUBMITTED** on this 20<sup>th</sup> day of March, 2026.

9 /s/ Nicolás A. Olano

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## INDEX OF EXHIBITS

- Exhibit A Respondent's Pre-NTA Motion to Set a Custody Redetermination Hearing
- Exhibit B Affidavit by Rosa Merino Luis, with certified English translation
- Exhibit C Employment Authorization Document (EAD) for Rosa Merino Luis
- Exhibit D ICE Directive 11032.4 – Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals (July 1, 2021)
- Exhibit E Department of Homeland Security Response to Senator Patty Murray et al. Regarding Pregnant, Postpartum, and Nursing Individuals in ICE Custody (2025–2026)
- Exhibit F *Banegas Santos v. Bondi*, et al., No. 26-cv-63 (W.D. Wis. 2026) – Opinion and Order Granting Habeas Relief

# EXHIBIT A

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In the Matter of:

MENDOZA-SANTIAGO, Valeria

Respondent,

IN BOND PROCEEDINGS

**RESPONDENT'S PRE-NTA MOTION TO SET A CUSTODY  
REDETERMINATION HEARING**

1                   **RESPONDENT'S PRE-NTA MOTION TO SET A CUSTODY**  
2                   **REDETERMINATION HEARING**

3           **COMES NOW**, Valeria Santiago Mendoza, Respondent in the above-captioned  
4 matter, by and through undersigned counsel, and respectfully requests this Honorable  
5 Court to set a custody redetermination hearing pursuant to INA § 236. Supporting this  
6 motion, Respondent states the following:

7           **I.       JURISDICTION AND VENUE**

8           **A. Venue:**

9           This Court has venue under 8 C.F.R. § 1003.19. As established in *Matter of Cerda*  
10 *Reyes*, 26 I&N Dec. 528 (BIA 2015), bond jurisdiction lies with the court that has  
11 administrative control over the facility where the respondent is detained at the time the  
12 bond motion is filed.

13           **B. Jurisdiction:**

14           This Court has jurisdiction to conduct a custody redetermination hearing because  
15 Respondent is detained under INA § 236(a), 8 U.S.C. § 1226(a), and is therefore eligible  
16 to seek release on bond. Under the regulations, an Immigration Judge may redetermine  
17 custody conditions for a noncitizen in DHS detention unless the case falls within a specific  
18 regulatory exception removing bond authority. 8 C.F.R. §§ 1003.19(a), (h). Where  
19 detention is governed by § 236(a), discretionary release on bond is expressly authorized  
20 by statute. *See* 8 U.S.C. § 1226(a)(2).

21           DHS will likely invoke *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025),  
22 but that decision does not govern this case. In *Yajure-Hurtado*, the Board held that  
23 “under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. §  
1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond  
to aliens, like the respondent, who are present in the United States without admission.”  
The Board made clear that it was deciding whether an Immigration Judge had bond  
authority over “an alien who entered the United States without admission and who has

1 been present in the United States for at least 2 years.” The Board also rejected the  
2 argument that the service of an arrest warrant and custody paperwork, standing alone,  
3 transformed detention into § 236(a) custody.

4 But *Yajure-Hurtado* does not answer the jurisdictional question presented here  
5 because Respondent’s detention is properly analyzed under the reasoning adopted in  
6 *Maldonado Bautista*. In *Maldonado Bautista*, the Central District of California certified  
7 a “Bond Eligible Class” defined as: “All noncitizens in the United States without lawful  
8 status who (1) have entered or will enter the United States without inspection; (2) were  
9 not or will not be apprehended upon arrival; and (3) are not or will not be subject to  
10 detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department  
11 of Homeland Security makes an initial custody determination.”

12 That class definition squarely covers the category of interior detainees who entered  
13 without inspection but were not apprehended upon arrival and are not otherwise detained  
14 under the mandatory detention schemes of §§ 1225(b)(1), 1226(c), or 1231. The district  
15 court’s summary judgment order further framed the dispute as whether such noncitizens  
16 are detained under § 1226(a), not § 1225(b)(2), because if § 1225 governs they “would  
17 not be entitled to bond hearings under § 1226(a).”

18 Respondent’s continuous physical presence in the United States for more than two  
19 years underscores why *Yajure-Hurtado* is inapposite. He is not a recently encountered  
20 applicant for admission stopped at or near the border, but a person long present in the  
21 interior of the United States. The regulations themselves recognize the legal significance  
22 of two years’ continuous physical presence by distinguishing such individuals from those  
23 processed through expedited removal. See 8 C.F.R. § 235.3(b)(2)(iii). And under  
*Maldonado Bautista*, individuals already in the United States who entered without  
inspection, were not apprehended upon arrival, and are not subject to § 1225(b)(1), §  
1226(c), or § 1231 are detained under § 1226(a) and may seek bond. EOIR has publicly  
acknowledged the effect of the December 18, 2025 *Maldonado Bautista* ruling, stating on  
its case-information page that certain immigration detainees “may be unlawfully detained

1 and may seek release on bond or conditional parole under 8 U.S.C. § 1226(a),” and that  
2 such individuals “may also be entitled to a bond hearing upon your request to the  
3 Immigration Court.”

4 That is the case here. The relevant question is not merely whether Respondent was  
5 ever admitted. The real question is the legal basis for his present detention. Here,  
6 Respondent has been physically present in the United States for more than two years, was  
7 apprehended from within the country rather than upon arrival, and is not detained under  
8 expedited removal, mandatory criminal detention, or post-final-order custody. On those  
9 facts, DHS detention falls under INA § 236(a), not INA § 235(b). And once detention falls  
10 under § 236(a), the Immigration Judge has jurisdiction to conduct a custody  
11 redetermination hearing and set bond. Even *Yajure-Hurtado* acknowledged that,  
12 “[s]ubject to certain exceptions contained in section 236(c) of the INA, 8 U.S.C. § 1226(c),  
aliens detained under section 236(a) may be eligible for discretionary release on bond  
pursuant to section 236(a)(2) of the INA.”

13 To the extent there is any doubt about whether Respondent’s custody is governed  
14 by § 235(b) or § 236(a), that ambiguity should be resolved in favor of a bond hearing, not  
15 in favor of categorical detention without Immigration Judge review. Bond jurisdiction  
16 turns on the statutory source of custody, and the record here places Respondent squarely  
17 within the interior-arrest framework recognized in *Maldonado Bautista*, not the arrival-  
18 based detention framework applied in *Yajure-Hurtado*. At minimum, where Respondent  
19 has lived in the United States for more than two years, was not apprehended upon arrival,  
20 and does not fall within §§ 1225(b)(1), 1226(c), or 1231, this Court should not extend  
21 *Yajure-Hurtado* beyond its own facts to foreclose a bond hearing.

