



**FREEDOM  
FOR IMMIGRANTS**

# DETAINED AND DISAPPEARED

**ENFORCED DISAPPEARANCES PERPETRATED IN  
IMMIGRATION DETENTION BY THE UNITED STATES**



*When the government provides  
**“Zero Matching Records”**  
for people in its custody*



## FREEDOM FOR IMMIGRANTS

TOGETHER WE WILL END IMMIGRATION DETENTION

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Freedom for Immigrants (FFI) is a national 501(c)3 nonprofit devoted to abolishing immigration detention, while ending the isolation of people currently suffering in this profit-driven system. FFI monitors the human rights abuses faced by immigrants detained by ICE through a national hotline and network of volunteer detention visitors, while promoting community-based services that welcome immigrants into the social fabric of the United States. Through these windows into the system, FFI gathers data and stories to combat injustice at the individual level and push systemic change.

[www.freedomforimmigrants.org](http://www.freedomforimmigrants.org)

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### PHOTO CREDITS

**LEFT:** Mexican boarder wall extends to the ocean. Photo by Freedom for Immigrants

**P. 4:** Artwork by Anthony Miranda, who was detained at Northwest Detention Center in Tacoma, WA

**P. 7:** Photo by Christina Montoya

**P. 13:** Artwork by Anthony Miranda, who was detained at Northwest Detention Center in Tacoma, WA

**P. 25:** Emily Tarver, Vicci Martinez and Dania Darwish protest outside Hudson County Correctional Facility in Hudson County, NJ. Photo by Freedom for Immigrants

**P. 28:** Gretta Soto Moreno, Christina Fiahlo and Rosanna Santos. Photo by David Bacon

**P. 39:** Sylvester Owino protesting outside Adelanto ICE Processing Center in Adelanto, CA. Photo by Freedom for Immigrants

**P. 46:** Photo by David Beacon

# Executive Summary

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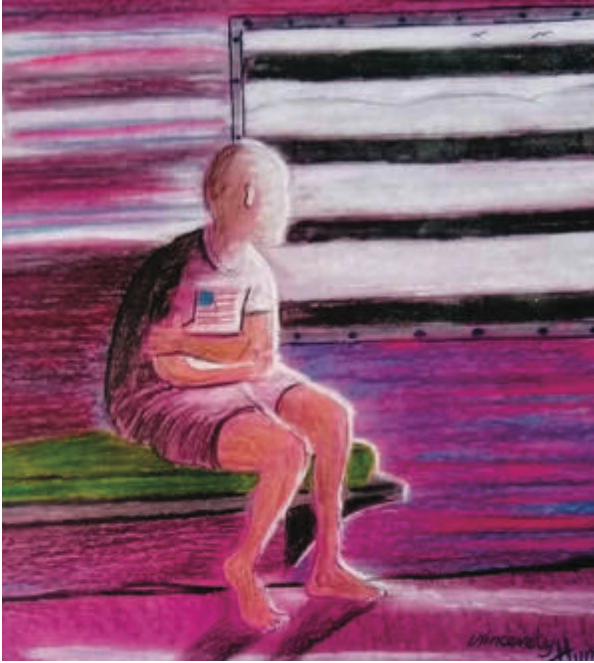
***The U.S. government is engaged in a pattern or practice of enforced disappearances of migrants. The very act of creating, funding, and operating a system that is known—and is operated in a manner that continues—to produce disappearances violates both international law and our country’s values of transparency and humanity.***

The U.S. immigration detention system routinely and systematically disappears those who enter its custody. An unknown number of immigrants each year are detained by U.S. Immigration and Customs Enforcement (ICE) whose whereabouts are effectively concealed from their families and advocates. This report demonstrates that, in violation of international law, the United States regularly and systematically commits what the United Nations Human Rights Office of the High Commissioner terms “enforced disappearances” through its “refusal to acknowledge the deprivation of liberty”<sup>1</sup> of numerous migrants who remain in its custody or who have been released or deported by the U.S. government.

The main tool provided by the federal government to locate persons in ICE detention is the Online Detainee Locator System (“ICE Locator”).<sup>2</sup> The ICE Locator has long been riddled with problems and has now become so erroneous that it routinely fails to identify and locate people in ICE custody, systematically obstructing access to legal counsel, human rights monitoring, and essential familial connection and support. In addition to the immigrants detained by ICE, well over one million immigrants are detained in the custody of other federal agencies, including the U.S. Marshals Service (USMS), the Office of Refugee Resettlement (ORR), and Customs and Border Protection (CBP), where there is no comparable locator system, effectively disappearing these immigrants with no readily available means of locating them.

<sup>1</sup> Convention for the Protection of All Persons from Enforced Disappearance, art. 2, December 20, 2006, 2716 U.N.T.S. 48088 (emphasis added). Available at: <https://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>

<sup>2</sup> Which for the purposes of this report will be referred to as the “ICE Locator” to avoid ICE’s dehumanizing reference to immigrants as “detainees”.



**This report demonstrates that enforced disappearances are a feature—not a bug—of the current immigration detention system.**

Through surveys, interviews, and ongoing work with people in detention and their loved ones, Freedom for Immigrants (FFI) documented 698 enforced disappearances of migrants:

- 424 enforced disappearances of migrants reported by families and advocates since January 2017. At the time of publication, at least 18 percent of these instances remained unresolved.
- More than half of these enforced disappearances followed a transfer, including individual transfers between ICE facilities, mass transfers between ICE facilities, and transfers from law enforcement custody to ICE detention.

- In many instances, advocates were unable to locate someone in immigration detention after a detained person participated in advocacy or protest.

- 216 enforced disappearances documented by FFI staff in which an individual's name could not be found and resulted in a "CALL FIELD OFFICE" message via the ICE Locator for more than five days (between April 2020 and August 2021).

- 58 instances of enforced disappearances documented by FFI staff in which an individual's name produced "zero matching records" for more than five days or longer (between April 2020 and August 2021).

- More than 20 immigration detention facilities, caging at least 10 percent of all people in ICE detention, failed to appear in ICE's online database of detention facilities; in fact, there are entire U.S. states for which detention facilities are omitted.

These and additional findings from this research indicate that the U.S. government is engaged in a pattern or practice of enforced disappearances of migrants. The very act of creating, funding, and operating a system that is known—and is operated in a manner that continues—to produce disappearances violates both international law and our country's values of transparency and humanity.

FFI is committed to and actively advocates for abolishing all forms of immigration detention. The brutality of

the U.S. immigration system has long been documented by FFI and other human rights organizations. However, as long as this outdated and inhumane system remains in operation, the government has the responsibility to provide transparency and accountability, including operational and accessible means of locating persons in its custody. Therefore, FFI calls for the implementation of the following recommendations:

1) FFI urges Congress, with the leadership of the Biden-Harris administration, to ratify the U.N. "International Convention for the Protection of All Persons from Enforced Disappearances."

2) FFI urges the United States to phase out the use of immigration detention immediately but no later than within the next three years. In the meantime, the U.S. should implement immediate measures to prevent enforced disappearances, including but not limited to: guaranteed free telephone communication with family and counsel, up-to-date official databases, and accurate, easily accessible records of persons deprived of liberty made available to family members, NGOs, and members of the public.

3) Above all, FFI calls for an end to immigration detention in the United States. The fact that enforced disappearances are a widespread and systemic feature of U.S. immigration detention underscores the urgency of abolishing this unjust system.

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[CLICK HERE TO DOWNLOAD OUR TOOLKIT](#)

*This toolkit contains a broad overview of where and when people go missing within the system and guidelines on how to locate them.*

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# DETAINED AND DISAPPEARED



# 8

## Detained and Disappeared

### **Deborah's brother Ernest was 24 years old when he went missing in U.S. Immigration and Customs Enforcement (ICE) detention.**

"I had been talking to him on the phone and then one day the calls stopped," she told Freedom for Immigrants (FFI) in the summer of 2017. ICE's online locator system indicated that he was detained at the Otay Mesa Detention Facility in San Diego, but the facility was unable to confirm his whereabouts. After multiple phone calls and emails to ICE's San Diego Field Office and ICE Headquarters, the agency eventually confirmed that Deborah's brother had been moved to a local hospital. When Deborah contacted the treatment center, staff said they were not permitted to confirm her brother's whereabouts, and that even if they could, visitors to people in ICE custody were not allowed at the facility. ICE then confirmed in an email to FFI that ICE's visitation policies do not apply at off-site medical care facilities. After FFI's exchange with ICE officials, and more than a month since Ernest disappeared in ICE custody, Ernest and Deborah were finally reunited at the hospital.

### **In the fall of 2019, attorneys at Refugee and Immigrant Center for Education and Legal Services (RAICES) publicized the disappearance of 1,072 women who had been suddenly transferred out of Karnes County Residential Center, in Karnes City, Texas, during the last days of September 2019.<sup>3</sup>**

According to attorneys, RAICES received emailed notices of transfer from ICE for some of the women and found information for others in the ICE Locator. The ICE Locator showed information that differed from the initial notices of transfer emailed by ICE. At least 125 of the disappeared women had documented, severe medical conditions. In October 2019, RAICES staff could not find 328 of the transferred women in the ICE Locator, and by December 2019, there were still 87 women whose location remained unknown. The majority of the women were later found to be at Adams County Correctional Center in Mississippi; as noted in a 2019 letter from Senator Elizabeth Warren, this facility was one of the undisclosed black sites missing from the ICE database at the time.<sup>4</sup>

### **In their advocacy to abolish immigrant prisons, Margaret Brown Vega and Nathan Craig of Advocate Visitors with Immigrants in Detention (AVID) in the Chihuahuan Desert—an organization that is part of FFI's national visitation network—have witnessed many disappearances in detention.**

In the summer of 2019, AVID had been in contact with a group of 22 men detained at Otero County Processing Center in Chaparral, New Mexico. After most of the men were abruptly transferred from the facility, Margaret began tracking their whereabouts, both to create a record of the transfers and to determine when the men might be eligible for habeas corpus petitions due to their extended time in detention. While AVID was able to find and follow most of the men in the group, three of the men disappeared entirely. It is as if they went into what Margaret described as "a black hole." Each time Margaret checked the ICE Locator—which she did regularly for months—the men came up as still in ICE custody, but with the "location" field empty, effectively disappearing them in the ICE detention system.

<sup>3</sup> Dias, Isabela. "When ICE Emptied Out an All-Women Detention Center in Texas, Chaos Ensued." Texas Observer. November 6, 2019. <https://www.texasobserver.org/ice-karnes-all-women-detention>

<sup>4</sup> "Senator Warren Investigates Reports that ICE has Secretly Transferred Migrants to Three New For-Profit Detention Facilities." July 12, 2019. <https://www.warren.senate.gov/oversight/letters/senator-warren-investigates-reports-that-ice-has-secretly-transferred-migrants-to-three-new-for-profit-detention-facilities>





# Introduction

An unknown number of immigrants each year are detained by Immigration and Customs Enforcement (ICE) whose whereabouts are effectively concealed from their families and advocates. This report demonstrates that, in violation of international law, the United States regularly and systematically commits what the United Nations Human Rights Office of the High Commissioner terms “enforced disappearances” through its “refusal to acknowledge the deprivation of liberty”<sup>5</sup> of migrants who remain in its custody or who have been released or deported by the U.S. government. Moreover, this report demonstrates that these enforced disappearances are a feature—not a bug—of the immigration detention system, which routinely and systematically disappears those in its custody.

