

By Jacqueline Stevens

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"If you don't have enough evidence to charge someone criminally but you think he's illegal, we can make him disappear." Those chilling words were spoken by James Pendergraph, then executive director of Immigration and Customs Enforcement's (ICE) Office of State and Local Coordination, at a conference of police and sheriffs in August 2008. Also present was Amnesty International's Sarnata Reynolds, who wrote about the incident in the 2009 report "Jailed Without Justice" and said in an interview, "It was almost surreal being there, particularly being someone from an organization that has worked on disappearances for decades in other countries. I couldn't believe he would say it so boldly, as though it weren't anything wrong."

ICE agents regularly impersonate civilians--OSHA inspectors, insurance agents, religious workers--in order to arrest longtime US residents who have no criminal history. Jacqueline Stevens has reported a [web-exclusive companion piece](#) on ICE agents' ruse operations.

Pendergraph knew that ICE could disappear people, because he knew that in addition to the publicly listed field offices and detention sites, ICE is also confining people in [186 unlisted and unmarked subfield offices](#), many in suburban office parks or commercial spaces revealing no information about their ICE tenants--nary a sign, a marked car or even a US flag. (Presumably there is a flag at the Veterans Affairs Complex in Castle Point, New York, but no one would associate it with the Criminal Alien Program ICE is running out of Building 7.) Designed for confining individuals in transit, with no beds or showers, subfield offices are not subject to ICE Detention Standards. The subfield office network was mentioned in an October report by Dora Schriro, then special adviser to Janet Napolitano, secretary of Homeland Security, but no locations were provided.

I obtained a partial list of the subfield offices from an ICE officer and shared it with immigrant advocates in major human and civil rights organizations, whose reactions ranged from perplexity to outrage. Andrea Black, director of Detention Watch Network (DWN), said she was aware of some of the subfield offices but not that people were held there. ICE never provided DWN a list of their locations. "This points to an overall lack of transparency and even organization on the part of ICE," said Black. ICE says temporary facilities in field or subfield offices are used for 84 percent of all book-ins. There are twenty-four listed field offices. The 186 unlisted subfield offices tend to be where local police and sheriffs have formally or informally reached out to ICE. For instance, in 2007 North Carolina had 629,947 immigrants and at least six subfield offices, compared with Massachusetts, with 913,957 immigrants and one listed field office. Not surprisingly, before joining ICE Pendergraph, a sheriff, was the Joe Arpaio of North Carolina, his official bio stating that he "spearheaded the use of the 287(g) program," legislation that empowers local police to perform immigration law enforcement functions.

A senior attorney at a civil rights organization, speaking on background, saw the list and exclaimed, "You cannot have secret detention! The public has the right to know where detention is happening."

Alison Parker, deputy director of Human Rights Watch, wrote a December comprehensive report on ICE transit policies, "Locked Up Far Away." Even she had never heard of the subfield offices and was concerned that the failure to disclose their locations violates the UN's Covenant on Civil and Political Rights, to which the United States is a signatory. She explained that the government must provide "an impartial authority to review the lawfulness of custody. Part and parcel is the ability of somebody to find the person and to make their presence known to a court."

The challenge of being unable to find people in detention centers, documented in the Human Rights Watch report, is worsened when one does not even know where to look. The absence of a real-time database tracking people in ICE custody means ICE has created a network of secret jails. Subfield offices enter the time and date of custody after the fact, a situation ripe for errors, hinted at in the Schriro report, as well as cover-ups.

ICE refused a request for an interview, selectively responded to questions sent by e-mail and refused to identify the person authorizing the reply--another symptom of ICE thwarting transparency and hence accountability. The anonymous official provided no explanation for ICE not posting a list of subfield office locations and phone numbers or for its lack of a real-time

locator database.

It is not surprising to find that, with no detention rules and being off the map spatially and otherwise, ICE agents at these locations are acting in ways that are unconscionable and unlawful. According to Ahilan Arulanantham, director of Immigrant Rights for the ACLU of Southern California, the Los Angeles subfield office called B-18 is a barely converted storage space tucked away in a large downtown federal building. "You actually walk down the sidewalk and into an underground parking lot. Then you turn right, open a big door and *voilà*, you're in a detention center," Arulanantham explained. Without knowing where you were going, he said, "it's not clear to me how anyone would find it. What this breeds, not surprisingly, is a whole host of problems concerning access to phones, relatives and counsel."

It's also not surprising that if you're putting people in a warehouse, the occupants become inventory. Inventory does not need showers, beds, drinking water, soap, toothbrushes, sanitary napkins, mail, attorneys or legal information, and can withstand the constant blast of cold air. The US residents held in B-18, as many as 100 on any given day, were treated likewise. B-18, it turned out, was not a transfer area from point A to point B but rather an irrationally revolving stockroom that would shuttle the same people briefly to the local jails, sometimes from 1 to 5 am, and then bring them back, shackled to one another, stooped and crouching in overpacked vans. These transfers made it impossible for anyone to know their location, as there would be no notice to attorneys or relatives when people moved. At times the B-18 occupants were left overnight, the frigid onslaught of forced air and lack of mattresses or bedding defeating sleep. The hours of sitting in packed cells on benches or the concrete floor meant further physical and mental duress.