22 Accordingly, the Court should hold that Respondent is detained under INA §  
23 236(a), find that it has jurisdiction to conduct a custody redetermination hearing, and  
proceed to set a reasonable bond.



1       **II.     LEGAL STANDARD**

2           In bond proceedings, the Department of Homeland Security bears the burden of  
3 establishing by clear and convincing evidence that a respondent is either a danger to the  
4 community or a flight risk warranting continued detention. *Matter of Guerra*, 24 I&N  
5 Dec. 37, 40 (BIA 2006). Immigration Judges are required to consider a range of  
6 discretionary factors, including the nature and seriousness of the respondent's criminal  
7 history, rehabilitation efforts, family and community ties, employment history, and the  
8 respondent's record of appearance in court. See *Matter of Siniauskas*, 27 I&N Dec. 207,  
9 208–09 (BIA 2018). Importantly, the analysis must be prospective—whether the  
10 respondent poses a *present* danger or is *likely* to abscond—not merely punitive or based  
11 on past conduct. See also *Matter of Andrade*, 19 I&N Dec. 488, 489 (BIA 1987)  
12 (emphasizing that bond is not to be used as punishment, but to ensure appearance and  
13 public safety). The totality of the circumstances must be weighed, and no one factor is  
14 dispositive. Accordingly, even where criminal history exists, substantial equities such as  
15 rehabilitation and strong community ties may justify release on bond.

16       **III.   RESPONDENT IS NOT A DANGER TO THE COMMUNITY**

17           The respondent has no criminal history or any encounters with law authorities that  
18 would indicate in any way that she is a danger to the community.

19       **IV.   RESPONDENT IS NOT A FLIGHT RISK**

20           The respondent has set roots in Anchorage, Alaska, where she resides with her  
21 mother-in-law. She has had previous encounter with immigration at the border but has  
22 never been ordered removed from the United States. She is in the United States because  
23 she fears for her life in Mexico.

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1       **V.     APPLICABILITY OF INA § 236(C) – NO MANDATORY DETENTION**

2           Under INA § 236(c), the Department of Homeland Security is authorized to subject  
3 certain individuals to mandatory detention if they fall within specified criminal or  
4 security-related grounds of removability. This includes individuals convicted of a crime  
5 involving moral turpitude (CIMT) covered under INA § 212(a)(2) or § 237 INA § or §  
6 237(a)(2)(A)(i) (a single CIMT committed within five years of admission for which a  
7 sentence of one year or more may be imposed). The respondent has no convictions that  
8 would make her detention mandatory under INA § 236(c); 8 U.S.C. §1226(c)

9       **VI. RELIEF AVAILABLE**

10          The respondent is preparing an application for asylum, withholding of removal,  
11 and protection under the convention against torture.

12       **VII. PRAYER FOR RELIEF**

13       **WHEREFORE**, Respondent respectfully requests that this Court:

- 14           1. Find that Respondent is not subject to mandatory detention;  
15           2. Determine that Respondent does not pose a danger to the community or a flight  
16           risk; and  
17           3. Grant release on a reasonable bond.

18                   Respectfully submitted on this 20 day of March 2026

19           By: /s/Nicolas A. Olano  
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**CERTIFICATE OF SERVICE:**

This document was electronically filed through ECAS and both parties are participating in ECAS. Therefore, no separate service was completed as per *Immigration Court Practice Manual*, Chapter 3.2 (2022). Filed on March 20, 2026

By: /s/Nicolas A. Olano



# EXHIBIT B

### AFFIDAVIT BY ROSA MERINO LUIS

1. My name is Rosa Merino Luis. I was born on [REDACTED] in Oaxaca, Mexico. I am a citizen of Mexico. I currently reside at [REDACTED] Alaska.
2. I am the mother-in-law of Valeria Mendoza Santiago, whom I have known for approximately 10 years, due to her relationship with my son, Jhony Gonzales Merino. During this time, I have maintained constant communication with her and have direct knowledge of her personal situation. Currently, Valeria lives with me in Anchorage, Alaska.
3. Valeria arrived in the United States on June 14, 2021. I know this information because I spoke with her and with my son after her arrival.
4. I am also aware that Valeria is pregnant, with approximately three months of pregnancy. She herself informed me of her pregnancy. When my son was arrested, she was having difficulty eating and told me that she had no appetite due to her pregnancy. Since then, I have been in constant communication with her about her health. Yesterday, Valeria went to an appointment with an OB-GYN doctor and sent me photos and videos of her baby's ultrasound images.
5. Valeria has told me that she is very afraid to return to Mexico. She has told me that this fear has to do with [REDACTED] and with [REDACTED] that make her feel insecure. I do not know all the details, but I know that she is scared for her safety if she returns. When we talk about it, you can tell that she is very worried and nervous. This worries me a lot about her well-being, especially since she is pregnant.

I declare under penalty of perjury that the foregoing is true and correct. Signed this March 20, 2026, in Anchorage, Alaska.

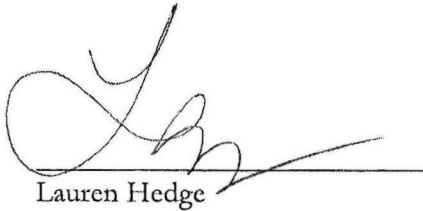
[Signature]

Rosa MERINO LUIS

**Certification of Translation Pursuant to 8 C.F.R. § 103.2(b)(3)**

I, Lauren Hedge, hereby certify that I am proficient in the English and Spanish languages, that I am competent to translate the attached document in the Spanish language, and furthermore, that the translation of the attached document is true, accurate to the best of my abilities, and is translated in such a manner as to fully express the thoughts, expressions, and sentiments of the person who prepared the document in Spanish. However, the translation does not reflect any grammatical and/or spelling errors present in the original document.

Dated this 20<sup>th</sup> day of March, 2026 in Anchorage, Alaska.

A handwritten signature in black ink, appearing to read 'Lauren Hedge', is written over a horizontal line.