As a result, people are cut off from family and community members, legal service providers, and advocates who provide them with critical, life-saving support. Detained individuals and their loved ones are often traumatized, and the efforts of advocates and attorneys working to secure their release are stymied.

The U.S. immigration detention system detains nearly 400,000 people in immigrant

## **THIS REPORT DEMONSTRATES THAT THESE ENFORCED DISAPPEARANCES ARE A FEATURE—NOT A BUG—OF THE IMMIGRATION DETENTION SYSTEM**

jails and prisons across the country each year. While individuals are incarcerated in this supposedly administrative form of confinement, they are not provided with court-appointed legal counsel and they often have to navigate the system and legal proceedings on their own. The immigration detention system is confusing and full of inaccuracies, leaving both the detained individual, as well as their advocates and loved ones, up against a byzantine system in which the deck is always stacked against them.

The main tool provided by the federal government to locate persons in ICE custody is the Online Detainee Locator System (ODLS) or “ICE Locator.”<sup>6</sup> The ICE Locator has long been riddled with problems and inaccuracies, and many stories of individuals who were unable to be located for long periods of time have since come to light.

Following the inauguration of Donald Trump as the 45th President in 2017, advocacy groups and individuals noted an undeniable

<sup>5</sup> Convention for the Protection of All Persons from Enforced Disappearance, art. 2, December 20, 2006, 2716 U.N.T.S. 48088 (emphasis added). Available at: <https://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>

<sup>6</sup> For the purposes of this report, the ODLS will be referred to as the “ICE Locator” to avoid ICE’s dehumanizing reference to immigrants as “detainees”.

## CONTINUED

increase in the frequency and severity of the ICE Locator's inaccuracies.

**THE ICE LOCATOR HAS NOW BECOME SO ERRONEOUS THAT IT ROUTINELY FAILS TO IDENTIFY AND LOCATE PEOPLE IN ICE CUSTODY, SYSTEMATICALLY OBSTRUCTING ACCESS TO LEGAL COUNSEL, HUMAN RIGHTS MONITORING, AND ESSENTIAL FAMILIAL CONNECTION AND SUPPORT.**

In addition to the number of immigrants detained by ICE, well over one million immigrants are detained annually in the custody of other federal agencies: the U.S. Marshals Service (USMS), the Office of Refugee Resettlement (ORR), and Customs and Border Protection (CBP). Notably, the ICE Locator database does not include people detained by USMS, ORR, or CBP. Increasingly, immigrants held in CBP custody are detained for periods well beyond the legally designated maximum period of 72 hours, making the need for a formal, functioning locator system even more of an imperative.<sup>7</sup> Immigrants held in the custody of ORR are exclusively minors, including young children, whose family and

relatives may be desperately seeking to find them. And yet not one of these agencies has an equivalent to the locator system operated by ICE, leaving families, attorneys, and advocates with no formal avenues for finding their loved ones in U.S. custody.

Impacted persons and their families, immigration advocates, and attorneys have experienced for decades the ways in which **the current U.S. immigration detention system serves as a black hole into which people systematically disappear.** The inability for communities to locate loved ones inside immigration detention takes on an

even greater sense of urgency during the COVID-19 pandemic, as ICE continues to transfer people to and from different carceral facilities where it is impossible to practice recommended health and safety measures.

These findings indicate that the U.S. government is engaged in a pattern or practice of enforced disappearances of migrants. The very act of creating, funding, and operating a system that produces disappearances violates both international law and our country's alleged values of transparency and humanity.

**THESE FINDINGS INDICATE THAT THE U.S. GOVERNMENT IS ENGAGED IN A PATTERN OR PRACTICE OF ENFORCED DISAPPEARANCES OF MIGRANTS.**

**THE VERY ACT OF CREATING, FUNDING, AND OPERATING A SYSTEM THAT PRODUCES DISAPPEARANCES VIOLATES BOTH INTERNATIONAL LAW AND OUR COUNTRY'S ALLEGED VALUES OF TRANSPARENCY AND HUMANITY.**

# 11

## Background and Methodology

Since 2010, Freedom for Immigrants (FFI) has been working with families who have lost their loved ones in this opaque system of oppression. While disappearances have happened for many years, the rate of enforced disappearances seemed to increase under the Trump administration. While the world watched in horror as the government systematically separated children from their families and lost them in the system, FFI continued to respond to families whose adult loved ones had disappeared. To respond to the needs of families and illustrate the severity of the problem, FFI embarked on a two-part plan: one, a service to provide relief for families with loved ones who had disappeared, and two, a study to understand the extent to which the system is operating to disappear people in the first place.

First, FFI launched a tool called REUNITE in June 2018 to provide families and advocates with a clear way to access support. Through the REUNITE tool, FFI has fielded 226 requests for assistance, helping to find and locate many loved ones who had disappeared in immigration detention.

Second, beginning in October 2019, FFI conducted research that included surveys, interviews, and a Freedom of Information Act (FOIA) request, among other methods.

Finally, beginning in April 2020, FFI undertook an independent investigation lasting 16 months to track the number and length of instances in which individuals FFI was supporting were known to be in Immigration and Customs Enforcement (ICE) detention, but did not show up in the ICE Locator.

These efforts have been grounded in the narratives and experiences of people directly impacted by detention with whom FFI have worked closely with over the years, abuses reported by FFI advocates and partner organizations, and FFI's previous and ongoing work inside and outside of immigrant prisons. This report contextualizes this research within the broader historical context of

disappearances, identifies the mental health impact of enforced disappearances on detained persons and their loved ones, and provides specific case studies of detained persons who have disappeared.

FFI's findings show how individuals disappear into ICE detention for extended periods, causing uncertainty and what several loved ones of the disappeared described as the "emotional distress" of searching for family members in detention. As family and friends reported, they "live with fear and concern not knowing where loved ones are." Research participants described feeling "confused," "angry," "outraged," and "terrified" by this "inhumane treatment." They spoke of "a sense of isolation and despair" and the "emotional long-term effects" of searching—for weeks, months, or, in some cases, indefinitely—for a loved one who has disappeared in ICE detention.

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<sup>7</sup>U.S. Customs and Border Protection. "National Standards on Transport, Escort, Detention, and Search." October 2015. <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf>



## SURVEYS

FFI distributed two separate bilingual surveys (Spanish and English) through immigration advocacy email listservs: 1) a survey to organizations and community groups providing support to people impacted by immigration detention, including but not limited to, advocacy organizations, legal service providers, and FFI-affiliated local visitation groups, and 2) a survey to individuals, family members, and personal advocates of people in immigration detention. The organizational survey asked about patterns and trends identified by groups that work with multiple people at a time, while individual advocates and family members were asked about specific disappearances.



## INTERVIEWS

Additional research included follow-up interviews with survey respondents, conversations with coordinators and volunteers in the national FFI network, as well as discussions with staff from peer organizations that also track disappearances of individuals before, during, and after immigration detention. These organizations include the Colibrí Center for Human Rights,<sup>8</sup> La Coalición de Derechos Humanos, No More Deaths,<sup>9</sup> and Refugee and Immigrant Center for Education and Legal Services (RAICES). Interviews substantiated patterns identified in the survey results.



## INDEPENDENT INVESTIGATION

FFI also undertook an independent investigation into the ICE Locator. First, FFI submitted a Freedom of Information Act (FOIA) request in January 2020 to ICE, requesting data on “the total number of attempts to use the ICE Online Detainee Locator System...from 2010 through 2019, [and] the total number of times the ICE Online Detainee Locator System located a person in detention.” Despite repeated follow-up requests, FFI never received a substantive response to this FOIA request. Starting in April 2020, FFI spent 16 months tracking the number and length of instances in which individuals it was supporting were known to be in ICE detention but did not show up in the ICE locator.

<sup>8</sup> The Colibrí Center for Human Rights gathers critical data on disappearances of people who have gone missing while crossing the border, in CBP custody, in ICE detention, and/or after being deported. <https://colibricenter.org>

<sup>9</sup> La Coalición de Derechos Humanos and No More Deaths. “Disappeared: How the US Border Enforcement Agencies Are Fueling a Missing Persons Crisis.” 2020. <http://www.thedisappearedreport.org>

# 13 Definitions



For the purposes of this report, FFI follows guidance from the United Nations Human Rights Office of the High Commissioner to refer to all persons who go missing or are unable to be located in ICE custody for any period of time as “enforced disappearances.”<sup>10</sup> Enforced disappearances are categorized as “crimes against humanity” according to the 1998 Rome Statute that

established the International Criminal Court.<sup>11</sup> This report uses “enforced disappearance” as defined by Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance (“the Convention”), which includes the arrest or *detention* by agents of the State, “followed by a *refusal to acknowledge the deprivation of liberty* or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law” (emphasis added).<sup>12</sup> In fact, Article 17 of the Convention prohibits secret detention and contains specific measures States should take, including *guaranteed communication with family and counsel and up-to-date official registers and records* of persons deprived of liberty.<sup>13</sup> It is noteworthy that the United States has refused to sign onto or ratify the Convention.

In the context of immigration detention, many enforced disappearances occur for a matter of days or weeks, while others last years or indefinitely. This report adheres to the definition provided under international law and refers to all as enforced disappearances. The Convention states: “[T]here is no time-restriction to an enforced disappearance according to the [Convention], and the reappearance of the forcibly disappeared

person does not influence the attribution of the situation as an enforced disappearance. **Thus, any form of deprivation of liberty of migrants and refugees, irrespective of its duration, that is subsequently followed by a refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the person, amounts to an enforced disappearance** under the [Convention]” (emphasis added).<sup>14</sup>

<sup>10</sup> United Nations Human Rights Office of the High Commissioner. Convention for the Protection of All Persons from Enforced Disappearance, art. 2, December 20, 2006, 2716 U.N.T.S. 48088. <https://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>

<sup>11</sup> United Nations Office on Genocide Prevention and the Responsibility to Protect. “Crimes Against Humanity.” <https://www.un.org/en/genocideprevention/crimes-against-humanity.html>

<sup>12</sup> Convention for the Protection of All Persons from Enforced Disappearance, art. 2, December 20, 2006, 2716 U.N.T.S. 48088. <https://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>

<sup>13</sup> *Id.* art. 17.