Alla Suvorova, 26, a Mission Hills, California, resident for almost six years, ended up in B-18 after she was snared in an ICE raid targeting others at a Sherman Oaks apartment building. For her, the worst part was not the dirt, the bugs flying everywhere or the clogged, stinking toilet in their common cell but the panic when ICE agents laughed at her requests to understand how long she would be held. "No one could visit; they couldn't find me. I was thinking these people are going to put me and the other people in a grinder and make sausages and sell them in the local market."

Sleep deprivation and extreme cold were among the "enhanced interrogation" techniques promoted by the Bush White House and later set aside by the Justice Department because of concerns that they amounted to torture. Although without the intent to elicit information, ICE under the Obama administration was holding people charged with a civil infraction in conditions approaching those no longer authorized for accused terrorists.

According to Aaron Tarin, an immigration attorney in Salt Lake City, "Whenever I have a client in a subfield office, it makes me nervous. Their procedures are lax. You've got these senior agents who have all the authority in the world because they're out in the middle of nowhere. You've got rogue agents doing whatever they want. Most of the buildings are unmarked; the vehicles they drive are unmarked." Like other attorneys, Tarin was extremely frustrated by ICE not releasing its phone numbers. He gave as an example a US citizen in Salt Lake City who hired him because her husband, in the process of applying for a green card, was being held at a subfield office in Colorado. By the time Tarin tracked down the location of the facility that was holding the husband when he had called his wife, the man had been moved to another subfield office. "I had to become a little sleuth," Tarin said, describing the hours he and a paralegal spent on the phone, the numerous false leads, unanswered phones and unreturned messages until the husband, who had been picked up for driving without a license or insurance, was found in Grand Junction, Colorado, held on a \$20,000 bond, \$10,000 for each infraction. "I argued with the guy, 'This is absurd! Whose policy is this?'" Tarin said the agent's response was, "That's just our policy here."

Rafael Galvez, an attorney in Maine, explained why he would like ICE to release its entire list of subfield office addresses and phone numbers. "If they're detaining someone, I will need to contact the people on the list. If I can advocate on a person's behalf and provide documents, a lot of complications could be avoided."

Cary, a suburb of Raleigh, North Carolina, has a typical subfield office at the rear of CentreWest Commons, an office park adjacent to gated communities, large artificial ponds and an Oxford University Press production plant. ICE's low-lying brick building with a bright blue awning has darkened windows, no sign and no US flag. People in shackles and handcuffs are shuffled in from the rear. The office complex has perhaps twenty other businesses, all of which do have signs. The agents, who are armed, might not wear uniforms and drive their passengers in unmarked, often windowless white vans. Even Dani Martinez-Moore, who lives nearby and coordinates the North Carolina Network of Immigrant Advocates, did not know people were being held there until she read about it on my blog.

In late October 2008, Mark Lyttle, then 31, was held in the Cary office for several hours. Lyttle was born in North Carolina, and the FBI file ICE had obtained on him indicated he was a US citizen. Lyttle used his time in the holding tank attempting to persuade the agents who had plucked him out of the medical misdemeanor section of a nearby prison, where he had been held for seventy-three days, not to follow through on the Cary office's earlier decision to ship him to Mexico. Lyttle is cognitively disabled, has bipolar disorder, speaks no Spanish and has no Mexican relatives. In response to his entreaties, a Cary agent "told me to tell it to the judge,"

Lyttle said. But Lyttle's charging document from the Cary office includes a box checked next to the boilerplate prohibition: "You may not request a review of this determination by an immigration judge."

Lyttle made enough of a fuss at the Stewart Detention Center in Lumpkin, Georgia, that the agents there arranged for him to appear before a judge. But the checked box in the Cary paperwork meant he never heard from the nonprofit Legal Orientation Program attorneys who might have picked up on his situation. William Cassidy, a former ICE prosecutor working for the Executive Office of Immigration Review, ignored Lyttle's pleas and in his capacity as immigration judge signed Lyttle's removal order. According to Lyttle, Cassidy said he had to go by the sworn statements of the ICE officers.

Meanwhile, Lyttle's mother, Jeanne, and his brothers, including two in the Army, were frantically searching for him, even checking the obituaries. They were trying to find Lyttle in the North Carolina prison system, but the trail went cold after he was transferred to ICE custody. Jeanne said, "David showed me the Manila envelope [he sent to the prison]--'Refused'--and we thought Mark had refused it." Jeanne was crying. "We kept trying to find out where he was." It never crossed their minds that Mark might be spending Christmas in a shelter for *los deportados* on the Mexican side of the Rio Grande.

ICE spokesman Temple Black first told me the list was "not releasable" and that it was "law enforcement sensitive," but coordinator for community outreach Andrew Lorenzen-Strait e-mailed me a partial list of addresses and no phone numbers. I then obtained a more complete list, including telephone numbers, in response to a FOIA request. That list, received in November and dated September 2009, is about forty locations shy of the 186 subfield offices mentioned in the Schriro report and omits thirty-nine locations listed in an August ICE job announcement seeking applicants for immigration enforcement agents. These include ICE postings in Champlain, New York; Alamosa, Colorado; Pembroke Pines, Florida; and Livermore, California. The anonymous ICE official neither answered questions about why I was sent an incomplete list nor accounted for the disparity in official explanations of the list's confidentiality.