Lauren Hedge  
2525 Blueberry Road, Suite 207  
Anchorage, AK 99503  
907-770-0909



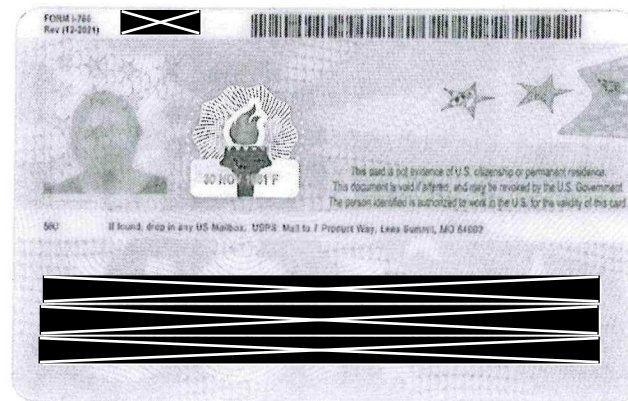
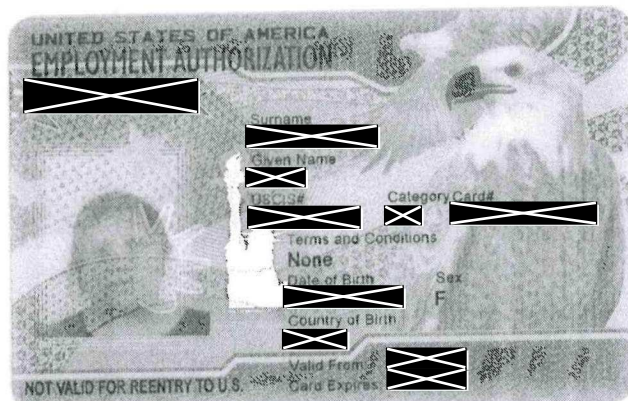
### DECLARACIÓN JURADA DE ROSA MERINO LUIS

1. Mi nombre es Rosa Merino Luis. Nací el [REDACTED] en Oaxaca, México. Soy ciudadana de México. Actualmente resido en [REDACTED] Alaska.
2. Yo soy la suegra de Valeria Mendoza Santiago, a quien conozco desde hace aproximadamente 10 años, debido a su relación con mi hijo, Jhony Gonzales Merino. Durante este tiempo, he mantenido comunicación constante con ella y tengo conocimiento directo de su situación personal. Actualmente, Valeria vive conmigo en Anchorage, Alaska.
3. Valeria llegó a los Estados Unidos el 14 de junio de 2021. Esta información la conozco porque hablé con ella y con mi hijo después de su llegada.
4. Asimismo, tengo conocimiento de que Valeria se encuentra embarazada, con aproximadamente tres meses de gestación. Ella misma me informó de su embarazo. Cuando mi hijo fue arrestado, ella estaba teniendo dificultades para comer y me comentó que no tenía apetito debido a su embarazo. Desde entonces, he estado en comunicación constante con ella sobre su estado de salud. Ayer, Valeria asistió a una cita con un médico OB-GYN y me envió fotos y videos de las imágenes del ultrasonido de su bebé.
5. Valeria me ha dicho que tiene mucho miedo de regresar a México. Me ha contado que ese miedo tiene que ver con [REDACTED] y con [REDACTED] que la hacen sentirse insegura. Yo no sé todos los detalles, pero sé que ella tiene miedo por su seguridad si regresa. Cuando hablamos de eso, se le nota que está muy preocupada y nerviosa. Esto me preocupa mucho por su bienestar, especialmente porque está embarazada.

Declaro bajo pena de perjurio que lo anterior es verdadero y correcto. Firmado este 20 de marzo de 2026 en Anchorage, Alaska.

*Rosa*  
Rosa MERINO LUIS

# EXHIBIT C



# EXHIBIT D

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

**ICE Directive 11032.4: Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals**

**Issue Date:** July 1, 2021  
**Effective Date:** July 1, 2021  
**Superseded:** *ICE Directive 11032.3 Identification and Monitoring of Pregnant Detainees* (December 17, 2017)  
*ICE Policy 10070.1: Discretion for Nursing Mothers* (November 7, 2007)

**Federal Enterprise Architecture Number: 403-256-001**

1. **Purpose/Background.** This Directive sets forth policy and procedures to ensure individuals known to be pregnant, postpartum, or nursing in U.S. Immigration and Customs Enforcement (ICE) custody are effectively identified, monitored, tracked, and housed in an appropriate facility to manage their care. This Directive builds upon existing ICE policy and procedures and complements ICE's national detention standards, family residential standards, and ICE Health Service Corps (IHSC) policies.
2. **Policy.** Generally, ICE should not detain, arrest, or take into custody for an administrative violation of the immigration laws individuals known to be pregnant, postpartum, or nursing unless release is prohibited by law or exceptional circumstances exist.<sup>1</sup> ICE officers and agents should carefully weigh the decision to issue a detainer, arrest, or take into custody for an administrative violation of the immigration laws an individual who is known to be pregnant, postpartum, or nursing. This Directive does not address whether removal proceedings should be initiated (i.e., the issuance of a charging document) against such individuals. Such decisions should be made in accordance with U.S. Department of Homeland Security and ICE enforcement priorities and applicable guidance. The decision whether to detain should be made separately from the decision whether to initiate removal proceedings or take any other immigration enforcement actions. In the very limited circumstances in which detention is necessary and appropriate, ICE must monitor individuals known to be pregnant, postpartum, or nursing detained in ICE custody for general health and well-being, including regular custody and medical reevaluation, to ensure appropriate pre- and/or post-natal and other medical and mental health care. ICE must ensure that individuals known to be pregnant, postpartum, or nursing are housed in facilities suitable for their medical and mental health needs.
- 2.1 **Identification.** All ICE law enforcement personnel must notify their Enforcement and Removal Operations (ERO) Field Office Directors (FODs) or Homeland Security Investigations (HSI) Special Agents in Charge (SACs) before they issue a detainer or arrest an individual known to be pregnant, postpartum, or nursing, unless exceptional

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<sup>1</sup> This general prohibition does not limit temporary placements into family staging centers.

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circumstances exist. Only the FOD, or designee not below the Assistant Field Office Director (AFOD) level, may approve the detention of individuals known to be pregnant, postpartum, or nursing.

Any and all available, credible information should be consulted to determine if an individual is pregnant, postpartum, or nursing. If available, ICE law enforcement personnel should review jail discharge summaries and other information from any prior custodial entity, as well as affirmatively inquiring with regard to pregnancy-related status during interviews.

There may also be times when ICE identifies pregnant, postpartum, or nursing individuals who are already detained in ICE custody. When that occurs, ICE personnel, through the appropriate chain of command, must immediately notify the FOD, or designee, and the appropriate medical staff (e.g., Field Medical Coordinator (FMC) or Health Services Administrator (HSA)) to determine if continued detention is appropriate.

