ICE’s Deadly Practice of Abandoning Immigrants with Disabilities and Mental Illnesses on the Street

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“We work in crisis all the time.” ICE's unsafe release practices endanger people in detention.
When the video screen connected Attorney Homero Lopez Jr. to the Pine Prairie detention center in Louisiana, his client Luis* was not there.

Luis had a history of serious mental illness and had been found incompetent to represent himself in immigration court. Lopez, the legal director of Immigration Services and Legal Advocacy (ISLA) in New Orleans, was assigned to help him navigate his deportation proceedings.

Luis had spent more than three months in solitary confinement in the Pine Prairie detention facility, conditions that the United Nations deem torture and are known to exacerbate symptoms of mental illness. His medication was failing to prevent auditory hallucinations. At one point, he said that the voices in his head were starting to get mad at him.

When his concerned attorney signed on to a scheduled video call on December 7, 2020, guards for the GEO Group, the private prison company that runs Pine Prairie, said that Luis was gone. ISLA contacted Immigration and Customs Enforcement and learned that their client had been released, put on a bus from Louisiana to California, to an address where no one in his family had lived for at least a year.

This news sparked a frantic scramble to ensure Luis's safety. Unlike many hopeful immigrants, Luis was entitled to an attorney under the National Qualified Representative Program (NQRP). NQRP provides appointed legal representation to detained immigrants who are unrepresented by counsel and who have been found by an immigration judge or the Board of Immigration Appeals (BIA) to be incompetent to represent themselves in their immigration proceedings because of a serious mental health condition. Unsafe releases have endangered NQRP clients for years.

There is no consistent policy or practice for the release of people who the government has deemed unable to advocate for themselves from immigration detention. As a result, attorneys report this pattern: people who have been declared mentally incompetent due to cognitive disabilities or mental illnesses are ejected from immigration detention facilities without any notice to their attorneys, families, or caregivers and are left to fend for themselves in places like
parking lots and bus stations, with only the clothes they had when they were arrested and debit cards they often can't activate. Some are never found.

While legal service providers have reported unsafe releases from immigration detention for years, many say that the problem worsened during the COVID-19 pandemic, as ICE abruptly released people in undignified and dangerous manners; people who were sick with or at high risk of contracting the virus. Despite their obvious health needs and medical complications, many people were literally abandoned on the street. Others with serious physical and mental health conditions were discharged from ICE custody without prescribed medication, transportation assistance, the ability to contact a lawyer or family member, or even a place to stay for the night.

Over a period of three months in early 2021, Lopez said that four of ISLA’s clients were released without any notice whatsoever to their attorneys. “It is a complete disregard for their well-being.”
Martin Vargas Arellano’s death

Martin Vargas Arellano’s final days brought national attention to this pervasive problem. Vargas Arellano, who had lived in the United States for more than 50 years, spent the last two years of his life detained at Adelanto ICE Processing Center, a privately-run detention facility in California that is operated by ICE and the GEO Group. He had a history of severe mental illness, including schizophrenia, and had been deemed incompetent to defend himself in his deportation proceedings. Diabetes, hypertension, cellulitis, and other conditions meant that he required a wheelchair much of the time.

When COVID-19 first swept across the United States, Vargas Arellano was considered one of the most medically vulnerable people detained at Adelanto and was a plaintiff in a class-action lawsuit filed in March 2020 by the American Civil Liberties Union that demanded the facility reduce its population in order to meet federal social distancing guidelines. Despite the rapid spread of COVID-19 in congregate environments like immigration detention centers, Vargas Arellano was not released in 2020. He contracted COVID-19 in December during an outbreak at the detention center and fell gravely ill. He was hospitalized three times.

On March 3, 2021, Vargas Arellano suffered a severe stroke. Two days later, ICE discharged him from Adelanto with no word to Margaret Hellerstein, the attorney with Esperanza Immigrant Rights Project who was representing him.

