News



Tomas Torres puts his hand on the stomach of his pregnant wife, Elvia Perez de Torres, as they rest at a camp for migrants at a sports facility in Tijuana, Mexico. (CNS/David Maung)



by Maria Benevento

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January 3, 2019

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Holy water must flow from the faucets of the Otay Mesa Detention Center in San Diego, immigrants held there joke. Why else would "drink more water" be the prescription for almost all their medical needs?

The situation is far from funny for detainees who experience health issues, including the pregnant women who have been detained for increasing lengths of stay since U.S. Immigration and Customs Enforcement, or ICE, eliminated their presumption for release over a year ago.

Catholic and other immigrant rights groups have documented cases of pregnant women in immigrant detention experiencing inadequate medical care, verbal and physical abuse, and stressful conditions that negatively affect their health and that of their unborn children. While immigrant rights advocates would like conditions to improve, they also say it's inappropriate to detain pregnant women at all.

"These detention centers are essentially jails with very few medical resources," and jail isn't a place for pregnant people, the majority of whom don't pose a danger or a flight risk and could easily continue their legal process outside of detention, said Luis Guerra, strategic capacity officer for the Catholic Legal Immigration Network.

Guerra said he only has direct experience working with immigrants detained in the Otay Mesa center, but that from conversations with colleagues nationwide, "I'm confident in saying that what I've seen here locally is very common in other detention centers."

He has spoken with two Central American asylum-seekers who miscarried while in custody and wonders if their pregnancies could have been saved if they'd received better medical attention; both women received "general physical evaluations" but their medical care was very limited.

One of those women, identified as "Teresa," explained in a formal complaint advocates sent to the Department of Homeland Security that officials ignored her numerous requests for medical attention after she began bleeding heavily at a holding cell at the San Ysidro Port of Entry. After her transfer to Otay Mesa, she met with medical personnel but was not hospitalized, despite her attorney's demand.

Detention center medical staff later confirmed she had miscarried.

Facilities at ports of entry and detention centers are "not made to hold people and take care of their medical needs," Guerra said. "They're made to hold people to get deported out of the country. I just don't think it's a place for pregnant women to be trying to have their child."

U.S. immigration officials used to agree. An August 2016 ICE memo said that "absent extraordinary circumstances or the requirement of mandatory detention, pregnant women will generally not be detained by ICE." The memo also outlined documentation requirements and standards of care in cases where pregnant women were detained.

Yet by mid-2017, immigrant rights organizations were hearing from legal service providers about "an uptick of cases involving pregnant women being detained for longer periods of time," as well as cases of "physical and verbal abuse of pregnant women while they were in Border Patrol and then ICE custody," said Victoria López, senior staff attorney with the American Civil Liberties Union National Prison Project.

They determined the reports warranted further investigation, and eventually decided to submit a formal complaint to the oversight agencies with the Department of Homeland Security — the Office for Civil Rights and Civil Liberties and the inspector general.

Seven organizations, including the American Civil Liberties Union, American Immigration Council, Refugee and Immigrant Center for Education and Legal Services, and Women's Refugee Commission, signed the complaint, which outlined general concerns and described 10 individual complaints to illustrate the issues.

> "Many of the women have said, 'I think it's important to tell my story so this doesn't happen to another woman.' "
>
> —Victoria López
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The complaint alleged that pregnant women were "being detained for much longer periods of time than should be permitted, given their medical needs, and in

conditions that are completely inadequate under existing policies."

It describes officials ignoring women's requests for medical attention, even during health emergencies; not referring women with high-risk pregnancies to specialists; and providing inadequate care during and after miscarriages. It also notes that being detained and separated from family can compound the stress of caring for one's health while pregnant and preparing for credible fear interviews or immigration hearings.

In one case, a pregnant woman was detained for three months and transferred six times; one mistaken transfer resulted in a 23-hour round trip by bus "during which she had extremely restricted access to food and the restroom." She was afterward hospitalized for dehydration and exhaustion. In detention, she did not receive adequate medical care, and her request for a first-floor dormitory, to avoid climbing stairs, was denied.

Since the complaint was submitted late September 2017, the Office for Civil Rights and Civil Liberties has opened an investigation but hasn't "issued any final sort of report or recommendations," said López. A May 2018 Freedom of Information Act request for documentation related to "ICE Detention and Treatment of Pregnant Persons" also hadn't received a response.

Instead, just a few months after the complaint was filed, ICE formalized the trend that advocates were seeing. In March 2018, it made public that it had eliminated the presumption of release for pregnant women in December 2017.

Camilo Perez-Bustillo, director of advocacy, leadership development and research for the Hope Border Institute, an El Paso, Texas-based organization that promotes justice and solidarity in the border region, said that it's "dangerous" to shift to a presumption that it's "defensible" to detain pregnant women.

As officials in the El Paso area released an unusual number of detained immigrants in preparation for the arrival of a migrant caravan in November 2018, it appeared pregnancy was being considered a factor in favor of release, said Perez-Bustillo. But that doesn't alleviate advocates' long-term concerns that the "underlying presumption" against detention might never return.

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"The agency does have the discretion to release people, and certainly pregnant women are particularly vulnerable and should be prioritized in terms of whether they should be detained," said López.

Advocates are also concerned that ICE doesn't always seem to follow its own policies. "There's often a disconnect between policies that are made by the agency," and how they are implemented and overseen, López said. "Not only have advocates on the ground reported these inconsistencies and these discrepancies in the implementation of policies, but that has been documented by the government's own oversight agencies."

López was disturbed by recent news reports of pregnant women being restrained in detention. "That's something that is particularly alarming, given that there are specific policies that prohibit the use of restraints on pregnant women," she said.

It's hard to hold ICE accountable when they are largely overseeing themselves, Guerra said.

"It's possible that someone could have a very horrible medical situation and then they end up getting deported and no one ever finds out about it. I mean, these people are in very vulnerable situations. They are very disconnected to the outside world, and unless they have some sort of advocate, there would be no actual way for anyone to find out what happened."

This situation makes it even more important and admirable when women who have been pregnant in detention share their stories, López said, noting that the formerly detained women in the article she mentioned are even working to help others currently in detention.

"All of the folks that come forward with their stories are doing so at risk to themselves, in many cases; and they fear retaliation or retribution, but they still come forward with their cases," she said. "Many of the women have said, 'I think it's important to tell my story so this doesn't happen to another woman.' That's incredibly brave and remarkable to say, considering the circumstances that they're facing."

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A version of this story appeared in the **Jan 11-24, 2019** print issue under the headline: Bad care behind bars.