October 20, 2022

Commissioner Chris Magnus
U.S. Customs and Border Protection
1300 Pennsylvania Avenue NW
Washington, DC 20229

Via email

Re: Limiting Customs and Border Protection’s Detention of People Who Are Pregnant, Postpartum and/or Nursing, and Infants

Dear Commissioner Magnus:

The 137 undersigned organizations and medical professionals write to demand Customs and Border Protection (CBP) limit its detention of pregnant, postpartum, nursing persons, and infants to the minimum time period necessary to process them for release from CBP custody. CBP’s current policies and practices are inadequate, and are inconsistent with Immigration and Customs Enforcement’s (ICE) recognition that this population should not be detained absent exceptional circumstances.¹

In February 2020, Ana² was arrested by Border Patrol officials while in active labor. She was denied adequate medical care and forced to give birth while holding onto a garbage can at the Chula Vista Border Patrol station. After being taken off site to a hospital following the birth, Ana and her U.S. citizen newborn were forced to return to the station for a night of postpartum detention. A subsequent complaint prompted a DHS Office of Inspector General (OIG) report that featured disturbing images of Ana laying on a concrete bench with her newborn U.S. citizen baby, wrapped in an aluminum blanket for warmth.³

On November 1, 2021, 11 U.S. senators wrote to Department of Homeland Security (DHS) Secretary Alejandro Mayorkas recommending DHS adopt a policy that: “Minimize[s] the time that people … and their families are in CBP custody to the minimum time period necessary to

² Name has been changed to protect the identity of the individual.
process them for release from CBP custody,” among other protective measures.\textsuperscript{4} We reiterate the senators’ recommendations and demand CBP take prompt action to protect this vulnerable population and address deficiencies in the agency’s current policy.

On November 23, 2021, CBP issued its current policy regarding pregnant, postpartum, nursing individuals and infants in custody.\textsuperscript{5} As the senators made clear in their follow-up correspondence, the policy guidance falls significantly short of what is needed to properly address the needs of this population.\textsuperscript{6}

In your response to the senators in Spring 2022, you indicated that “CBP shares [a] desire to ensure that vulnerable populations spend as little time in custody as possible and are adequately cared for in the limited time they spend in [CBP] facilities.”\textsuperscript{7} In the letter, you explain that “[t]hese individuals are specifically prioritized for expedited processing;” however, the current policy fails to offer any mention of expedited processing or address the concern that detention in what are supposed to be short-term CBP facilities threatens the health and dignity of people who are pregnant, postpartum, and/or nursing, and their newborns.

Moreover, we do not believe that the current policy is having its intended effect of improving treatment and conditions for the population while in CBP facilities. For example, one mother from Nicaragua told the ACLU in March, 2022 that her 6-month-old son was denied medical assistance from CBP for four days, despite her requests and him having respiratory problems that caused pneumonia. She also reported agents yelled at her when she tried to breastfeed him and shamed her for doing so. The family was not provided an initial medical intake, was not given welfare checks every 15 minutes and was provided only water and milk for her children.

The risks of CBP detention that the new guidance purports to mitigate, including limited access to medical care and inadequate care for infants, could be prevented altogether if CBP instead prioritized prompt release of pregnant, postpartum, nursing persons, and infants.

We are encouraged that under the leadership of Secretary Mayorkas, DHS has taken steps to improve features of the immigration system that impact populations with unique needs. The

\textsuperscript{6} Letter from Senator Blumenthal, et al., to DHS Secretary Alejandro Mayorkas and CBP Commissioner Chris Magnus (February 7, 2022), attached.
\textsuperscript{7} Letter from CBP Commissioner Chris Magnus to Senator Blumenthal (April 16, 2022), attached.
administration should continue to identify areas for further improvement and we ask that you promptly expand the November 23, 2021, policy to include specific directives to:

a.) Expedite processing to minimize the time that people who are pregnant, postpartum, and/or nursing, and their families, are in CBP custody to only the time period necessary to process them for release from CBP custody. In no case should custody exceed 12 hours from the time of initial apprehension.

b.) Ensure that, together with their families, people who are pregnant, postpartum, and/or nursing are released from CBP custody as soon as possible after any discharge from an offsite hospital, and not transferred back to CBP detention for any purposes, including processing.

Thank you for your continued consideration of these important issues. We look forward to receiving a response from you by November 30, 2022. In the meantime, if you have any questions or need further detail, please contact Shaw Drake, Senior Policy Counsel, ACLU (sdrake@aclu.org) and Monika Y. Langarica, Staff Attorney, UCLA Center for Immigration Law and Policy (langarica@law.ucla.edu).

Sincerely,

American Civil Liberties Union

Jewish Family Service of San Diego

UCLA Center for Immigration Law and Policy

And the undersigned Advocacy Organizations and Medical Professionals:

(82) Advocacy Organizations

#WelcomeWithDignity

African Human Rights Coalition

Al Otro Lado

Aldea - The People's Justice Center

Alianza Americas

Alliance San Diego
American Friends Service Committee (AFSC)
Asian Pacific Institute on Gender-Based Violence
Asylum Seeker Advocacy Project (ASAP)
Autistic Self Advocacy Network
Bend the Arc: Jewish Action
Border Organizing Project
Carolinas Pediatrics
Casa Familiar
Catholic Charities of Southern New Mexico
Catholic Legal Immigration Network
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for Victims of Torture
Children's HealthWatch
Church World Service
Coalition on Human Needs
Community for Children, Inc.
Comunidad de Apoyo San Diego
Doctors for Camp Closure
Espacio Migrante
Florence Immigrant and Refugee Rights Project
Freedom for Immigrants
Haitian Bridge Alliance
Houston Immigration Legal Services Collaborative