- 2.2. IHSC Monitoring.** IHSC must maintain information regarding all individuals known to be pregnant, postpartum, and nursing detained in ICE custody, based on information received from the ERO field offices, IHSC HSAs, IHSC FMCs, or other designated personnel. IHSC must provide ongoing monitoring, tracking, and communication with the ERO field offices concerning the medical condition of individuals known to be pregnant, postpartum, or nursing. Data on individuals known to be pregnant, postpartum, or nursing must be reported monthly to the Executive Associate Director (EAD) for ERO, who will report it to the Office of the Director (through the Office of the Deputy Director).
- 2.3. Use of Restraints.** ICE personnel and contractors must adhere to the following restrictions regarding the use of restraints for individuals who are pregnant or in post-delivery recuperation. This general prohibition on restraints applies to all pregnant individuals in the custody of ICE, whether during transport, in a detention facility, or at an outside medical facility.
- 1) Restraints should not be considered as an option for pregnant individuals, except under the following extraordinary circumstances:
    - a. A medical officer has directed the use of restraints for medical reasons;
    - b. Credible, reasonable grounds exist to believe the individual presents an immediate and serious threat of hurting themselves, staff, or others; or
    - c. Reasonable grounds exist to believe the individual presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.
  - 2) Restraints are never permitted on individuals who are in active labor or delivery;



- 3) In the rare event that one of the above situations applies, medical staff must determine the safest method and duration for the use of restraints and the least restrictive restraints necessary must be used. Even in the extraordinary circumstance when restraints are deemed necessary, no individual known to be pregnant may be restrained in a face-down position with four-point restraints, on their back, or in a restraint belt that constricts the area of the pregnancy. All attempts will be made to ensure that the individual is placed on their left side if immobilized.
  - 4) The use of restraints requires documented approval and guidance from a medical authority. Record-keeping and reporting requirements regarding the medical approval to use restraints must be documented in the individual's A-file and noted in the system of record.
3. **Definitions.** The following definitions apply for the purposes of this Directive only.
- 3.1. **Headquarters Responsible Officials (HROs).** EADs of ERO, HSI, and Management and Administration (M&A); the Associate Director of the Office of Professional Responsibility (OPR); and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, or Chief of Staff.
  - 3.2. **Field Responsible Official (FRO).** The highest-ranking official in any ICE field location. This includes SACs, FODs, and any other officials who have been designated in writing by the Director.
  - 3.3. **ICE Personnel.** All ICE employees and contractors, designated immigration officers, and warrant service officers.
  - 3.4. **Exceptional Circumstances** exist only in the following circumstances: (1) the individual poses national security concerns; or (2) the individual poses an imminent risk of death, violence, or physical harm to any individual.
  - 3.5. **Nursing** is, regardless of the passage of time since childbirth, the act of an individual breastfeeding a child.
  - 3.6. The **Postpartum** period includes a one-year period immediately after an individual gives birth to their child.
4. **Responsibilities.**
- 4.1. **HROs** are responsible for:
    - 1) Ensuring overall compliance with this Directive within their respective Directorate or Program Office; and

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- 2) Developing and issuing any necessary implementation guidance specific to their Directorate or Program Office, in coordination with the ICE Office of Policy and Planning.

**4.2. FROs are responsible for:**

- 1) Ensuring ICE personnel notify FROs before an individual known to be pregnant, postpartum, or nursing is issued a detainer or arrested, unless exceptional circumstance exist;
- 2) Ensuring ICE personnel notify the FROs as soon as practicable, but generally within two hours, if a detainer or arrest is made of an individual known to be pregnant, postpartum, or nursing without prior FRO approval;
- 3) Ensuring that ICE personnel review all applicable information and proactively inquire of individuals apprehended by ICE or who are in ICE custody, whether they are pregnant, postpartum, or nursing;
- 4) Ensuring ICE personnel notify FROs as soon as practicable, but generally within 24 hours, for individuals already detained in ICE custody who are identified as pregnant, postpartum, or nursing;
- 5) Approving detention for individuals known to be pregnant, postpartum, or nursing;
- 6) Ensuring a process is in place for FROs to request concurrence with a decision to detain from the ERO Executive Associate Director for individuals known to be pregnant, postpartum, or nursing. This process must include a method to ensure IHSC confirms any detention location can provide appropriate care for individuals known to be pregnant, postpartum, or nursing;
- 7) Ensuring local IHSC, or appropriate medical staff in non-IHSC staffed facilities, have a process in place to notify the FRO as soon as practicable, but generally within 24 hours, after an individual in custody is determined to be pregnant, postpartum, or nursing;
- 8) Notifying the FMC or HSA as soon as practicable, but generally within 24 hours of learning an individual detained in ICE custody is pregnant, postpartum, or nursing;
- 9) Ensuring a process is in place for the expeditious release, where legally authorized, of individuals known to be pregnant, postpartum, or nursing already detained in ICE custody;
- 10) Verifying that unless release is prohibited by law or exceptional circumstances exist, individuals known to be pregnant, postpartum, or nursing are not detained;



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- 11) Approving the detention, unless release is prohibited by law or exceptional circumstances exist, of individuals known to be pregnant, postpartum, or nursing and re-evaluating the decision at least weekly;
- 12) Ensuring all facilities in which ICE detains noncitizens are aware of ICE's expectations regarding individuals known to be pregnant, postpartum, or nursing under this Directive;
- 13) Ensuring individuals known to be pregnant, postpartum, or nursing receive appropriate medical and mental health care, including effectuating transfers to appropriate facilities; and
- 14) Monitoring, in coordination with IHSC and facility medical staff, the condition of individuals known to be pregnant, postpartum, or nursing.

**4.3. IHSC Personnel** are responsible for:

- 1) Notifying the FOD and IHSC Headquarters (HQ), as soon as practicable, but no later than 24 hours, after identification of individuals known to be pregnant, postpartum, or nursing in custody;
- 2) Maintaining medical and mental health information regarding all individuals known to be pregnant, postpartum, or nursing in ICE custody;
- 3) Monitoring, in coordination with the FOD, the condition of individuals known to be pregnant, postpartum, or nursing, including but not limited to the term of the pregnancy, general health, to include the mental health, of the pregnant, postpartum, or nursing individual, and medical condition of the fetus, and communicating with the FRO about any specific risk factors or concerns;
- 4) Overseeing and reviewing facility capabilities to determine if they are appropriate for the detention of individuals known to be pregnant, postpartum, or nursing and recommending to the FOD when pregnant, postpartum, or nursing individuals' transfers to another facility is necessary for appropriate medical or mental health care;
- 5) Advising the FOD without delay if IHSC is unable to identify an appropriate detention location to provide appropriate prenatal, medical, and mental health care for individuals known to be pregnant, postpartum, or nursing;
- 6) Regularly re-evaluating individuals known to be pregnant, postpartum, or nursing to inform the FOD whether continued detention is appropriate as part of the ongoing general health and well-being review to ensure pregnant, postpartum, or nursing individuals receive appropriate pre- and post-natal care; and
- 7) Tracking, monitoring, and reporting all individuals known to be pregnant,

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postpartum, or nursing detained in ICE custody and communicating with the FOD, or designee, concerning the medical condition of individuals known to be pregnant, postpartum, or nursing and reporting that information, at least monthly, to the ERO EAD, who will report it to the Office of the Director (through the Office of the Deputy Director).

**4.4. Executive Associate Director for ERO** is responsible for:

- 1) Reviewing and reporting information regarding individuals known to be pregnant, postpartum, or nursing in ICE custody to the Office of the Director (through the Office of the Deputy Director).