<sup>14</sup> Baranowska, Grażyna. “Disappeared Migrants and Refugees: The Relevance of the International Convention on Enforced Disappearance in Their Search and Protection.” German Institute for Human Rights. Nov. 2020. [https://www.researchgate.net/publication/346396538\\_Analysis\\_Disappeared\\_Migrants\\_and\\_Refugees\\_The\\_Relevance\\_of\\_the\\_International\\_Convention\\_on\\_Enforced\\_Disappearance\\_in\\_their\\_search\\_and\\_protection](https://www.researchgate.net/publication/346396538_Analysis_Disappeared_Migrants_and_Refugees_The_Relevance_of_the_International_Convention_on_Enforced_Disappearance_in_their_search_and_protection)

A failure to communicate with nongovernmental organizations (NGOs), such as FFI or the other organizations surveyed for this report, can constitute a failure to acknowledge the whereabouts of a migrant deprived of their liberty, thereby constituting an enforced disappearance:

*A particular challenge within migration is that even though NGOs often ask for information about migrants or refugees deprived of liberty, some States still do not allow NGOs to obtain this kind of information, limiting thus de facto the possibility of establishing the fate and/or whereabouts. While the [Convention] does not explicitly require States to allow for organizations or associations to obtain information on persons deprived of their liberty, it obliges States to “guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.” (Article 24.7). It could be argued, that to establish the circumstances and assist victims, NGOs should be able to obtain information on persons deprived of their liberty. Such an interpretation of the [Convention] would oblige States to ensure NGOs the right to acquire information about the deprivation of liberty.<sup>15</sup>*

This report demonstrates the critical role that NGOs and civil society play in assisting families in locating loved ones whom the State has disappeared.

# 15

## Historical Context



Mass enforced or involuntary disappearances of specific populations have long been weaponized by state governments in order to intimidate and terrorize civilian populations. While a comprehensive history of state disappearances is not within the purview or capacity of this report, it is important to highlight a few historical examples that bear resemblance to immigration detention in the United States.

One of the most infamous and earliest modern-day examples of politically motivated state disappearances took place before and during the Holocaust through the *Nacht und Nebel* (Night and Fog) directive, which functioned to disappear political activists who were part of the resistance. The Nazis were explicit regarding

the motives behind these mass disappearances, as demonstrated by this statement from the Armed Forces High Command Field Marshall:

*Efficient and enduring intimidation can only be achieved... by measures by which the relatives of the criminals do know the fate of the criminal... These measures will have a deterrent effect because A. The prisoners will vanish without a trace. B. No information may be given as to their whereabouts or their fate.*

In the 1970s and 1980s, the U.S.-backed governments of Chile and Argentina disappeared tens of thousands of “subversives,” employing State terrorism to combat communism and anti-imperialism. The *desaparecidos* were abducted, detained in clandestine prisons without trial, tortured, and often killed, most notoriously by being thrown alive from helicopters into the ocean.

More recently and even closer to home, the United States government itself has directly engaged in enforced disappearances of indi-

viduals via “extraordinary rendition” as part of its “War on Terror.” According to Amnesty International, “at least 39 detainees, all of whom are still missing... are believed to have been held in secret sites run by the United States government.”<sup>17</sup>

A common theme in these historical examples is the motive to weaponize individual disappearances to sow fear and anxiety in larger communities. Throughout the Trump administration, this very same motive was made explicit, perhaps most infamously in 2017 when ICE’s Acting Director Thomas Homan testified to Congress, “If you’re in this country illegally and you committed a crime by entering this country, you should be uncomfortable... you should look over your shoulder... you need to be worried.”<sup>18</sup>

<sup>15</sup> *Id.*

<sup>16</sup> Gillespie, Alexander. *A History of the Laws of War: Volume 1: The Customs and Laws of War with Regards to Combatants and Captives*, 2011.

<sup>17</sup> Amnesty International. “USA: Off the Record. U.S. Responsibility for Enforced Disappearances in the “War on Terror.” June 7, 2007. <https://www.amnesty.org/en/documents/amr51/093/2007/en>

## CONTINUED

Thus, it is horrific but not ahistorical that, given this mandate, ICE's arrest and detention of immigrants has increasingly matched the definition of enforced disappearances. Whether individuals are arrested at their homes in the dead of night, transferred into federal custody from local law enforcement agencies, or stopped and taken into custody in border zones, they are often unable to notify loved ones or advocates that they have been detained, where they are being held, by which government agency, or how long they will remain in detention. These situations create further logistical and emotional challenges for those outside detention who try to locate individuals. This stress is compounded by the growing fear that their loved one's rights are being violated and they are suffering alone.

These historical connections have also been drawn by international human rights bodies. In a 2017 report, the United Nations Human Rights Council Working Group on Enforced

or Involuntary Disappearances stated concern about how the rising criminalization of migration could be contributing to the increase in enforced disappearances of migrants in detention.<sup>19</sup> The United States is not the only country effectively disappearing migrants. For example, in 2020, human rights organizations Global Legal Action Network and

HumanRights360 filed a complaint to the United Nations Human Rights Council regarding the enforced disappearance of an asylum-seeking individual from Syria by Greek authorities.<sup>20</sup> As journalist John Washington noted in *The Intercept* while reporting on this complaint:



*“In the migration context, arbitrary detention and the stripping of the protection of the law, as well as denying access to asylum procedures, are... key elements in understanding the notion of enforced disappearance.”<sup>21</sup>*

<sup>18</sup> Sacchetti, Maria. “ICE Chief Tells Lawmakers Agency Needs Much More Money for Immigration Arrests.” Washington Post. June 13, 2017. [https://www.washingtonpost.com/local/social-issues/ice-chief-tells-lawmakers-agency-needs-much-more-money-for-immigration-arrests/2017/06/13/86651e86-5054-11e7-b064-828ba60fbb98\\_story.html](https://www.washingtonpost.com/local/social-issues/ice-chief-tells-lawmakers-agency-needs-much-more-money-for-immigration-arrests/2017/06/13/86651e86-5054-11e7-b064-828ba60fbb98_story.html).

<sup>19</sup> United Nations Human Rights Council. “Report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration.” July 28, 2017. A/HRC/36/39/Add.2 <https://www.refworld.org/docid/59bfb3aa4.html>

<sup>20</sup> Global Legal Action Network. “International complaint against Greece's violent pushbacks at the Evros border.” November 2020. <https://www.glanlaw.org/single-post/press-release-international-complaint-against-greece-s-violent-pushbacks-at-the-evros-border>

<sup>21</sup> Washington, John. “‘I Didn’t Exist’: A Syrian Asylum-Seeker’s Case Reframes Migrant Abuses as Enforced Disappearances.” *The Intercept*. February 28, 2021. <https://theintercept.com/2021/02/28/enforced-disappearances-asylum-migrant-abuse>



# 17

## The Mental Health Impact of Enforced Disappearances

As demonstrated throughout the history of enforced and involuntary disappearances, one of the most brutal—and intentional—consequences of this specific form of state terror is the traumatic and debilitating psychological toll inflicted upon the family members and community members of those who are disappeared. The particularly unique emotional devastation caused by not knowing whether a loved one or community member is imprisoned or dead is well-documented across countless conflicts over time.

As the United Nations' High Commissioner for Human Rights' (UNHCR) fact sheet on enforced disappearances explains, “the family and friends of disappeared persons experience slow mental anguish, not knowing whether the victim is still alive and, if so, where he or she is being held, under what conditions, and in what state of health.” Family members of disappeared persons who are themselves undocumented or have irregular immigration status may be doubly paralyzed by fears of not being able to openly engage in a search or campaign to find their loved ones without putting themselves at risk as well. Unsurprisingly, the psychological effects of such severe uncertainty and fear can spread throughout a community, negatively affecting everyone, including those who did not know the disappeared individual.

A seminal 2002 article on ambiguous loss in *The Lancet*, one of the world's most prestigious medical journals, describes the experience of not being able to locate a loved one as one that “defies emotional comprehension”:

*“People cannot make cognitive sense of the situation; and not knowing whether the family member will return prevents reconstruction of family and marital roles, rules, and rituals. . . The community loses patience with the lack of closure, and families become isolated. Ambiguity causes even the strongest of people to question their view of the world as a fair, safe, and understandable place.”<sup>23</sup>*

Notably, the clinical Western response to the emotional distress suffered by the family and loved ones of the disappeared is often inappropriate and inadequate. As *The Lancet* article explains, family members are often professionally diagnosed with post-traumatic stress disorder (PTSD), when in reality they are experiencing a persistent and ongoing trauma, and thus have very different feelings and needs than those who have survived discrete traumatic incidents in the past.

<sup>22</sup> Office of the United Nations High Commissioner for Human Rights. “Enforced or Involuntary Disappearances: Fact Sheet No. 6/Rev.3.” 2009. <https://www.ohchr.org/Documents/Publications/FactSheet6Rev3.pdf>

<sup>23</sup> Boss, Pauline. “Ambiguous Loss in Families of the Missing.” *The Lancet*. December 2002. [https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(02\)11815-0.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(02)11815-0.pdf)



# THE WAYS PEOPLE ARE DISAPPEARED

While this report primarily focuses on the ways in which people are disappeared in Immigration and Customs Enforcement (ICE) jails and prisons, people are increasingly disappearing or going missing in other forms of immigration incarceration. This includes facilities operated by Customs and Border Protection (CBP), U.S. Marshals Service (USMS), juvenile detention facilities overseen by the Office of Refugee Resettlement (ORR), refoulement<sup>24</sup> of asylum seekers under the misleadingly named Migration Protection Protocols (MPP), also commonly known as “Remain in Mexico”,<sup>25</sup> and the expulsion of asylum seekers from the U.S. to Mexico during the COVID-19 pandemic.

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## U.S. Customs and Border Protection

Immigrants who present an asylum claim at a port of entry or who are detained for unauthorized entry in a border zone are often initially detained at a CBP facility before being released from custody or transferred to a long-term detention facility. Although federal regulations state that individuals should not spend more than 72 hours in CBP holding facilities,<sup>26</sup> advocates, government investigators, and immigrants report increased instances of prolonged detention in CBP facilities, often in overcrowded and unsanitary conditions.<sup>27</sup> In November 2019, an asylum seeker reported that he spent more than three weeks in CBP custody, without access to an attorney or the ability to place

a phone call to family members. In a press statement responding to the incident, a CBP spokesperson said that the agency has “no obligation to notify family or counsel” when someone is in its custody.<sup>28</sup> As a result, individuals may be held for days or weeks in CBP custody without the ability to contact family members or attorneys, with serious ramifications for their well-being, legal case, and ability to seek help in instances of abuse.

