

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 11032.3: Identification and Monitoring of Pregnant Detainees

Issue Date: December 14, 2017
Effective Date: December 14, 2017
Superseded: ICE Policy 11032.2: *Identification and Monitoring of Pregnant Detainee* (August 15, 2016).
Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive sets forth policy and procedures to ensure pregnant detainees in U.S. Immigration and Customs Enforcement (ICE) custody for immigration violations are identified, monitored, tracked, and housed in an appropriate facility to manage their care. This Directive codifies existing ICE policy and procedures and complements ICE's national detention standards¹ and ICE Health Service Corps (IHSC) policies.
2. **Policy.** ICE is committed to identifying and providing appropriate care for pregnant detainees in ICE custody. ICE's detention standards generally require detention facilities to notify ICE after a pregnant detainee is identified.

Enforcement and Removal Operations (ERO) officers and Homeland Security Investigations (HSI) agents will notify their Field Office Directors (FODs) and Special Agents in Charge (SACs), respectively, when they arrest and detain a pregnant individual in ICE custody. HSI SACs shall notify the ERO FOD when administratively arresting a pregnant individual who will be detained in ICE custody. ERO FODs shall notify the local Field Medical Coordinator (FMC) upon learning of a pregnant detainee.

3. **Definitions.** None.
4. **Responsibilities.**
 - 4.1. **ERO Field Office Directors** are responsible for:
 - 1) Ensuring local IHSC and custody personnel, or medical staff in non-IHSC staffed facilities, have a process in place to notify the FOD, consistent with applicable detention standards, no later than 72 hours after a detainee is determined to be pregnant;
 - 2) Ensuring detention facilities are aware of their obligations regarding pregnant detainees under this Directive and applicable ICE detention standards;

¹ Refers to the National Detention Standards (NDS) 2000, Performance-Based National Detention Standards (PBNS) 2008, and the PBNS 2011.

- 3) Ensuring pregnant detainees receive appropriate medical care including effectuating transfers² to facilities that are able to provide appropriate medical treatment;
- 4) Monitoring, in coordination with IHSC, the condition of pregnant detainees; and
- 5) Ensuring that ERO officers are aware of policy related to the use of restraints for pregnant detainees.

4.2. HSI Special Agents in Charge (SACs) are responsible for:

- 1) Ensuring the HSI agents notify the SAC as soon as practical when a pregnant individual is arrested;
- 2) Notifying the FOD as soon as practical when a pregnant individual is arrested and is detained in ICE custody; and
- 3) Ensuring HSI agents are aware of policy related to the use of restraints for pregnant detainees.

4.3. IHSC Personnel are responsible for:

- 1) Notifying the FOD and IHSC HQ, as soon as practical, when a pregnant detainee is identified;
- 2) Monitoring, in coordination with the FOD, the condition of pregnant detainees, including the term of the pregnancy, general health of the pregnant detainee, and medical condition of the fetus, and communicating with the FOD about any specific risk factors or concerns;
- 3) Oversight and review of facility capabilities to determine if a pregnant detainee's needs can be accommodated and recommending to the FOD when a pregnant detainee's transfer to another facility is necessary for appropriate medical care; and
- 4) Developing and maintaining a system for tracking and monitoring all pregnant detainees in ICE custody.

4.4. ERO Field Operations Personnel are responsible for:

- 1) Consulting with FODs and IHSC on custody determinations or detention facility placement decisions for a pregnant detainee; and
- 2) Providing case, location, and status information as appropriate to assist IHSC with tracking and monitoring pregnant detainees.

² All transfer determinations shall be made in accordance with the requirements of ICE Policy 11022.1: *Detainee Transfers* (Jan. 4, 2012), or as updated.

4.5. **ICE Officers and Agents** are responsible for notifying, as soon as practical, the SAC or FOD, through their chain of command, when a pregnant individual is arrested and detained in ICE custody.

5. **Procedures/Requirements.**

5.1. **Medical Needs of Detainees.** IHSC will assess detention facilities to determine their ability to meet the needs of pregnant detainees and monitor and track the medical condition of individual pregnant detainees while in ICE custody. When it is determined that a facility cannot provide appropriate medical care in a particular case, the pregnant detainee will be transferred to another detention facility or off-site treatment facility that can provide appropriate medical care.

6. **Recordkeeping.** IHSC will maintain medical records in accordance with records retention schedule DAA 567-2015-0002, which states in relevant part, that medical records for an adult will be retained for 10 years after an individual has been released from ICE custody, and then shall be destroyed. Medical records for minors must be retained until the minor's 27th birthday. ERO will maintain the records of custody determinations in accordance with records schedule DAA-0563-2013-0001-006. These records are destroyed 75 years after the end of the calendar year in which the data is gathered.

7. **Authorities/References.**

7.1. Immigration and Nationality Act §§ 212(d)(5), 235(b), 236, & 241.

7.2. 8 C.F.R. §§ 1.1(q), 212.5, 235.3, & 236.2(b).

7.3. 2000 National Detention Standards, including "Medical Care" Standard.

7.4. 2008 Performance Based National Detention Standards, including Standard 4.3 "Medical Care."

7.5. 2011 Performance Based National Detention Standards, including: Standard 2.15 "Use of Force and Restraints"; Standard 4.3 "Medical Care"; and Standard 4.4 "Women's Medical Care."

7.6. IHSC Policy 04-02 "Women's Medical Care."

7.7. 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 document 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.



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