**4.5. ICE Personnel**, where appropriate, are responsible for:

- 1) Ensuring that, unless release is prohibited by law or exceptional circumstances exist, individuals known to be pregnant, postpartum, or nursing are not detained;
- 2) Requesting approval from the SAC or FOD through their chain of command before issuing a detainer or arresting individuals known to be pregnant, postpartum, or nursing;
- 3) Requesting approval from the FOD through their chain of command before detaining individuals known to be pregnant, postpartum, or nursing in ICE custody;
- 4) Notifying the SAC or FOD through their chain of command as soon as practicable, but generally within 2 hours, when pregnant, postpartum, or nursing individuals are arrested without prior approval;
- 5) Providing appropriate case, location, and status information to assist IHSC with tracking and monitoring individuals known to be pregnant, postpartum, or nursing detained in ICE custody;
- 6) Complying with all applicable ICE policies related to the use of restraints for pregnant individuals; and
- 7) Ensuring that any individuals known to be pregnant, postpartum, or nursing enrolled in an Alternatives to Detention (ATD) program are not required to wear a radio frequency or global positioning system monitor.

**5. Procedures/Requirements.**

- 5.1. Apprehension, Detention, and Release.** FODs will ensure, unless release is prohibited by law or exceptional circumstances exist, individuals known to be pregnant, postpartum, or nursing are generally not detained or, if already detained, are generally released from

detention.<sup>2</sup> Only the FOD may approve the detention of known pregnant, postpartum, or nursing individuals.

Any decision to issue a detainer or arrest an individual known to be pregnant, postpartum, or nursing must be approved by the appropriate FOD. Where HSI personnel intend to issue a detainer or make a civil arrest of an individual known to be pregnant, postpartum, or nursing, the decision must be approved by the SAC who must first consult with the applicable FOD.

In deciding whether release is prohibited by law for individuals known to be pregnant, postpartum, or nursing, the FOD must consult with local OPLA, as well as IHSC to advise on whether detention is medically advisable, in order to make an informed custody determination. If the FOD, or designee not below the AFOD level, determines ATD enrollment is an appropriate condition of release, individuals known to be pregnant, postpartum, or nursing will not be placed on a form of ATD that requires a radio frequency or global positioning system monitor be worn.

## **5.2. Notification Procedures.**

- 1) **IHSC facilities.** In detention facilities staffed by IHSC, the HSA must notify the FOD of any individual housed at the facility who is determined to be pregnant, postpartum, or nursing as soon as practicable, generally within 24 hours.
- 2) **Non-IHSC facilities.** In facilities not staffed by IHSC, the FOD, in coordination with the FMC, or other designated medical personnel, will ensure notification is conducted by facility custody personnel and/or medical staff of any individual housed at the facility who is determined to be pregnant, postpartum, or nursing, but no later than 24 hours after such determination.
- 3) **IHSC HQ.** Upon receipt of notification of pregnant, postpartum, or nursing individuals from detention facility personnel, ICE personnel, or any other source, the IHSC HSAs, FMCs, or other designated IHSC personnel in the area of responsibility, will immediately notify the FOD and IHSC HQ, in writing, of the individual's pregnancy, postpartum status, or that they are nursing.

## **5.3. Medical and Mental Health Needs of Individuals Known to Be Pregnant, Postpartum, or Nursing.** Upon receipt of information that individuals detained in ICE detention are pregnant, postpartum, or nursing, IHSC will assess the detention facility's ability to meet the medical or mental health needs of individuals known to be pregnant,

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<sup>2</sup> The Immigration and Nationality Act limits the discretion of ICE to release from custody certain categories of noncitizens under certain circumstances. See INA §§ 235(b) (noncitizens in the expedited removal process); 236(c) (certain criminal and terrorist noncitizens during pending removal proceedings); 241(a)(2) (certain criminal and terrorist noncitizens during the 90-day removal period). ICE personnel should consult with the Office of the Principal Legal Advisor (OPLA), to the extent possible before assuming custody of an individual known to be pregnant, postpartum, or nursing to determine the applicability of these provisions to such individuals and any available legal release mechanisms.

postpartum, or nursing. IHSC will immediately report its conclusion as soon as practicable, generally but within 24 hours to the FOD and, if appropriate, suggest an alternate facility for transfer and treatment. If IHSC determines that no available facility can provide appropriate medical or mental health care in a particular case, IHSC will notify the FOD.

At all times, IHSC will monitor and track the medical condition of individuals known to be pregnant, postpartum, or nursing while in ICE detention. Designated IHSC personnel (e.g., HSAs, FMCs) will provide updates to IHSC HQ and the FOD, or designee, at least weekly. HSAs, FMCs, and other designated IHSC personnel must report major changes in pregnant, postpartum, or nursing individuals' health, medical, or mental health condition to the FOD, or designee, and IHSC HQ within 24 hours of observance.

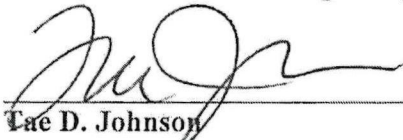
- 5.4. **Re-evaluating Custody Status.** At least weekly, FODs, or their designee not below the AFOD level, will evaluate whether continued detention is appropriate and required for individuals known to be pregnant, postpartum, or nursing, in consultation with IHSC HQ and OPLA. Pregnant individuals who remain in custody during their third trimester of pregnancy will be reviewed based on controlling IHSC policies and procedures.<sup>3</sup>
- 5.5. **Centralized Tracking of Pregnant, Postpartum, or Nursing Individuals.** In coordination with ERO field offices and ERO HQ offices, IHSC HQ will collect and maintain relevant data and information received from FROs, HSAs, FMCs, and other designated personnel regarding individuals known to be pregnant, postpartum, or nursing. IHSC HQ will develop a system for maintaining this information in a manner that permits continuous monitoring and tracking of individuals known to be pregnant, postpartum, or nursing in ICE detention. Data on individuals known to be pregnant, postpartum, or nursing will be reported monthly to the ERO EAD, who will report it to the Office of the Director (through the Office of the Deputy Director).
6. **Recordkeeping.** All relevant documents produced and/or received in accordance with this Directive must be maintained in accordance with an applicable National Archives and Records Administration (NARA) General Records Schedule (GRS) or a NARA-approved agency-specific records control schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification.
7. **Authorities/References.**
  - 7.1. Immigration and Nationality Act §§ 212(d)(5), 235(b), 236, and 241.
  - 7.2. 8 C.F.R. §§ 1.1(q), 212.1 - 212.5, 235.3, 236.1 - 236.2(b), 241.1 - 241.3.
  - 7.3. 2000 National Detention Standards for Non-Dedicated Facilities.

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<sup>3</sup> See, e.g., IHSC Directive: 04-02 ERO, Women's Health Services.