ICE obscures its presence in other ways as well. Everyone knows that detention centers are in sparsely populated areas, but according to Amnesty International's Reynolds, policy director of migrant and refugee rights, "Quite a lot of communities don't know they're detaining thousands of people, because the signs say Service Processing Center," not Detention Center, although the latter designation is used for privately contracted facilities. The ICE e-mail stated that the "service processing" term was first used when the centers were run by the predecessor agency

Immigration and Naturalization Service, "because these facilities were used to process aliens for deportation," ignoring the fact that these structures were and are distinctive for confining people and not the Orwellian "processing."

Even the largest complexes, which are usually off side roads from small highways, are visible only if you drive right up to the entrance. Unlike federal prisons, detention centers post no road signs to guide travelers. The anonymous ICE official would not provide a reason for this disparity.

ICE agents are also working in hidden offices in one of the grooviest buildings in one of the hottest neighborhoods in Manhattan. Tommy Kilbride, an ICE detention and removal officer and a star of A&E's reality show *Manhunters: Fugitive Task Force*, is part of the US Marshals Fugitive Task Force, housed on the third floor of the Chelsea Market, above Fat Witch Bakery and alongside Rachael Ray and the Food Network. Across the street are Craftsteak and Del Posto, both fancy venues for two other Food Network stars, Tom Colicchio and Mario Batali. Above their restaurants are agents working for the FBI's Joint Terrorism Task Force.

Someone who had been working in that building for about a year said he had heard rumors of FBI agents, though he didn't see one until nine months later when a guy was openly carrying a gun through the lobby. In November, at midday, he saw two men in plain clothes walk a third man in handcuffs through a side-street door behind Craftsteak. "It was weird, creepy," he said, adding that the whole arrangement made him uncomfortable. "I don't like it. It makes you wonder, what are they hiding? Is it for good reasons or bad reasons?"

Natalie Jeremijenko, who lives nearby and is a professor of visual arts at New York University, pointed out the "twisted genius" of hiding federal agents in the "worldwide center of visuality and public space," referring to the galleries and High Line park among these buildings. Jeremijenko was incensed. "For a participatory democracy to work, you need to have real-time visual evidence of what is going on" and not just knowledge by professors who file a FOIA request or even readers of a *Nation* article.

In response to a question about the absence of signs at subfield offices, the ICE e-mail stated, "ICE attempts to place signs wherever possible, however there are many variables to consider such as shared buildings, law enforcement activities, zoning laws, etc." Except for "law enforcement activities," the reasons did not apply to the facilities listed here, as evidenced by signs on adjacent businesses.

The Obama administration continued to ignore complaints about the LA subfield office known as B-18 until April 1, when Napolitano and Attorney General Eric Holder, as well as ICE officials, were named as defendants in a lawsuit filed by the ACLU and the National Immigration Law Center. In September, the parties reached a settlement. The ACLU's Arulanantham said, "I never understood what [ICE] had to gain. The fact that after we filed the suit they completely fixed it makes it more mysterious" as to why their months of earlier negotiation brought few results. At the time of the lawsuit, he said, the nearby Mira Loma Detention Center had space. When I asked if ICE was trying to punish people by bringing them to B-18, Arulanantham said, "No, no one was targeted," adding, "If it were punitive, it would be less disturbing."

Arulanantham's response is, alas, more than fodder for a law school hypothetical about whether intentional or unintentional rights violations are more egregious. In 2006 ICE punished several Iraqi hunger strikers in Virginia--they were protesting being unlawfully held for more than six months after agreeing to deportation--by shuffling them between a variety of different facilities, ensuring that they would not encounter lawyers or be found by loved ones. This went on from weeks to months, according to Brittney Nystrom, senior legal adviser for the National Immigration Forum. "The message was, We're going to make you disappear."

As an alternative to the system of unmarked subfield offices and unaccountable agents, consider the approach of neighborhood police precincts, where dangerous criminals are held every day and police carry out their work in full view of their neighbors. Not only can citizens watch out for strange police actions, and know where to look if a family member is missing; local accountability helps discourage misconduct. ICE agents' persistent flouting of rules and laws is abetted by their ability to scurry back to secret dens, avoiding the scrutiny and resulting inhibitions that arise when law enforcement officers develop relationships with the communities they serve.

Indeed, the jacket Kilbride wears during arrests says POLICE in large letters. Working out of a heretofore secret location--*Manhunters* has no exterior shots--one that his supervisor had requested I not reveal, gives their operation the trappings of a secret police. An attorney who had a client held in a subfield office said on background, "The president released in January a memorandum about transparency, but that's not happening. He says one thing, but we have these clandestine operations, akin to extraordinary renditions within the United States. They're misguided as to what their true mission is, and they are doing things contrary to the best interests of the country."