

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
APPROPRIATIONS
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ENVIRONMENT AND
PUBLIC WORKS
FOREIGN RELATIONS

August 16, 2019

Inspector General Joseph V. Cuffari
Office of Inspector General/MAIL STOP 0305
United States Department of Homeland Security
245 Murray Lane, SW
Washington, DC 20528-0305

**SUBJECT: CBP IS WRONGFULLY FORCING PREGNANT MIGRANT
WOMEN TO WAIT IN MEXICO**

Dear Inspector General Cuffari,

My office has recently learned of allegations that Customs and Border Protection (CBP) officers have been improperly using Migrant Protection Protocols (MPP) to target late-term pregnant women for return to Mexico to await adjudication of their immigration status. Because such actions are contrary to Department of Homeland Security (DHS) guidance and are potentially illegal and unconstitutional, I request an immediate investigation by your office, the DHS Office of Inspector General (DHS-OIG). Due to the urgency of the situation, I further ask that this matter be treated as high priority.

MPP, also known as the “remain in Mexico” program, was announced on January 28, 2019. According to the Guiding Principles published by DHS,¹ migrants arriving via the southern border who are in immigration court proceedings in the United States will be “transferred to await proceedings in Mexico.” However, the guidance specifically *excludes* from MPP migrants with *known health issues*. It is beyond question that pregnant women, particularly those nearing full term, have known health issues.

MPP’s legality is now being challenged. On April 24, 2019, the federal district court in San Francisco issued an order preliminarily enjoining MPP, which was lifted by the appeals court on May 7, 2019.² Since then, CBP has apparently targeted late-term pregnant women by placing them in MPP and returning them to wait in Mexico.

¹ Available at <https://www.cbp.gov/sites/default/files/assets/documents/2019-Jan/MPP%20Guiding%20Principles%201-28-19.pdf>.

² *Innovation Law Lab v. McAleenan*, No. 19-15716 (9th Cir. Filed May 7, 2019). Oral argument on the merits is scheduled for October 1, 2019.

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My office has learned that on or about Friday, May 24, 2019, CBP officers put six pregnant women in CBP custody into MPP. The women's pregnancies were in late-term. According to the information we have received, some of these women were separated from their families and their family members were permitted to remain in the United States.

Policies and practices targeting pregnant women at the border are horrific and must be immediately investigated. Forcing pregnant women to wait alone in Mexico for their asylum hearings puts them at extreme risk of abuse and extortion. Moreover, it creates significant health risks for mothers and children when proper medical care is not available. Targeting pregnant women also likely violates U.S. law and the Constitution.

Based on the foregoing, I request an immediate investigation of this practice by DHS-OIG and that the investigation be treated as a high priority.

Any investigation must answer these questions:

1. Were the pregnant women put into MPP on or about May 24, 2019 transferred to wait in Mexico?
2. Have additional pregnant women been put into MPP? If so, how many were transferred to Mexico?
3. Have pregnant women been separated from family members? If so, why and how many?
4. Who are the CBP and DHS officials responsible for the applying MPP to pregnant women?
5. Why are CBP and DHS targeting late-term pregnant women and returning them to Mexico when often their family members are allowed to stay in the U.S.?

Thank you.

JEFF MERKLEY
OREGON

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Sincerely yours,

A handwritten signature in blue ink that reads "Jeffrey A. Merkley". The signature is written in a cursive style with a prominent "J" and "M".

Jeffrey A. Merkley
United States Senator