As a founding member of the Derechos Humanos Missing Migrant Crisis Line shared in a 2021 report on disappearances in the borderlands published by No More Deaths and La Coalición de Derechos Humanos:<sup>29</sup>

*“[T]he parts of the Department of Homeland Security, as a whole, don’t communicate with each other well. There is no way to know where someone is in the system... It is a systemic problem. You don’t know if someone is in detention, processing, or in the hospital . . . Detention searches should be available and accessible to families and consulates. This system is part of the terror of disappearance, the torture of not knowing.”<sup>30</sup>*

<sup>24</sup> “Under international human rights law, the principle of non-refoulement guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. This principle applies to all migrants at all times, irrespective of migration status.” The Office of the United Nations High Commissioner for Human Rights. “The principle of non-refoulement under international human rights law.” 2018. <https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>

<sup>25</sup> While “new enrollments” into MPP were recently suspended by the Biden-Harris administration on January 20, 2021, tens of thousands of asylum-seeking individuals and families continue to be missing and/or in immediate danger south of the U.S.-Mexico border.

<sup>26</sup> Department of Homeland Security Office of the Inspector General. “Management Alert-DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley.” July 2, 2019. [https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19\\_.pdf](https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19_.pdf)

<sup>27</sup> Marshall, Serena; Zak, Lana; Metz, Jennifer. “Doctors compare conditions for unaccompanied minors at immigrant holding centers to ‘torture facilities.’” *ABC News*. June 23, 2019.

<sup>28</sup> Rivlin-Nadler, Max. “Asylum seeker held incommunicado for three weeks by Border Patrol.” *KBPS*. November 26, 2019. <https://www.kpbs.org/news/2019/nov/26/asylum-seeker-held-incommunicado-three-weeks-border>

<sup>29</sup> No Más Muertes & Coalición de Derechos Humanos. *Disappeared: How the US Border Enforcement Agencies Are Fueling a Missing Persons Crisis*. 2021. <http://www.thedisappearedreport.org>

<sup>30</sup> *Id.* [http://www.thedisappearedreport.org/uploads/8/3/5/1/83515082/left\\_to\\_die\\_-\\_english.pdf](http://www.thedisappearedreport.org/uploads/8/3/5/1/83515082/left_to_die_-_english.pdf)

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## “Migrant Protection Protocols” and “Asylum Cooperative Agreements”

In January 2019, the Department of Homeland Security (DHS) began instituting MPP or “Remain in Mexico.”<sup>31</sup> Through this policy, the government forced people seeking asylum to wait in Mexico while their cases progressed through the immigration court system. From January 2019 through December 2020, the government returned at least 70,000 people to Mexico to await their court hearings in unsafe, makeshift encampments.<sup>32</sup> In October 2019, an additional 26,000 people were stranded in Mexico due to an earlier Trump administration policy called “metering,” in which asylum seekers were turned back from ports of entry and placed on a wait list until an informally assigned number is called, usually many months later.<sup>33</sup>

The Biden administration mandated an end to MPP in June 2021 and began admitting families and individuals previously excluded from entry into the United States under the policy. On August 13, 2021, Trump-appointed Judge Matthew Kacsmaryk in Texas ordered the Biden administration to permanently reinstate MPP. The fate of many of those subjected to MPP continues to be unclear. According to Human Rights First, as of February 2021, there have been 1,544 reported cases of murder, rape, torture, and kidnapping, and other violent acts against asylum

seekers and refugees forced to return to Mexico through MPP.<sup>34</sup> Unlike in traditional refugee camps operated by the United Nations High Commission for Refugees (UNHCR), no authority is responsible for tracking movement into and out of these makeshift settlements. This creates an environment where people seeking asylum are vulnerable to kidnappings and extortion and can very easily go missing or pass prolonged periods of time without the ability to contact their loved ones.

In summer and fall 2019, the Trump administration signed “Asylum Cooperative Agreements” (ACAs) with the governments of El Salvador, Honduras, and Guatemala, requiring asylum seekers who travel through these countries before reaching the United States to initiate an asylum claim there instead of in the U.S.<sup>35</sup> Despite concerns from advocates and legal service providers that all three countries lack the capacity to process large numbers of asylum claims and guarantee the safety of asylum seekers, DHS and immigration officials began deporting some Central American asylum seekers to Guatemala in November 2019.<sup>36</sup> As of March 6, 2020, 698 asylum seekers have been deported to Guatemala.<sup>37</sup> Of these, only 24 have been able to initiate an asylum claim with Guatemalan authorities. **DHS has no record of the whereabouts of the remaining 674.**<sup>38</sup>

<sup>32</sup> American Immigration Council. “The Migrant Protection Protocols: Factsheet.” January 22, 2021. <https://www.americanimmigrationcouncil.org/research/migrant-protection-protocols>

<sup>33</sup> Human Rights First. “Orders from Above: Massive Human Rights Abuses Under Trump Administration Return to Mexico Policy.” October 2019. <https://www.humanrightsfirst.org/sites/default/files/hrfordersfrom-above.pdf>

<sup>34</sup> “Human Rights First. “Forced Return to Mexico: at least 1,0001 Publicly Reported Cases of Murder, Rape, Torture, Kidnapping, and Other Violent Assaults.” February 28, 2020. <https://deliveredtodanger.org>

<sup>35</sup> For more context, see Refugees International. “Refugees International Opposes Asylum Cooperative Agreement with Guatemala, El Salvador, and Honduras.” Dec. 23, 2019. <https://www.refugeesinternational.org/reports/2019/12/23/refugees-international-opposes-asylum-cooperative-agreements-with-guatemala-el-salvador-and-honduras>

<sup>36</sup> Mukpo, Ashoka. “Asylum Seekers are Being Abandoned in Guatemala in a New Policy Officials Call a ‘Total Disaster.’” American Civil Liberties Union. Jan. 28, 2020. <https://www.aclu.org/news/human-rights/asylum-seekers-are-being-abandoned-in-guatemala-in-a-new-policy-officials-call-a-total-disaster>

<sup>37</sup> Letter from Representatives Eliot L Engel, Joaquin Castro, and Albio Sires to Secretary of State Mike Pompeo.” Mar. 6, 2020. [https://foreignaffairs.house.gov/\\_cache/files/4/9/492f9e39-7857-4be2-8dc7-559c1568b54b/EFC64B6EF370AF971FF6F511E-F46A9D6.ele-castro-sires-letter-to-pompeo-safe-third-country-agreements.pdf](https://foreignaffairs.house.gov/_cache/files/4/9/492f9e39-7857-4be2-8dc7-559c1568b54b/EFC64B6EF370AF971FF6F511E-F46A9D6.ele-castro-sires-letter-to-pompeo-safe-third-country-agreements.pdf)

<sup>38</sup> Letter from Representatives Eliot L Engel, Joaquin Castro, and Albio Sires to Secretary of State Mike Pompeo.” Mar. 6, 2020. . [https://foreignaffairs.house.gov/\\_cache/files/4/9/492f9e39-7857-4be2-8dc7-559c1568b54b/EFC64B6EF370AF971FF6F511E-F46A9D6.ele-castro-sires-letter-to-pompeo-safe-third-country-agreements.pdf](https://foreignaffairs.house.gov/_cache/files/4/9/492f9e39-7857-4be2-8dc7-559c1568b54b/EFC64B6EF370AF971FF6F511E-F46A9D6.ele-castro-sires-letter-to-pompeo-safe-third-country-agreements.pdf)

# U.S. Marshals Service & Juvenile Custody



## U.S. MARSHALS SERVICE

In fiscal year 2018, the USMS detained nearly 240,000 people facing federal criminal charges across 1,000 jails and private detention facilities.<sup>39</sup>

This includes people facing criminal charges for “illegal re-entry.”<sup>40</sup> Unlike CBP custody, there are no federal regulations governing how long someone can spend in USMS custody. **Individuals held in USMS custody are not searchable in the ICE Locator and the USMS does not operate its own locator system.** Advocates express concern over the lack of transparency regarding conditions and abuses at USMS facilities.<sup>41</sup> Data obtained through Freedom of Information Act (FOIA) requests indicate that 158 people died while in USMS custody between June 2016 and June 2019, and hundreds more died in USMS custody before 2016.<sup>42</sup>



## JUVENILE CUSTODY

Immigrant children who present asylum claims or who are apprehended at the border are typically housed with their parents in family detention facilities operated by ICE or alone in facilities operated by the Department of Health and Human Services’ (HHS) Office of Refugee Resettlement (ORR). Immigrant children who are legally in the country and are facing criminal charges that may impact their immigration status can be detained by ORR for longer than 72 hours on behalf of ICE in juvenile jails, which may also house U.S. citizen children facing pending criminal charges or serving criminal sentences.<sup>43</sup> Immigrant youth detained within these juvenile facilities are not searchable in the ICE Locator.<sup>44</sup> **There is no searchable database available for immigrant youth held in family detention facilities operated by ICE or in ORR custody.** Parents of detained immigrant youth have reported prolonged periods in which they are unable to locate their children.<sup>45</sup>

<sup>39</sup> Wessler, Seth Freed. “Inside the U.S. Marshals’ Service Secretive, Deadly Detention Empire.” *Mother Jones*. November/December 2019. <https://www.motherjones.com/crime-justice/2019/10/inside-the-us-marshals-secretive-deadly-detention-empire>

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Blake Ellis & Melanie Hicken. “Secret and Unaccountable: Where Some Immigrant Teens are Being Taken by ICE.” *CNN*. Nov. 30, 2019. <https://www.cnn.com/2019/10/24/us/ice-kids-detention-invs/index.html>

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*



# LOCATING PERSONS IN ICE CUSTODY: ICE'S SYSTEMS

Susan Lange recounted the perplexing experience of discovering that a person can be in immigration detention but not listed in the ICE Locator. Susan is the coordinator of Faithful Friends/Amigos Fieles, a visitation group affiliated with the Freedom for Immigrants (FFI) national visitation network that supports people in detention in northern California. When Tadeo, a man from a Central American country, reached out to Faithful Friends to request a visitor, advocates learned that although he was in fact in immigration detention, he was not on record as being detained. After Faithful Friends was in contact with Tadeo on a regular basis, Susan repeatedly searched for his record in the online ICE Locator with no success. This is despite the fact that she used complete

and correct information—information that Tadeo himself provided and that is required to search for someone in detention, such as his A-number, full name, and country of origin. Tadeo was in ICE custody for over a year—nearly 20 months—without appearing in ICE’s online database.

In a similar case, Susan was contacted by a man, Lonzo, who had previously been visited by volunteers from Faithful Friends when he was in detention at Rio Cosumnes Correctional Center in Elk Grove, California. After Lonzo was deported, he was apprehended while trying to re-enter the United States. Lonzo reached out to Faithful Friends to let them know that he was being detained at another immigration detention facility in California: Otay Mesa Detention Center near San Diego. Again, Susan tried to use the ICE Locator to confirm the details of Lonzo’s detention, but even after several months there was still no record that he was at Otay Mesa. She speculated that perhaps Lonzo was not in the ICE Locator because he was being held by the U.S. Marshals, an agency that has no online locator system, asking, “How is it that people would be in detention, but not in the system?”