- 7.4. 2008 Performance-Based National Detention Standards.
- 7.5. 2011 Performance-Based National Detention Standards, revised Dec. 2016.
- 7.6. 2019 National Detention Standards for Non-Dedicated Facilities.
- 7.7. 2020 Family Residential Standards.
- 7.8. IHSC Directive: 04-02 ERO, Women's Health Services.
- 7.9. ICE Policy No. 11020.1: *Use of GPS Monitoring Devices on Persons who are Pregnant or Diagnosed with a Severe Medical Condition* (Sept. 14, 2009), or as updated.
- 8. **Attachments.** None.
- 9. **No Private Right.** This Directive provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



Tae D. Johnson  
Acting Director  
U.S. Immigration and Customs Enforcement

# EXHIBIT E

**Department of Homeland Security Response to  
Senator Patty Murray and Others' September 18, 2025 Letter**

1. As of the date of receipt of this letter, how many women currently in ICE custody are known to be pregnant, postpartum, and nursing? Please provide totals for each category. For the purposes of defining "postpartum," please use the number of women in the one-year period following the end of pregnancy. How many of those women currently are in their third trimester of pregnancy?

**Response:** Please refer to the below chart for the number of postpartum and nursing women for U.S. Immigration and Customs Enforcement (ICE) Health Service Corps facilities. ICE Enforcement and Removal Operations (ERO) does not track postpartum or nursing information for all detention facilities. As such, the data below pertains to ICE Health Service Corps facilities only and does not reflect data for non-ICE Health Service Corps facilities or contracted facilities (also designated as Intergovernmental Service Agreement facilities):

| ICE Health Service Corps-only Postpartum/Nursing Detainees<br>for the period of January 1, 2025, through February 16, 2026 |                                   |                                                              |
|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------|--------------------------------------------------------------|
| Postpartum                                                                                                                 | Nursing<br>(Subset of Postpartum) | Women Currently in 3 <sup>rd</sup><br>Trimester of Pregnancy |
| 35                                                                                                                         | 15                                | 9                                                            |

ICE does track the total number of pregnant detainees for all facilities (ICE Health Service Corps facilities and non-ICE Health Service Corps facilities): As of February 16, 2026, there were 86 detainees identified as pregnant.

2. Section 5.4 of the 2021 Pregnancy Directive requires that pregnant, postpartum, and nursing women receive weekly evaluations to determine whether continued detention is appropriate.

**What is the process for conducting these evaluations and what criteria are used? From January 1, 2025, to the date of receipt of this letter, how many pregnant, postpartum, and nursing women have been released pursuant to one of these screenings? Who is conducting these evaluations and are they reported to ICE headquarters? If yes, what office?**

**Response:** Between January 1, 2025, and February 16, 2026, 498 pregnant, postpartum and nursing aliens were recorded as booked out of ICE custody.<sup>1</sup>

Under ICE Directive 11032.4, *Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals*, generally, ICE should not detain, arrest, or take into custody for an

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<sup>1</sup> Note: Book-outs may be classified as a final release from ICE custody or an interim book-out which occurs during the detention stay (such as for off-site doctor's appointments).



administrative violation of immigration laws aliens known to be pregnant, postpartum, or nursing unless release is prohibited by law or exceptional circumstances exist. ICE officers and agents carefully weigh the decision to issue a detainer, arrest, or take into custody for an administrative violation of the immigration laws an alien who is known to be pregnant, postpartum, or nursing.

ICE Directive 11032.4 does not address whether removal proceedings should be initiated (i.e., the issuance of a charging document) against such aliens. Such decisions should be made in accordance with Department of Homeland Security (DHS) and ICE enforcement priorities and applicable guidance. The decision whether to detain should be made separately from the decision whether to initiate removal proceedings or take any other immigration enforcement actions.

In the limited circumstances in which detention is necessary and appropriate, ICE monitors aliens known to be pregnant, postpartum, or nursing detained in ICE custody for general health and well-being, including regular custody and medical reevaluation, to ensure appropriate pre- and/or post-natal and other medical and mental health care. ICE ensures that detained aliens known to be pregnant, postpartum, or nursing are housed in facilities suitable for their medical and mental health needs.

Additionally, the administrator responsible for the facility where a detainee is housed notifies the local ERO Field Office Director as soon as practicable but not later than 24 hours, of any alien who has been determined to be pregnant, postpartum, or nursing, so that a custody review redetermination can be completed, as appropriate.

**From January 1, 2025, to the date of receipt of this letter, how many pregnant, postpartum, and nursing women have remained in ICE custody? Of those pregnant women who received determinations to remain in custody, how many were in their third trimester?**

IHSC Response: As of February 16, 2026, there were **121** detainees identified as **pregnant, postpartum, and nursing. Nine of the pregnant aliens were in their third trimester.**

Between January 1, 2025, and February 16, 2026, 498 pregnant, postpartum and nursing aliens were recorded as booked out of ICE custody.<sup>2</sup>

- 3. Have any women given birth in ICE facilities from January 1, 2025, to the date of receipt of this letter, including both live and stillborn births? If so, how many live and stillborn births and in which facilities? In that same time frame, how many miscarriages have occurred?**

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<sup>2</sup> Note: Book-outs may be classified as both, a final release from ICE custody or an interim book-out which occurs during the detention stay (such as for offsite medical appointments or court appearances).

**Response:** Between January 1, 2025, and September 23, 2025,<sup>3</sup> there were zero live births and zero stillborn births ; therefore, there is no associated data to report. There were sixteen miscarriages in that same time period.

4. All children born on U.S. soil, including at ICE detention facilities, are U.S. citizens. For any child born in ICE custody, what is the process for allowing their mothers to secure U.S. birth certificates and other vital documents? Have any women been deported before having an opportunity to seek and obtain a birth certificate for their child?

**Response:** ERO is not aware that detained aliens are unable to obtain vital records for a child. Instructions to request a vital record for a child may be completed from any location or by an immediate family member through an application process, on paper or online.

5. How many pregnant, postpartum, and nursing women have been deported since January 1, 2025? Please provide the monthly total.

**Response:** Please refer to the following table. ERO notes that an alien can have multiple removals in the given time frame.

| ICE Removals <sup>4</sup><br>From January 1, 2025 to February 16, 2025<br>of Pregnant, Postpartum, and Nursing Aliens |            |
|-----------------------------------------------------------------------------------------------------------------------|------------|
| Month                                                                                                                 | Total      |
| <b>Total</b>                                                                                                          | <b>363</b> |
| January                                                                                                               | 2          |
| February                                                                                                              | 4          |
| March                                                                                                                 | 8          |
| April                                                                                                                 | 23         |
| May                                                                                                                   | 32         |
| June                                                                                                                  | 30         |
| July                                                                                                                  | 30         |
| August                                                                                                                | 35         |
| September                                                                                                             | 38         |
| October                                                                                                               | 14         |
| November                                                                                                              | 39         |
| December                                                                                                              | 46         |
| January                                                                                                               | 48         |
| February                                                                                                              | 14         |

<sup>3</sup> The date DHS received this letter.