Vargas Arellano died March 8, 2021, due to complications brought on by COVID-19. He was alone in a hospital 75 miles from Adelanto. Neither his children nor attorney were told that he had been released. Only when Hellerstein contacted ICE on March 15 did officers inform her that he was no longer detained at Adelanto, though the deportation officer refused to say where or to whom he had been released. Hellerstein called the police and issued a missing person report for Vargas Arellano, who by that time had been dead for over a week.
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The Los Angeles Police Department compelled ICE to reveal on March 17 that Vargas Arellano's last known address was Providence St. Jude Medical Center in Fullerton, California. On March 18, the Orange County Coroner told Hellerstein that Vargas Arellano had died there. Hellerstein believes that after failing to free him for a year while the pandemic raged, ICE released Vargas Arellano just before his death to avoid having to include him in in-custody death statistics, which have been higher this past year than in any year since 2005.

“His death is absolutely on their hands,” Hellerstein told the Los Angeles Times. “They covered it up and released him so they would not have to answer for it. I should not have had to call the coroner to find out my client died a week before.”

Alerting the attorney of record when people with severe mental conditions are being released from detention is the bare minimum ICE ought to do, Hellerstein said. “It’s not a lot we are asking for. . . . But they don’t see immigrants with criminal records as human beings.”

About a month after Vargas Arellano's death, the BIA issued a decision saying that the immigration judge who denied him any form of relief should have reconsidered his request for protection from deportation under the United Nations Convention against Torture. Had Vargas Arellano survived, he could have been granted relief from deportation.
Little notice given

The manner in which people are released from ICE's massive detention apparatus—a sprawling network of rural and urban jails, federal detention centers, and privately run facilities—varies widely and is unpredictable.

In many cases, attorneys are not told when their clients are left on the street. Even when ICE does alert attorneys of their clients' upcoming releases, it is often with little notice. This presents logistical problems, as many detention facilities are several hours away from population centers.

The joy that Hellerstein feels when her clients are granted release from ICE detention is mixed with panic. “You simultaneously get excited and also terrified,” she said. Many people are detained several hours' drive, if not farther, from their families. “There is a frantic effort to get a driver to pick them up, find money to put them up in a hotel or to find a place where they can safely stay. You have a tiny window.”

Tania Morris Diaz and Ruby Robinson of Michigan Immigrant Rights Center report that one of their clients ended up in the custody of his abusive spouse after an abrupt and unsafe release from ICE detention. Javier*, who had been diagnosed with unspecified psychosis and was deemed incompetent to represent himself, had been granted cancellation of removal based in part on evidence that he had been the victim of severe domestic violence at the hands of his wife. After the ruling, ICE refused to give his legal team advance notice of when he would be released so that his brother could make plans to use vacation time at work and fly from Florida to pick him up. Then ICE abruptly announced that he would be released within hours.
“They say, ‘if you don't pick him up, we are going to release him on the street,’” Robinson said. “Then it's drop everything and find a way to safely arrange for our client to transition from jail to family. We work in crisis all the time.”

Michigan Immigrant Rights Center scrambled to get Javier's brother on a flight and asked ICE to hold him until his brother could arrive at 7:00 p.m. Instead, the jail released him around 4:00 p.m. into the Michigan winter—without his medication and with only the clothing he had been wearing when he was arrested the summer before. He had no identification or any means to contact his legal team.

"It is problematic to release someone who is suffering from a mental illness without advising anyone. He was still delusional when he was released,” Diaz said. "They knew he was represented, but they essentially released someone on medication and a victim of domestic violence to no one."

Javier's attorneys filed a missing person report. But before the police could find him, his attorneys say that Javier's spouse, who the immigration court had found to have abused him, located him. His brother was eventually able to get custody of him, but not before he had endured significant risk.

“It's not safe,” Robinson said. “He was wandering the streets, on his own, having been declared incompetent, with no means to get help.”

Some deportation officers are accommodating, said Robinson. They give a date of release that allows family members time to plan to safely pick up people from detention and attorneys time to coordinate with doctors who can ensure they have a 30-day supply of medicine and community support.

“When someone is released from a hospital, there is always a discharge plan,” Robinson said.
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Compounding mistreatment
NQRP attorneys report that ICE's unsafe releases of their medically vulnerable clients often follow medical neglect in detention, compounding the harm already done to them.

In 2020, the U.S. House Committee on Oversight and Reform and Subcommittee on Civil Rights and Civil Liberties analyzed internal U.S. Department of Homeland Security (DHS) reports examining the deaths of people detained in ICE facilities run by private contractors. They reported critical medical staff shortages and a widespread failure to provide necessary medical care to people with serious and chronic medical conditions.