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## The Origins of the ICE Locator and ICE Database

When immigrants are detained solely due to their legal status, they are placed in a network of immigration detention facilities across the country. While ICE owns and operates a handful of prisons, most are operated by local municipalities or private prison companies contracting with ICE. Prior to 2011, it was nearly impossible to find a loved one in the U.S. immigration detention system for at least two reasons. First, there was no online system to locate immigrant prisons. Second, there was no online system to search for individuals within these prisons. Family members and their advocates had to file Freedom of Information Act (FOIA) requests or state-level open record requests with individual municipalities to determine whether a municipal jail had a contract with ICE to detain immigrants. Private prisons, which detain approximately 80 percent of people in immigration detention,<sup>47</sup> are not subject to FOIA or most state-level open record laws. Thus, locating these facilities and the people imprisoned in them was nearly impossible prior to the ICE online database.

Similarly, family members had no option but to contact local jails and ICE by phone to locate the disappeared person by name. Over the past decade, FFI and other organizations have documented many instances in which the local jail would tell family members that their

loved one was not located at that facility, only to find out the person was indeed detained there. This reliance on direct communication with law enforcement also hindered the ability of people from mixed status or undocumented families to safely be in contact with their loved ones. Additionally, attorneys reported that clients were regularly transferred between ICE facilities without notice, leading attorneys to spend weeks locating their clients in detention.

FFI and partner organizations successfully advocated for the creation of an online database of detention facilities and the ICE Locator. The government database launched in 2011 under the Obama administration to ensure that legal counsel, families, and advocates were able to locate and contact individuals in detention. According to [ICE's Privacy Impact Assessment](#), the ICE Locator was developed within the following parameters:

- The ICE Locator pulls information electronically from the Enforcement Integrated Database (EID), a database used by ICE personnel to enter biographical and location information at the point of booking. The ICE Locator contains each person's name; A-Number; country of birth; date of birth; custody status; the name, location, contact information, and website of the detention facility; and the Enforcement and Removal Operations (ERO)

office responsible for their immigration case.

- ICE requires individuals to provide at least two identifying pieces of information and exact-match searching in order to run a query, intentionally limiting the data available to the public to avoid over-exposing individuals. (In other words, a typo or other minor error can effectively erase people from the database.)<sup>48</sup>
- The ICE Locator contains information for all people currently held in ICE custody and those who have been booked out of ICE custody within the last 60 days. ICE policy requires all information pertaining to release, removal, or transfer to be entered into the ICE Locator within eight hours. *Note:* Congress has since legislated that ICE must update information within 48 hours of an individual's entry into detention and within 24 hours of a transfer.<sup>49</sup>

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<sup>47</sup> ACLU National Prison Project, National Immigrant Justice Center, and Human Rights Watch. "Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration." 2020. [https://www.hrw.org/sites/default/files/supporting\\_resources/justice\\_free\\_zones\\_immigrant\\_detention.pdf](https://www.hrw.org/sites/default/files/supporting_resources/justice_free_zones_immigrant_detention.pdf).

<sup>48</sup> U.S. Department of Homeland Security. "Private Impact Assessment for the Online Detainee Locator System." Apr. 9, 2010. [https://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_ice\\_odls.pdf](https://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_ice_odls.pdf)

<sup>49</sup> 115th Congress. "Department of Homeland Security Appropriations Bill." July 21, 2017. <https://www.congress.gov/congressional-report/115th-congress/house-report/239/1>





Through the monitoring conducted by the FFI national visitation network, members and affiliates have reported that the ICE Locator under the Obama administration was imperfect but for the most part functional. Most challenges arose from exact-match name requirements, which did not allow for reversed first, last, and middle names, misspellings, or hyphenations. User error by ICE officers during data entry was also common.

Soon after Donald Trump took office, a decrease in the ICE Locator's reliability and accuracy became overwhelmingly apparent among advocates, immigration attorneys, and members and affiliates of the FFI national visitation network. By August 2017, nine visitation groups (in California, Georgia, New York, New Jersey, New Mexico, and Texas) reported that the ICE Locator was no longer working properly and hindering their efforts to locate and support people in detention, often showing "zero matching records" when, in fact, the person was later confirmed to be detained.

In 2019, the ICE Locator changed and, instead of providing the response "Not in Custody" for people who had been recently released or deported, the system began to display "zero matching records." The de-

cision to implement this change was not publicly announced and ICE did not provide a policy reason for the change. The decision to obfuscate whether a person is "missing" from the database or whether a person has been deported creates added trauma for loved ones, and further strains resources and the capacity of family members and advocates who are searching for an individual. In such cases, it is not clear if an individual is not in the database due to an error or if they have been transferred, deported, or disappeared for another reason.

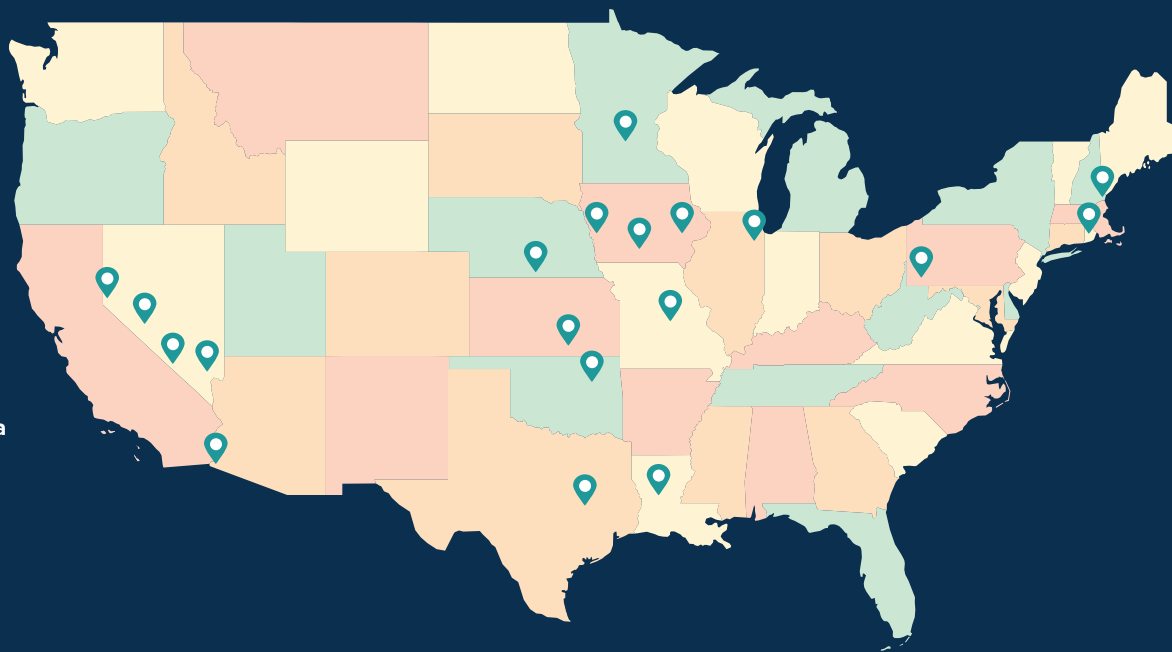
By 2020, the ICE Locator had become so erroneous that it systematically obstructed access to legal counsel, human rights monitoring, and essential familial connection and support. Today, people in immigration detention are often not searchable in the ICE Locator or routinely show up with incorrect information listed, even when advocates or family members are in contact with them and can confirm where they are detained through visits and phone calls. Since the COVID-19 pandemic hit the U.S., the inaccuracy and inhumanity of this dysfunctional system have become even further exacerbated, evidenced by an uptick in documented disappearances of people from the ICE Locator.

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## Growing Problems with the ICE Facility Database

The online database of detention facilities is also fraught with serious inaccuracies and deficiencies. Despite detaining immigrants, certain facilities do not appear at all in the online ICE database of detention facilities, which advocates fought for ICE to implement, and this has been a problem with the database since it was first launched. FFI found that the following immigrant prisons are absent from the database despite currently caging people in ICE custody.

- San Luis Regional Detention Center, Arizona
- Polk County Jail, Pottawattamie County Jail, and Linn County Detention in Iowa
- Kankakee County Jail in Illinois
- Chase County Jail in Kansas
- LaSalle Correctional Center in Louisiana
- Kandiyohi County Jail in Minnesota
- Morgan County Detention Center in Missouri
- Phelps County Jail in Nebraska
- Strafford County Jail in New Hampshire
- Henderson Detention Center, Nevada Southern Detention Center, Nye County Jail, and Washoe County Jail in Nevada
- Okmulgee County Jail in Oklahoma
- Cambria County Jail in Pennsylvania
- Wyatt Detention Center in Rhode Island
- Limestone County Detention Center in Texas



These locations are not all-inclusive. There are at least 93 other facilities that have contracts with ICE but are supposedly not currently detaining anyone for ICE and thus not included in the online database. Unreported facilities hold a significant share of the total detention population; the facilities listed above cage more than 10 percent (1,515) of all people in the immigration detention system as of February 2021. Entire states, such as Nevada, New Hampshire, and Rhode Island, do not appear at all in the drop-down list of states in the ICE Locator.

# SURVEY RESULTS

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# 28 Survey Results



In November 2019, Freedom for Immigrants (FFI) surveyed organizations and community groups supporting people in detention, including legal service providers and local groups in the FFI visitation network, as well as individuals, family members, and personal advocates of people in detention.<sup>50</sup> The surveys inquired about the ways people disappear in immigration detention and the tools avail-

able to advocacy groups and individuals to locate disappeared persons. The surveys inquired about the ways people disappear in immigration detention and the tools available to advocacy groups and individuals to locate disappeared persons. The surveys asked respondents to cite instances in which they were unable to locate individuals in immigration detention and to specify how long they were unable to do so.

The surveys also asked for information about the circumstances in which respondents lost contact with persons in immigration detention, demographic identifiers, and whether and how individuals were eventually located. The version of the survey sent to organizations asked about patterns and trends identified by groups that work with multiple people at a time, while the version sent to individual advocates and family members asked about specific disappearances. Additionally, organizations were asked specifically to describe their experiences working with the ICE Locator. Individuals were offered the survey in both English and Spanish.

FFI also submitted a Freedom of Information Act (FOIA) request in January 2020 to ICE, requesting data on “the total number of attempts to use the ICE Online Detainee Locator

System . . . from 2010 through 2019, [and] the total number of times the ICE Online Detainee Locator System located a person in detention.” Despite repeated follow-up requests, FFI only received a promptly issued boilerplate letter notifying that its request had been transferred to the Department of Homeland Security (DHS) FOIA Office. It is well documented that ICE and DHS became increasingly unresponsive to FOIA requests under the Trump administration, to the point that litigation was often necessary to obtain any meaningful response to records requested, and even then there was a low likelihood of receiving any sufficient data from the agencies.<sup>51</sup>

<sup>50</sup> FFI received 31 total responses to the survey. These included 15 responses from community groups and organizations and 16 responses from individuals. Combined, the 15 organizations regularly work with hundreds of immigrants in detention and their loved ones across the country. There was a wide geographic representation among survey respondents. Most respondents were based in Louisiana (16.7%), followed by Florida (8.3%), California (8.3%), Illinois (8.3%), Wisconsin (8.3%) and Mississippi (8.3%).