Human Rights First

Immigrant Defenders Law Center

Immigration Equality

Immigration Hub

International Rescue Committee

Justice Action Center

Kino Border Initiative

Latin American Working Group (LAWG)

Lawyers for Good Government

League of Conservation Voters

Migrant Clinicians Network

MomsRising

National Action Network, Washington Bureau

National Council of Jewish Women

National Immigrant Justice Center

National Immigration Law Center

National Immigration Litigation Alliance

National Immigration Project (NIPNLG)

National Justice For Our Neighbors

National Latina Institute for Reproductive Justice

National Partnership for Women & Families

NETWORK Lobby for Catholic Social Justice
New York Immigration Coalition
ParentsTogether
Physicians for Human Rights
Planned Parenthood Federation of America
Los Angeles City Health Commission
Project Lifeline
Refugee Health Alliance
Rocky Mountain Immigrant Advocacy Network
San Diego Immigrant Rights Consortium
San Diego Rapid Response Network
Sanctuary for Families
Save the Children
SIREN
South Bay People Power
Southern Border Communities Coalition
Southern California Immigration Project
Sunita Jain Anti-Trafficking Initiative
Tahirih Justice Center
Texas Civil Rights Project
The Children’s Partnership
The Leadership Conference on Civil and Human Rights
The San Diego LGBT Community Center
UndocuBlack Network
Unified US Deported Veterans Resource Center

University of California, San Diego

Washington Office on Latin America

Wind of the Spirit Immigrant Resource Center

Witness in the Border

Women's Refugee Commission

Young Center for Immigrant Children's Rights

(52) Medical Professionals

Nina Agrawal, MD, American Medical Women's Association

Mia Aldridge, MD, Kaiser Permanente SFO Residency Program

Flavia Araujo, Clinical Instructor, Lucile Packard Children's Hospital at Stanford Hospital

Cassandra Armea-Warren, Regional Engagement Coordinator at Stanford University of Medicine

Nahiris M. Bahamon MD FAAP

Brindha Bavan, Clinical Assistant in Obstetrics and Gynecology

Bronwyn Baz, MD, FAAP, Oregon Health and Science University

Toni Biskup, MD, MPH, FAAP, FACP, Children's Hospital of Philadelphia

Camille Brown, MD, Assistant Clinical Professor of Pediatrics, Yale School of Medicine

Calla Brown, MD, MHR, University of Minnesota

Michael Caffery, MD

Grace Cavallaro, American College of Obstetricians and Gynecologists, District IX Section 3

Kay Daniels, Obstetrics & Gynecology - Maternal Fetal Medicine; CoDirector of OBS Im Program, Center for Pediatric and Perinatal Education at Lucile Packard Children's Hospital at Stanford Hospital
Allison Estrada, MD, Comunidad de Apoyo San Diego

Deborah Frank, MD, Children's Health Watch

Minal Giri, MD, Midwest Human Rights Consortium

Arturo Gonzalez, MD, Scottsdale Children's Group, a division of Arbor Medical Partners

Claudia Gonzalez, Research Administrator - Obstetrics & Gynecology, Stanford University

Karen Greiner, MD, MPH

Marsha Griffin, MD FAAP, Pediatrician

Anna Haas, Nurse Midwife, Holy Family Services

John Harlow, Attending Physician, Children's Hospital of Los Angeles

Kimberly Harney, Clinical Professor Emeritus Obstetrics & Gynecology

Paula Hillard, Professor at Stanford University School of Medicine

Charles J. Homer, MD, MPH, Advisory Board, Children's Health Watch, Boston, MA

Catalina Hoyos, MD, UPMC Children's Community Pediatrics

Amy Huibonhoa, MD

Amer Karam, Clinical Professor and Unit Medical Director at Stanford University Hospital

Michelle Khan, Clinical Associate Professor, Obstetrics and Gynecology, Stanford University

Stephanie Lee, MD

Stephanie Leonard, Instructor, Obstetrics & Gynecology, Stanford University

Stephanie Melchor, MD Obstetrics and Gynecology

Susana Mendez, Midwife at Lucile Packard Children's Hospital at Stanford University

Diana Montoya-Williams MD MSHP

Ana Morales Clark, Clinical Specialist, Lucile Packard Children's Hospital at Stanford University

Daniel Neuspiel, MD, MPH, FAAP
Juno Obedin-Maliver, MD, MPH, MAS Obstetrician/Gynecologist, Stanford University
Alicia Olave-Pichon, Physician
Anik Patel, MD, Children's Mercy Kansas City
Valerie Peicher, MD
Sarah Pfeil, Resident Physician, UC Davis Medical Center
Anne Pollard, Stanford University School of Medicine, Department of Obstetrics & Gynecology
Marha Rode, MD Clinical Associate Professor, Obstetrics and Gynecology, Stanford University
Julia Rosenberg, Assistant Professor, Pediatrics, Yale School of Medicine
Julia Rubin-Smith, MD, MSPH, Boston Children's Hospital
Reiko Sakai, Pediatric Hospitalist, Natividad Medical Center
Jamie Santillo, RN, Lucile Packard Children's Hospital at Stanford University
Laurence Shandler, MD
Sahana Somasegar, Physician at Stanford University
Natalie Spicyn, Internist and Pediatrician
Betti J. Steele, MD
Richard Wahl, MD, University of Arizona Department of Pediatrics