Advocates say that Vargas Arellano is one of many sick people who was allowed to deteriorate in the horrific conditions of detention and that his release was part of a widespread pattern of secretly releasing terminally ill people from ICE facilities to avoid having to report COVID-19 related deaths.

ICE had refused to publicly report the number of people in detention who were hospitalized from COVID-19 or who died while hospitalized after contracting the virus while in detention. An investigation into Vargas Arellano's death led to a federal court order compelling ICE to report when a person in detention who has tested positive for COVID-19 is taken to the hospital or dies.

**Lack of information**

When people with complex medical and mental health care needs leave ICE detention, their diagnosis and treatment are often not shared with those who will be responsible for their care.

In March 2021, ICE called Lara Nochomovitz to LaSalle Detention Facility in Jena, Louisiana, to come and pick up Ana*, a woman from Guatemala. Nochomovitz, a private attorney, coordinates travel and manages a free house for migrants who need temporary assistance after being released from detention centers in the state. ICE gave Nochomovitz next to no information about Ana, who had been provided with NQRP representation due to the fact that she had a severe intellectual disability.

Ana looked happy to be out of detention, according to Nochomovitz, but it quickly became clear that she was not prepared to navigate life without assistance. She was dressed in a disheveled
manner and was difficult to understand. “She clearly had no idea who I was or what was going on,” Nochomovitz said. “She said ‘do I work with you now? Are we going to work?’”

It was difficult to keep Ana from wandering away from the house. When a fire marshal came by, she tried to leave in his car. “She had no concept of stranger danger,” Nochomovitz said. “She would have gone with anyone.”

Nochomovitz said that one COVID-19-positive man released to her from ICE detention hadn't been given any supply of insulin, which he needed every day. He couldn't convey what exact medicine he needed, and it took Nochomovitz days to figure out what it was or how she could get it. “They gave him no supply and he has COVID, so he has to be in quarantine, and he didn't really seem to understand what his health condition was,” she said. When she called ICE to request a list of his medications, a deportation officer gruffly told her that he was no longer ICE's responsibility.

ISLA Legal Director Homero Lopez Jr. was very concerned about whether his client Luis was given needed medication when he was abruptly released from detention and put on a bus to his family's old address in California. The legal team at ISLA spent days calling colleagues across the country to see if they could look for him at one of the stops on the way.

Luis made it to Bakersfield, California, where he ended up at a halfway house. The social worker there reached out to his legal team, but then Luis left. Lopez says Luis calls periodically to check if there is any word on his immigration proceedings, always from a restaurant or someone else's house or phone. There is no stability to his living situation, and his case is still pending in immigration court.
Detention should not be the default

Advocates for detained people who are medically vulnerable or live with mental disabilities stress that detention should not be the default. People with complex needs are safer when they are allowed to wait for immigration court proceedings while living in their homes in the community, rather than held in civil detention, where necessary and reasonable accommodations are rarely made for them.

Attorneys and advocates say that certain minimum necessary requirements for safe release should apply to all detained people, but particularly people who are made vulnerable by health conditions and disabilities. Scheduling and confirming the date and time of release—and any changes to that date and time—with a person's legal team and/or family is the bare minimum. ICE also should ensure that people are released with a sufficient supply of any medication they may need. When discharge will occur at a bus station or other transport hub, ICE should ensure that the station is open, that transportation tickets are available the day and time of release, and
that the person can call their family or legal team before release. ICE should also ensure that people are released with any commissary funds they have and are able to immediately access them, including instructions on how to do so in the person's preferred language. When ICE releases people unsafely, there should be accountability and sanctions.

Too often, none of these precautions are taken, unnecessarily endangering people who are likely to have difficulty fending for themselves. When attorneys are able to find their clients in these cases, they’re often in jail, the hospital, or—worse—the morgue.

“You are happy when you find them in jail,” said Hellerstein. “You’d rather them be in a jail cell than dead.”

To learn more about Vera’s National Qualified Representative Program (NQRP) and support our work, visit vera.org/projects/national-qualified-representative-program.

*Client names have been changed to protect identity.*

Leer en español.