<sup>51</sup> Human Rights Watch. “Suit Filed Over Immigration FOIA Request: Data Denial Hides World of Detention, Deportation.” January 2019. <https://www.hrw.org/news/2019/01/10/us-suit-filed-over-immigration-foia-request>

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## Circumstances of Disappearances

Combined survey responses documented 424 instances<sup>52</sup> in which individuals had disappeared in immigration custody. **At least 75 (18 percent) cases out of all instances were reported as still unresolved.** Organizational and individual survey respondents reported the following circumstances in which immigrants disappear in detention:

- Following transfers between facilities;
- Following workplace raids;
- Following transfer from Customs and Border Protection (CBP) to ICE custody after presenting an asylum claim at the border or being apprehended for reentry after deportation;
- Following an interaction with local law enforcement or immigration officials in the interior of the U.S.;
- Following release from criminal custody.

Individuals most often disappeared during instances of transfer between facilities, after which organizations were unable to locate people using the ICE Locator. More than half of the organizations surveyed reported losing contact with individuals following a transfer, including individual and mass transfers between ICE facilities and transfers from criminal custody to immigration detention.

One FFI-affiliated visitation group commented that they may see people transferred between as many as five different facilities during their first six weeks in ICE custody, ranging from local jails to large-scale detention centers. This impacted their ability to continue advocacy or support for the lost person or refer the person to other service providers, including legal representation, thereby furthering their isolation and directly hindering their ability to fight the deportation charge, adjust their immigration status, and secure their release. In a follow-up phone interview, one of the organizational respondents stated that their organization would often lose contact with individuals after they were transferred outside of their organization's area of geographic reach, describing repeated instances in which individuals would disappear from the ICE Locator following transfers.

Two organizational respondents noted difficulties in locating individuals after they initiated formal complaints against either ICE or private prison companies or participated in an act of protest, such as a hunger strike, while detained. One of these respondents also identified an instance in which a person

was transferred following an act of protest and was unable to make contact with their community for a lengthy period of time as a result of this transfer.

In the survey circulated to individuals, FFI asked respondents to report on how long they were unable to locate disappeared persons held in immigration detention. FFI did not ask this question to organizations due to the composite nature of responses. Of the cases of disappeared persons reported by individuals, nearly half reported being unable to locate an individual in immigration detention for a period of up to two weeks, and 20 percent reported that they were never able to locate the disappeared person. Of these unresolved cases, people were missing for periods of three months to more than a year.

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<sup>52</sup> Of these, 408 were reported by organizations and 16 were reported by individuals.

# Tools to Locate Disappeared Persons

ORGANIZATIONS AND INDIVIDUALS WERE ASKED TO IDENTIFY TOOLS THEY USED TO LOCATE DISAPPEARED PERSONS. RESPONDENTS REPORTED USING THE FOLLOWING TOOLS TO LOCATE THE DISAPPEARED:



**THE ICE  
LOCATOR**



**DIRECT  
CONVERSATIONS  
WITH ICE OFFICIALS**



**PHONE INQUIRIES  
TO DISAPPEARED  
INDIVIDUAL**



**SEARCHES  
IN COMMISSARY OR PHONE  
CREDIT ACCOUNTS**



**ASSISTANCE  
OF A LOCAL COMMUNITY  
OR VISITATION GROUP**



**ASSISTANCE  
OF ELECTED OFFICIALS**



**ASSISTANCE  
OF A FOREIGN EMBASSY  
OR CONSULATE**

# Experiences with the ICE Locator

**IN THE SURVEY, ORGANIZATIONS AND COMMUNITY GROUPS WERE ASKED TO IDENTIFY SOURCES OF INACCURACIES IN THE ICE LOCATOR. GROUPS REPORTED:**

- Instances in which individuals were known to be in custody at a specific facility (via in-person visits) but the individual did not appear in the ICE Locator;
- Instances in which a person was known to be in custody at a specific facility but the facility was not listed in the ICE Locator;
- Spelling errors including inconsistent surname formatting for family names, for individuals with hyphenated surnames, or for individuals with two legal surnames;
- Instances in which someone was known to be in immigration detention but could not be located by providing their name and country of origin (i.e., the individual could only be located by providing a full A-number); and
- Instances in which someone was known to be in ICE custody but did not appear in the ICE Locator following a transfer between facilities; this included transfers between ICE facilities or transfers into ICE custody from Customs and Border Protection (CBP) or the Office of Refugee Resettlement (ORR) custody.

One organization responded that they no longer trust the ICE Locator and instead verify a person's whereabouts through in-person verification. Another organization reported an uptick in situations in which they could not locate someone in ICE custody post-2017 and a consistent lag time of two to three days following a person's transfer between facilities before that person would appear in the ICE Locator.



## SURVEY RESPONDENTS NOTED THE FOLLOWING SPECIFIC INSTANCES OF INACCURACY WITH THE ICE LOCATOR:

- A period of one to two months in 2019 when the ICE Locator frequently did not work due to apparent technical errors on the webpage including error messages following correct responses to CAPTCHA questions (used to determine whether or not the user is human), difficulties locating the ICE Locator webpage, and error messages when entering biographical information;
- Issues locating individuals with two legal last names;
- Inconsistent use of dashes between last names;
- Locating people from the State of Palestine, as they are often classified as “stateless,” from Israel, or they do not appear in the ICE Locator at all.<sup>53</sup>

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<sup>53</sup> In 2012, the United Nations recognized the Palestinian Authority as the State of Palestine. See Charbonneau & Nichols. “Palestinians win de facto U.N. recognition of sovereign state.” Reuters. Nov. 30, 2012. <https://www.reuters.com/article/us-palestinians-statehood/palestinians-win-de-facto-u-n-recognition-of-sovereign-state-idUS-BRE8AR0EG20121201>. See also Pileggi & AP. “PA readies to issue ‘State of Palestine’ Passports.” Times of Israel Apr 13, 2016. (reporting that the Palestinian Authority will issue passports for its residents). <https://www.timesofisrael.com/pa-readies-to-issue-state-of-palestine-passports>





# DISAPPEARANCES DURING THE COVID-19 PANDEMIC

Donald Brown, a man of Jamaican origin, was held in immigration detention for six months in various detention facilities in Florida.<sup>54</sup> According to Brown's family, he was able to call his family several times a day until June 1, 2020, when communication abruptly stopped. Brown's family was unable to locate him in the ICE Locator and did not receive a response from ICE officials when they called to locate him. After the Miami Herald published an article<sup>55</sup> featuring Brown's story, they finally were able to receive a three-minute call from Brown, who was in a hospital where he was being treated for COVID-19. The article identified three additional instances in which people detained in ICE jails in South Florida disappeared from the ICE Locator after contracting COVID-19.

**TITLE 42**

On March 20, 2020, the Center for Disease Control (CDC) issued an order authorizing the expulsion of all non-U.S. citizens without travel documents from U.S. borders.<sup>56</sup> The order essentially dismantles any remaining access to the U.S. asylum system and prevents people who are seeking asylum from being able to present their claims to border officials.<sup>57</sup> From March 2020 to July 2021, more than one million people have been expelled from the United States under Title 42,<sup>58</sup> exposing already at-risk populations to additional danger and possible deportation from Mexico.<sup>59</sup>

The U.S. government has not established any standardized way for family members to track the location of a loved one who is at risk of being expelled. According to government data, in some cases, the Trump administration detained migrant children and families in hotels under the custody of private security companies in order to speed up border expulsions. As *the New York Times* reported,

***“the hotels exist outside the formal detention system... parents and lawyers have no way of finding the children or monitoring their well-being while they are in custody.”***<sup>60</sup>

The U.S. government is concealing the whereabouts of these individuals and is also placing countless individuals outside the protection of the law by detaining people in locations outside of the formal immigration detention system. As of August 2021, the Biden administration has yet to repeal Title 42.

<sup>54</sup> Madan, Monique. “Either he’s dead or he’s been kidnapped.: ICE detainees go ‘missing’ amid coronavirus.” *Miami Herald*. June 17, 2020. <https://www.miamiherald.com/news/local/immigration/article243545852.html>

<sup>55</sup> Madan, Monique O. “Protestors urge feds to cut ties with ICE contractor as COVID-19 cases skyrocket at Glades.” *Miami Herald*. June 9, 2020. <https://www.miamiherald.com/news/local/immigration/article243390271.html>

<sup>56</sup> U.S. Department of Health and Human Services. Centers for Disease Control and Prevention. “Notice of Order Under Sections 362 and 365 of the Public Health Service Act Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists.” March 26, 2020. <https://www.govinfo.gov/content/pkg/FR-2020-03-26/pdf/2020-06327.pdf>

<sup>57</sup> Guttentag, Lucas. “Coronavirus Border Expulsions: CDC’s Assault on Asylum Seekers and Unaccompanied Migrants.” *Just Security*. April 13, 2020. <https://www.justsecurity.org/69640/coronavirus-border-expulsions-cdcs-assault-on-asylum-seekers-and-unaccompanied-minors/>

<sup>58</sup> Corbett, Dylan. “Title 42 is not a public health measure — Biden needs to rescind it.” *The Hill*. August 6, 2021. <https://thehill.com/opinion/immigration/566654-title-42-is-not-a-public-health-measure-biden-needs-to-rescind-it>

<sup>59</sup> WOLA. “U.S. Expulsion Policy Leave Migrants in Situations of Extreme Vulnerability Amidst Border Closings.” May 20, 2020. <https://www.wola.org/2020/05/unit-ed-states-migrant-expulsion-policy>

<sup>60</sup> Dickerson, Caitlin. “A Private Security Company is Detaining Migrant Children at Hotels.” *New York Times*. Aug. 16, 2020. <https://www.nytimes.com/2020/08/16/us/migrant-children-hotels-coronavirus.html>



## MEDICAL CUSTODY

It has long been suspected by advocates (although never confirmed by ICE) that one cause of individuals disappearing from the ICE Locator is transfers to off-site medical facilities. ICE's Performance-Based National Detention Standards state the following:

- “A detainee who is determined to require health care beyond facility resources shall be transferred in a timely manner to an appropriate facility.”
- “Appropriate custodial officers . . . transport and remain with the detainee for the duration of any off-site treatment or hospital admission.”
- “A detainee in a community hospital remains in ICE/ERO custody. ICE/ERO retains the authority to make administrative decisions affecting the detainee (e.g., visitors, movement, authorizing/limiting services, etc.).”

According to all versions of ICE's National Detention Standards (NDS), including the most recent version from 2019, ICE is not required to notify family or legal counsel when a person in detention is moved to an off-site medical facility. The only mention of “notification of family” in the 2019 NDS is under “Death Occurring in ICE/ERO custody,” which merely states: “Written procedures will provide for the facility's direct coordination with ICE/ERO in communicating news of the serious illness or death of a detainee.”