<sup>4</sup> Note: An alien may have multiple removals in the given time frame.

**6. Section 2 of the 2021 Pregnancy Directive requires that pregnant, postpartum, and nursing women be detained in facilities that are suitable for their physical and mental health needs.**

**a. What ICE facilities currently detain pregnant, postpartum, and nursing women? Please provide a list by facility name and location.**

**Response:** All detention facilities are governed by one of several sets of detention standards. All these standards require that pregnant detainees have access to prenatal and specialized care, and comprehensive counseling on topics including, but not limited to, nutrition, exercise, complications of pregnancy, prenatal vitamins, labor and delivery, postpartum care, and lactation.

**b. What are the criteria for determining if a facility is suitable for pregnant, postpartum, and nursing women? Of the pregnant, postpartum, and nursing women in ICE custody, how many were detained in facilities that have been deemed suitable according to these criteria from January 1, 2025, to the date of receipt of this letter? What ICE office determined those facilities were suitable and when was that determination made?**

**Response:** All ICE Health Service Corps facilities that accept female patients are suitable to care for pregnant, postpartum, and nursing women. The ICE Health Service Corps Clinical Services Division determines the suitability of such facilities when the facility is initially assigned to accept female patients. For non-ICE Health Service Corps facilities, ICE National Detention Standards require that detention facilities assess and identify special needs for detainees, including pregnant, postpartum and nursing detainees, for the suitability of housing and other accommodations. ICE's detention facilities are governed by one of several sets of detention standards which all include standards on pregnancy, postpartum and nursing care.

Facilities are held accountable to comply with the standards, and corrective action is required when deficiencies are identified. To ensure compliance with each contract's terms and conditions and the applicable detention standards, ERO, ICE, and DHS employ a robust and multilevel oversight and compliance program. These multiple channels of oversight allow ICE to provide a high standard of care for the detained population.

**c. How many women since January 1, 2025, have been transferred into a suitable facility once it is discovered that they are pregnant, postpartum, and nursing? How many of these transfers occurred because the woman was pregnant?**

**Response:** All facilities are suitable for pregnant, postpartum, and nursing women. Transfers may be made to a more appropriate facility if needed, but that statistic is not tracked outside of manual tracking by field offices. As such, this information is unable to be statistically reported.



7. Since January 1, 2025, how many approved referrals for offsite obstetrics and gynecology services have been completed? How many inpatient hospitalizations related to active labor and birth for ICE detainees have occurred since January 1, 2025?

**Response:** Referrals that are approved and result in healthcare procedures are documented via medical claims data. Please note that medical claims information is dynamic due to the natural processing time delay regarding all medical claim types. Please refer to the information and table provided below. This information is current as of September 23, 2025.<sup>5</sup>

| Paid Claims for OBGYN Visits Related to Pregnancies, Labor, and Birth<br>from January 1, 2025, through September 23, 2025. |                                  |                                    |                               |
|----------------------------------------------------------------------------------------------------------------------------|----------------------------------|------------------------------------|-------------------------------|
| Specialty Visit <sup>6</sup>                                                                                               | Distinct Count of<br>Claim Total | Total Amount Paid<br>(To Provider) | Total Billed<br>(By Provider) |
| Gynecology                                                                                                                 | 12                               | \$2,274.41                         | \$8,576.67                    |
| Obstetrics (OB) -<br>Gynecology                                                                                            | 11                               | \$1,694.51                         | \$4,397.72                    |
| Grand Total                                                                                                                | 23                               | \$3,968.92                         | \$12,974.39                   |

Please note that there is no data associated with Active Labor or Birth.

8. Please describe pregnant women's access to prenatal and postnatal health care in all ICE facilities that detain pregnant women, including routine medical examinations, treatment for pregnancy complications, and access to medical specialists such as OB/GYNs.

**Response:** Pregnant detainees benefit from numerous services at no cost to themselves. During their initial medical screening, detained women receive information on services related to women's healthcare as required in ICE's detention standards. If the initial medical screening indicates the possibility of pregnancy, a referral is made to an OBGYN. Detained woman receives a health assessment as soon as practicable but often within 72 hours after referral.

All initial medical screenings are conducted by a trained and qualified health provider. The evaluation obtains information on several factors, including pregnancy testing for eligible women aged 10-56, and documented results; if the detained woman is nursing; use of contraception; reproductive history (number of pregnancies, number of live births, pregnancy complications, etc.); menstrual cycle; personal and family history of breast or gynecological problems; and any history of physical or sexual victimization and when the incident occurred. A pelvic and breast exam, Papanicolaou test, baseline mammography, and

<sup>5</sup> The date DHS received this letter.

<sup>6</sup> Gynecology vs. OB-Gynecology: Gynecology focuses on the health of the female reproductive system, whereas OB-Gynecology focuses on medical and surgical care of a female during pregnancy and birth.

sexually transmitted disease testing are offered and provided by the medical provider, if clinically indicated.

The medical provider identifies any special needs (e.g., diet, housing, or other accommodations) and informs all necessary custody staff and facility authorities. If a pregnant woman is identified as high-risk, the woman is referred to a physician specializing in high-risk pregnancies.

**9. Please describe the provisions for ensuring safe labor and delivery, including an opportunity for mother and child to bond immediately after birth.**

**Response:** IHSC refers detainees for evaluation to outside medical facilities and hospitals as clinically indicated, including if experiencing signs of labor.

**10. Current law (Section 528 of P.L. 118-47) and Section 2.3 of the 2021 Pregnancy Directive severely curtails the use of restraints on pregnant women at any time and prohibits them entirely during active labor and delivery. If restraints are used, documented medical approval is required. Since January 1, 2025, have any pregnant women been placed in restraints? If yes, how many and at which locations have restraints been used on pregnant women?**

**Response:** In accordance with ICE Directive 11032.4, *Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals*, ICE personnel and contractors are generally prohibited from using restraints on detained aliens who are pregnant or in post-delivery recuperation. This general prohibition on restraints applies to all pregnant aliens in ICE custody whether during transport, in a detention facility, or at an outside facility.

In the rare event that an extraordinary circumstance occurs, medical staff must determine the safest method and duration for the use of restraints, and the least restrictive restraints necessary must be used. Restraints are never permitted on aliens who are in active labor or delivery. ICE does not statistically track the use of restraints on pregnant women.