Furthermore, despite the critical fact that people transferred from immigration detention to off-site medical facilities remain clearly and inarguably in ICE custody according to the agency's own standards, these individuals almost always disappeared from the ICE Locator upon transfer. When searching for an individual, the ICE Locator will either return results that state “zero matching records” or, in increasingly rare cases, “CALL FIELD OFFICE.”

<sup>61</sup> U.S. Immigration & Customs Enforcement. “Performance-Based National Detention Standards 2011: Medical Care.” <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf>

<sup>62</sup> U.S. Immigration & Customs Enforcement. Performance-Based National Detention Standards 2019: Medical Care.” [https://www.ice.gov/doclib/detention-standards/2019/4\\_3.pdf](https://www.ice.gov/doclib/detention-standards/2019/4_3.pdf)

<sup>63</sup> U.S. Immigration & Customs Enforcement. “Performance-Based National Detention Standards, 2019: Terminal Illness and Death.” [https://www.ice.gov/doclib/detention-standards/2019/4\\_6.pdf](https://www.ice.gov/doclib/detention-standards/2019/4_6.pdf)

<sup>64</sup> *Id.*

It is not difficult to imagine the anxiety and panic that these particular disappearances from the ICE Locator can induce in loved ones and advocates, especially given that in many cases, ICE generally refuses to transfer people to off-site medical facilities unless and until someone's medical condition is dire. (For more about the cruel and systematic medical neglect that people in immigration detention are subject to, see Freedom for Immigrants' (FFI) 2017 joint report with Human Rights Watch, "Systemic Indifference: Dangerous & Substandard Medical Care in US Immigration Detention."<sup>65</sup>)

*One such recently disappeared individual is Mohamed, who was detained at the Stewart Detention Center in Lumpkin, Georgia. He called FFI's National Immigration Detention Hotline in July 2021, to report serious medical neglect. Mohamed is diagnosed with diabetes and high cholesterol, yet ICE denied access to his prescribed insulin and cholesterol medication for more than 10 days. He had already begun to experience symptoms of diabetic retinopathy (vision loss) and diabetic peripheral neuropathy (itching feet), as well as a recorded glucose level of 500 mg/dl, which can cause a diabetic coma. On July 20, 2021, local visitation group El Refugio submitted a letter to the warden of Stewart Detention Center demanding urgent medical care for Mohamed. The following day, Mohamed disappeared from the ICE Locator. Attorneys who called the facility could not obtain any information other than that he was no longer "there." As of August 2021, Mohamed is still missing.*

<sup>65</sup> Human Rights Watch. "Systemic Indifference: Dangerous & Substandard Medical Care in US Immigration Detention." <https://www.hrw.org/report/2017/05/08/systemic-indifference/dangerous-substandard-medical-care-us-immigration-detention>

As the COVID-19 pandemic began to ravage the United States in April 2020, FFI implemented rigorous processes to confirm the locations of detained individuals it supports and to monitor for any enforced disappearances that might occur.<sup>66</sup> This robust tracking has provided yet further confirmation of the appalling inaccuracy of the ICE Locator, which FFI has documented on a continuous and ongoing basis in its regularly published COVID-19 reports.<sup>67</sup> Although difficulty locating people in the ICE Locator is not a new phenomenon as evidenced by this report, the inability to locate loved ones has caused even greater stress and trauma within the context of the pandemic.

From April 2020 to August 2021, FFI identified 216 instances in which an individual in immigration detention could not be located via the ICE Locator for more than five days. Instead, the person's whereabouts were listed as "CALL FIELD OFFICE" for periods of time as long as 311 days (over ten months), before "reappearing" in an ICE jail or prison:

- 128 of these 216 individuals (59%) had

unknown locations for longer than two weeks;

- 90 (42 percent) individuals had unknown locations for longer than a month;
- 44 (21 percent) individuals had unknown locations for longer than two months; and
- 29 (14 percent) individuals had unknown locations for longer than three months.

There appears to be a relationship between country of origin and inability to locate an individual using the ICE Locator: 30 percent of the individuals who were listed under "CALL FIELD OFFICE" for at least five days were from Cuba and 16 percent were from Cameroon. This is in contrast to July 2019 data that shows that individuals from Cuba only make up approximately 16 percent of the people in immigration detention overall, while individuals from Cameroon make up only 1 percent.<sup>68</sup>

When loved ones or advocates do call an ICE Field Office, they report that their calls often go unanswered. If a call is answered,

ICE staff will likely respond that they do not have access to or cannot share more information than what the ICE Locator displays.

Roberta was one of many who used the ICE Locator to find a loved one in detention and struggled to understand what the "CALL FIELD OFFICE" response meant. After her husband Pedro was forced to flee their home in Brazil due to targeted violence, Roberta and their nine year old daughter were horrified to learn that the United States was not the land of protection and transparency they had hoped for when he applied for asylum in April 2021. After being initially detained in La Palma Correctional Center in Arizona, Pedro was transferred to Adams County Correctional Center in Mississippi; then, beginning in June, the ICE Locator said "CALL FIELD OFFICE." When Roberta contacted FFI in July to ask for support in locating and supporting her husband, she believed "FIELD" to be the name of the detention facility. Pedro was disappeared for over a month before being located at the Winn Detention Facility in Louisiana, where he remains detained as of August 2021, despite suffering from high blood pressure and cardiovascular disease, two major COVID-19 risk factors.

<sup>66</sup> ICE Locator data in this section obtained in partnership with Mobile Pathways. <https://www.mobilepathways.org>

<sup>67</sup> Freedom for Immigrants. "COVID-19 in ICE Jails & Prisons." March 2021. <https://www.freedomforimmigrants.org/covid19>

<sup>68</sup> TRAC Immigration. "Immigration and Customs Enforcement Detention: ICE Data Snapshots, up to July 2019."

<https://trac.syr.edu/phptools/immigration/detention>

**“Zero matching records” can be an even more alarming response than “CALL FIELD OFFICE” for families and advocates because it misleadingly suggests to the layperson that the individual has been released or deported. Families and advocates are later confused to learn that the individual is still in fact in ICE custody, albeit at an unknown location.**

Alarming, the “zero matching records” response has begun to appear more often. From April 2020 to August 2021, FFI identified 58 instances in which a search for an individual’s name produced “zero matching records” for between five to 268 days (nearly nine months), before the name appeared again in the ICE Locator:



Once again, there appears to be a concerning relationship between country of origin and likelihood of being disappeared from the ICE Locator; 12 percent of those who were disappeared for five days or longer are individuals from Cameroon (who make up only 1 percent of the population in detention overall).

In a majority of the 274 documented instances in which an individual's location disappeared from the ICE Locator and later reappeared between April 2020 and August 2021, these disappearances took place during a transfer from one ICE detention facility to another. This finding supports the trend identified by advocates in which people are particularly vulnerable to being disappeared from the system during a transfer.



# NONPROFIT AND VOLUNTEER RESPONSES TO DISAPPEARANCES

Freedom for Immigrants (FFI) volunteer Dan Gashler recalled how a friend from New York, Pablo, disappeared in 2009, before the ICE Locator was even in existence. Pablo was traveling to the Midwest when ICE agents stopped the bus he was on and took Pablo into custody. Pablo was able to make a quick phone call to Dan letting him know that he had been apprehended by ICE, though he did not have any information about where he was being detained. Dan immediately tried to locate Pablo. First, he called immigration detention facilities in the region and then he contacted the U.S. Marshals to ask if Pablo might be in its custody,

but he “couldn’t make it through the phone blockade” (e.i., the endless automated message menus) to reach a real person. When multiple attempts to find his friend were unsuccessful, Dan and his wife decided to go to the ICE detention facility “closest” to their home, Buffalo Federal Detention Center in Batavia, New York—nearly a four-hour drive, roundtrip. Once there, they spoke with a guard at the entrance. Dan recalls that as the ICE agent spoke with them, he was holding a list with the names and A-numbers of everyone in custody at the detention center. After lengthy discussion and pleading to help them find their friend, Dan and his wife finally convinced the ICE agent to share Pablo’s A-number. Still, despite having the A-number and knowing where Pablo was in detention, they weren’t allowed to visit with him. They put money in his commissary account and spoke one time by phone before Pablo was deported. Dan later heard from Pablo when he called from Mexico; as Pablo explained, ICE had taken him to Matamoros and left him there with no money for a bus ticket to his home community in the Mexican state of Puebla, more than a 12-hour drive from the border.



**Immigrant rights organizations and volunteer groups have to make use of their limited resources to address disappearances within the US immigration enforcement system. In June 2018, FFI launched a tool called REUNITE, in response to the Trump administration’s zero-tolerance policy that led to the family separation crisis.<sup>69</sup> The tool was designed to facilitate collaboration between organizations assisting in reuniting separated families under the aforementioned policy.**

As of the publication of this report, FFI has received more than 225 requests through the REUNITE tool to locate people disappeared in the immigration enforcement system. Such requests vary from those who went missing during their journey to the

U.S. to those who were disappeared after an interaction with U.S. immigration authorities. As immigration policies change, so do the types of requests made to the REUNITE tool. For example, after the zero-tolerance policy and subsequent mass family separations at the border in 2018, immigration policies changed, again, leading to many immigrants getting lost in the system as a result of policies like the Migrant Protection Protocols (MPP or “Remain in Mexico”) and third country agreements.

Through the REUNITE tool, FFI continues to support friends and family members by helping them search for loved ones who have disappeared and introducing them to the tools to locate people in detention. This includes training and support on how to use



the ICE Locator, assistance in contacting “foreign consulates and ICE officers, guidance for utilizing commissary systems, and providing referrals to local organizations.

Local visitation groups in the FFI network have been instrumental in filling in the gaps of information when an individual disappears in the immigration system. For example, visitation groups often go to detention centers in-person to confirm the location of detained individuals when the ICE Locator is not working. Visitor volunteers serve as reliable witnesses in a system that continues to conceal the whereabouts of people in immigration detention. During the COVID-19 pandemic, with visitation shut down at most detention centers, visitation groups have been able to help locate individuals by calling facilities and by searching phone and commissary company websites.

Organizations near the U.S.-Mexico border have also developed strategies to support loved ones of those who have attempted to cross through life-threatening deserts

HELP

AYUDA

To further support people searching for their loved ones, Freedom for Immigrants has created a **short toolkit in English and Spanish** with a broad overview of how people disappear within the immigration detention system and suggestions for how to search for them. This is a resource intended for advocates, friends, and family members of people impacted by the U.S. immigration system.

and rivers and have disappeared. The Colibrí Center for Human Rights works to “end disappearances and uphold human dignity along the U.S.-Mexico border...through forensic science, investigation, and community organizing.”<sup>70</sup> The Colibrí Center provides a way for family members to file a “missing migrant report” for an individual who disappears while crossing the U.S.-Mexico border and to request support from the organization.<sup>71</sup> Similarly, No More Deaths is a nonprof-

it organization that seeks to end the deaths of migrants in the U.S.-Mexico border region. No More Deaths and Coalición de Derechos Humanos (Human Rights Coalition) coordinate the “Searching for the Disappeared Project,” respond to emergency calls, and mobilize search groups at the border when CBP and local authorities are unresponsive.<sup>72</sup> FFI encourages readers to review their comprehensive report, *Disappeared: How the US Border Enforcement Agencies Are Fueling a Missing Persons Crisis*.<sup>73</sup>

<sup>69</sup> Freedom for Immigrants. “New Tool Launched To REUNITE Families & Help Facilitate Collaboration Among Organizations.” June 27, 2018. <https://www.freedomforimmigrants.org/news/2018/6/27/new-tool-launched-to-reunite-families-help-facilitate-collaboration-among-organizations>

<sup>70</sup> Colibrí Center for Human Rights. <https://www.colibricenter.org/about-us>

<sup>71</sup> See “Missing Migrant Form” at <https://colibricenter.org/missing-migrant-form>; see also “Active Search Guide” (with resources for families whose loved ones have disappeared) at <https://colibricenter.org/resources/active-search>

<sup>72</sup> No More Deaths. <https://nomoredeaths.org/about-no-more-deaths>

<sup>73</sup> No Más Muertes & Coalición de Derechos Humanos. *Disappeared: How the US Border Enforcement Agencies Are Fueling a Missing Persons Crisis*. 2021. <http://www.thedisappearedreport.org>

A close-up photograph of two young women with dark hair and eyes, smiling warmly at the camera. The woman on the left is wearing a black top and a gold hoop earring. The woman on the right is wearing a white top. The background is softly blurred, suggesting an outdoor setting with light-colored structures.

# POLICY RECOMMENDATIONS

In March 2019, advocates in Louisiana shared that they had received phone calls from people detained at the River Correctional Facility (RCF) in Ferriday, Louisiana. People reported that they had been transferred from the California–Mexico border and other locales to RCF. The problem was that there was no public record of RCF ever being used as an Immigration and Customs Enforcement (ICE) detention facility, and when the name of an individual transferred to RCF was entered into the ICE Locator, the individual would appear to be in ICE custody but without any location provided. Since these initial phone calls, Freedom for Immigrants (FFI) learned that several hundred asylum seekers and immigrants—the exact number is unknown—had been swiftly transferred to RCF. Many of those who had been transferred went on hunger strike, naming lack of due process, barriers to release, psychological torture, and human rights abuses as motivations for their protest.

Significantly, Louisiana was the site of rapid detention expansion throughout 2019, moving the state to second in the nation in terms of the number of immigrants detained. In July 2019, Massachusetts Senator Elizabeth Warren sent a letter<sup>74</sup> to then-Acting Director for ICE Mark Morgan expressing concern that ICE had begun detaining immigrants at three facilities in Louisiana and Mississippi without alerting Congress. None of the facilities Senator Warren named appeared in the ICE database at the time of her letter. As Sam Ann Fien, a reporter from the local New Orleans publication, *The Shotgun Paper*, wrote: “Some of those locked up inside RCF with experience and knowledge of ‘black sites’ in their home countries . . . have been referring to the facility in these terms. In black sites, people are held indefinitely, tortured, and hidden away from society. They are the places that people get disappeared to.”<sup>75</sup>

**As this research shows, immigrant prisons run by or on behalf of the U.S. government are places where people disappear. The impact of not being able to locate persons in custody—for a period of days, weeks, or months—causes extreme stress and anguish for both the people inside detention and their families and communities.** In the absence of functioning locator tools and assistance from the government made in good faith, and the policies that lead to detention and disappearances in the first place, advocacy and community groups have been forced to create their own resources. The hours and financial resources invested by individuals and community groups to locate disappeared persons in detention represent an immense opportunity cost in resources that could instead be invested in legal

resources, advocacy, and other forms of support for detained persons. The burden to locate individuals in U.S. government custody should not fall on families and advocacy groups; instead, it is the direct responsibility of the U.S. government agency that has apprehended the individual to notify a lawyer, family member, or other point of contact.

**Disappearances underscore why it is crucial to dismantle all forms of immigration detention.**

FFI is devoted to the long-term objective of total abolition of the U.S. system of immigration detention precisely because it has observed and recorded through its independent human rights monitoring and investigations that the immigration detention system continues to rip families apart, weakens communities, and inflicts severe emotional

distress, trauma, and suffering upon the people inside detention and their loved ones. During the 2020 presidential campaign, President Biden signaled commitment to reducing detention levels, investing in community services, and divesting from the private prison industry. However, the Biden administration has thus far failed to extend a commitment to phasing out private detention to facilities operated by ICE and the U.S. Marshals Service (USMS) and has adopted preliminary enforcement priorities that continue to leave large portions of communities vulnerable to detention. While FFI continues to call for an end to all forms of immigration detention, FFI recommends the following immediate policy interventions to ameliorate harm in the short-term.

**CONGRESS SHOULD:**

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearances;
- Phase out the use of immigration detention immediately but no later than in the next three years, and in the meantime, implement immediate measures to prevent enforced disappearances, including but not limited to, guaranteed free telephone communication with family, counsel, and consulate, as well as up-to-date official registers and records of persons deprived of liberty made available to family members and NGOs;
- Direct the Government Accountability Office to review and produce a report on the scope, frequency, and justification for transfers between ICE facilities; this review should include justification for individual and mass transfers, estimation of cost to the taxpayer for multiple transfers during the course of an individual's detention, and assessment of the role of transfers in facilitating the spread of COVID-19 within detention and the broader community;

- Mandate that all agencies operating facilities used to detain adult immigrants, including Customs and Border Protection and those contracted by the U.S. Marshals Service to house immigrants serving criminal sentences for immigration-related offenses, create their own locator systems for all adult persons held in custody; and
- Dramatically reduce funding for immigration detention and increase funding for non-mandated community support services.

**ICE SHOULD:**

- Immediately adjust search parameters on the ICE Detainee Locator to enable “smart searching,” in order to allow for individuals to be located via partial or incomplete queries (e.g., if a name is incomplete or misspelled);
- Immediately conduct a review of naming conventions and standardize surname formatting in the ICE Detainee Locator;
- Immediately update the ICE Facility Locator list to ensure that all facilities are searchable by both facility name and state including new and unlisted facilities;

- Immediately resume former practice of listing an individual as “no longer in custody” in the ICE Detainee Locator following release from custody or deportation; and
- Ensure that operations are in compliance with the agency's own policies, including ensuring that the ICE Detainee Locator is updated within eight hours of release, deportation, or transfer of an individual in ICE custody.

**THE DEPARTMENT OF HOMELAND SECURITY SHOULD:**

- Immediately exercise operational and discretionary authority to cease all transfers into and between ICE facilities;<sup>76</sup> and immediately exercise operational and discretionary authority to halt all deportations and border expulsions.

<sup>74</sup> Letter from Senator Elizabeth Warren to Acting ICE Director Mark Morgan. July 11, 2019. <https://www.warren.senate.gov/imo/media/doc/2019.07.11%20Letter%20to%20ICE%20regarding%20use%20of%20three%20new%20detention%20facilities.pdf>

<sup>75</sup> *The Shotgun Paper* website is no longer available as of 2021.

<sup>76</sup> In May 2021, U.S. Senator Michael Bennet (D) and U.S. Representative Jason Crow (D) introduced the End Transfer of Detained Immigrants Act, legislation which would immediately prevent ICE from transferring immigrant detainees between ICE facilities or from federal, state, and local prisons during the Coronavirus (COVID-19) pandemic. “Bennet, Crow, Colleagues Introduce Bicameral Legislation to Halt Transfers of ICE Detainees, Slow Spread of COVID-19 in ICE Facilities.” May 24, 2021. <https://www.bennet.senate.gov/public/index.cfm/2021/5/bennet-crow-colleagues-introduce-bicameral-legislation-to-halt-transfers-of-ice-detainees-slow-spread-of-covid-19-in-ice-facilities>



# CONCLUSION

Freedom for Immigrants' (FFI) research, advocacy, and ongoing partnerships with people in detention, as well as reported experiences of legal service providers and advocates struggling to locate individuals in detention, demonstrate that people disappear inside immigration detention in a widespread and systematic manner. In multiple instances, people disappear for lengthy or indefinite periods of time. People are particularly vulnerable to enforced disappearances during transfers, including transfers between Immigration and Customs Enforcement (ICE) facilities and transfers from criminal to civil custody. People detained in facilities that are not listed or inconsistently listed in the ICE Facility Locator are also at particular risk of disappearing in immigration detention.

The tools the U.S. government provides to locate people inside immigration detention have always been insufficient. The COVID-19

pandemic has increased the rate of transfers and people in custody placed in off-site hospitals, making the unreliability of the government's reporting and database even more pronounced. Meanwhile, the Trump administration wholly disbanded asylum access, leaving tens of thousands of individuals in Mexico and outside the purview of the ICE Locator, adding only more confusion for family members trying to locate loved ones. Moreover, the U.S. Marshals Service (USMS) has expanded its detention capacity through the use of increased contracts with local governments, which means that this growing population in detention remains outside the purview of the ICE Locator, and thus people in USMS custody are also systematically disappeared.



**ICE is not the only government agency detaining immigrants for extended periods of time, but it is the only agency that has made even a cursory attempt—and only after much advocacy on the part of NGOs—to provide a way for legal service providers, families, advocates, and community members to attempt to locate persons in its custody.** Inaccuracies and omissions in the ICE Locator show that the tool is not updated with the frequency that ICE's own policies mandate<sup>77</sup> and that its search parameters are too narrow. These deficiencies could be ameliorated with a basic overhaul of the database and user interface to make the data more accurate and accessible.

However, the problems associated with the ICE Locator go far beyond technical deficiencies. Starting in January 2017, after the inauguration of Donald Trump as the 45th President, advocacy groups and individuals lost contact with persons detained in ICE custody with increased frequency, underscoring that the problems with the ICE

Locator cannot be explained by technical issues alone. Results from FFI's research indicate that disappearances are commonly associated with transfers conducted in retaliation for an immigrant in detention speaking out or taking action against ICE or its private contractors. This suggests that the agency may deliberately disappear persons in its custody in an attempt to isolate people and break morale, underscoring how enforced disappearances operate as a feature of immigration detention. As immigration detention continues to expand and more people are held in abject conditions for increasingly extended periods of time, transparency and access to accurate information about immigrants imprisoned by ICE are of critical importance. Without this, enforced disappearances and the deprivation of liberty at the hands of U.S. government agencies will continue to define this violent system of injustice.

<sup>77</sup> U.S. Department of Homeland Security. "Private Impact Assessment for the Online Detainee Locator System" Apr. 9, 2010. [https://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_ice\\_odls.pdf](https://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_ice_odls.pdf)

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