**11. Please describe any provisions for ensuring that pregnant, postpartum, and nursing women have access to a diet that meets the U.S. government recommended dietary guidelines for pregnant, postpartum, and nursing women, which includes including fruits, dairy products, vegetables, to support a healthy pregnancy and ensure their safety after birth.**

**Response:** Upon confirmation by a healthcare practitioner that a detainee is pregnant, the detainee shall be provided close medical supervision. Pregnant detainees shall have access to prenatal and specialized care, and comprehensive counseling on topics including, but not limited to, nutrition, exercise, complications of pregnancy, prenatal vitamins, labor and delivery, postpartum care, lactation. A health care practitioner will identify any special needs (e.g., diet, housing, and other accommodation such as the provision of additional pillows) and inform all necessary security staff and facility authorities.

# EXHIBIT F



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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MARIA CONCEPCION BANE GAS SANTOS,

Petitioner,

OPINION AND ORDER

v.

26-cv-63-wmc

PAMELA JO BONDI, Attorney General of the United States,  
KRISTI NOEM, Secretary of the  
Department of Homeland Security,  
DEPARTMENT OF HOMELAND SECURITY,  
TODD LYONS, Acting Director of  
Immigration and Customs Enforcement,  
IMMIGRATION AND CUSTOMS ENFORCEMENT,  
DAREN K. MARGOLIN, Acting Director,  
Executive Office for Immigration Review,  
DAVID EASTERWOOD, Director, St. Paul  
Field Office, U.S. Immigration and Customs Enforcement,  
MATT IZZARD, Sheriff of Douglas County,

Respondents.

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Petitioner Maria Concepcion Banegas Santos (“Banegas”) filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 while in the custody of United States Immigration and Customs Enforcement (“ICE”) at the Douglas County Jail in Superior, Wisconsin. On February 10, 2026, the court granted the petition and ordered respondents to afford petitioner a bond hearing before an immigration judge under 8 U.S.C. § 1226(a) within seven days. (Dkt. #10.) The court further directed respondents to address petitioner’s argument that she is entitled to release because she has been detained in violation of ICE Policy Directive 11032.4, which prohibits detention of nursing mothers absent exceptional circumstances. (*Id.*) Because respondents have conceded no valid reason for her detention exists, the court find that petitioner is entitled to additional relief, therefore, respondents are ordered to release her and reunite her with her nursing child.

## BACKGROUND<sup>1</sup>

This case is one of hundreds filed by noncitizens across the United States swept up by ICE as part of increased efforts by the current administration to enforce immigration laws and detain those individuals without bond pending expedited removal proceedings. Petitioner is a native and citizen of Honduras who entered the United States in 2023. In June 2025, petitioner gave birth to a daughter in St. Paul, Minnesota. On December 23, 2025, ICE agents took petitioner into custody without a warrant of arrest. She has been detained since that time.<sup>2</sup>

Petitioner contends that she had been consistently breastfeeding her daughter until the time of her detention and that her confinement interferes with her ability to do so. She states further that respondents have not provided her with any equipment to express milk, store milk, or otherwise provide it to her child. Thus, she contends that respondents have detained her in violation of ICE policy. Specifically, petitioner argues that her continued detention violates ICE Directive 11032.4.<sup>3</sup> That policy, which governs the “Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals,” states as follows: “ICE should not detain, arrest, or take into custody for an administrative

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<sup>1</sup> Unless otherwise indicated, the facts set forth in this section are taken from the verified petition for a writ of habeas corpus. (Dkt. #1.) Because respondents have not disputed any of the material facts or evidence offered by petitioner, but rely solely on legal arguments, the court accepts these facts as true for purposes of this opinion.

<sup>2</sup> Neither party has provided a status report regarding the bond hearing respondents were directed to provide to petitioner. Publicly available records reflect that, to date, she remains in custody. See ICE Online Detainee Locator System, at [locator.ice.gov](https://locator.ice.gov) (last visited Feb. 19, 2026).

<sup>3</sup> Petitioner also references Policy No. 11039.1, which governs “Detention of Refugees Admitted Under INA § 207 Who Have Failed to Adjust to Lawful Permanent Resident Status,” but has not alleged facts showing that she fits within this policy.

violation of immigration laws individuals known to be pregnant, postpartum, or *nursing* unless release is prohibited by law or exceptional circumstances exist.” (Dkt. #1, ¶ 48 (emphasis added).)

### OPINION

A district court may grant a writ of habeas corpus if the petitioner shows that she is in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3). Habeas proceedings under § 2241 are an appropriate mechanism for immigrants in removal proceedings to challenge their ongoing detention. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001). Here, petitioner argues that her continued detention is contrary to ICE Directive 11032.4 and that respondents have violated *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), by not complying with their own policy.

Specifically, federal agencies are required by the *Accardi* doctrine to follow their own rules and regulations. 347 U.S. at 267-68 (holding that the Board of Immigration Appeals was required to follow its own regulations governing deportation proceedings); *see also Zelaya Diaz v. Rosen*, 986 F.3d 687, 692 (7th Cir. 2021) (under *Accardi* and its progeny, “federal agencies are required to follow their own regulations and some other formally adopted procedures, including those that govern exercises of an agency’s discretion”); *Martinez Camargo v. INS*, 282 F.3d 487, 491 (7th Cir. 2002) (“[C]ourts have consistently demanded governmental compliance with administrative regulations designed to safeguard individual interests.”). Moreover, *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991); *see also Damus v. Nielsen*, 313 F. Supp. 3d 317, 336-37 (D.D.C. 2018) (“the premise underlying the *Accardi*

doctrine is that agencies can be held accountable to their own codifications of procedures and policies -- and particularly those that affect individual rights"). Courts may also reverse an agency's action for violating its own internal rules and procedures, particularly those affecting individual rights. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (affirming reversal of an agency decision to deny public assistance made in violation of an internal agency manual); *United States v. Lee*, 274 F.3d 485, 492 (8th Cir. 2001) (administrative agencies may not take action "inconsistent with their internal regulations when it would affect individual rights").

As noted above, Directive 11032.4 provides that ICE "should not detain . . . individuals known to be nursing . . . unless release is prohibited by law or exceptional circumstances exist." The court specifically directed respondents to show cause why petitioner's release pending removal proceedings is prohibited by law or explain otherwise what exceptional circumstances exist that prohibit petitioner's release pursuant to ICE Directive 11032.4. (Dkt. #10.) They concede that there are none. (Dkt. #11, at 2.) Having identified no exceptional circumstance or other legal reason why her release is impermissible under ICE Directive 11032.4, respondents are in violation of *Accardi* for failure to comply with an agency policy that plainly affects individual rights. Thus, the court will grant the petition and order respondents to release petitioner under conditions deemed appropriate.

ORDER

IT IS ORDERED that:

- 1) The petition for a writ of habeas corpus filed by Maria Concepcion Banegas Santos (dkt. #1) is GRANTED.
- 2) Respondents shall release petitioner from custody immediately and certify compliance with this order by filing a notice with the court by February 24, 2026.

Entered this 19th day of February, 2026.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge