

September 11, 2007

Julie L. Myers
Assistant Secretary
U.S. Immigration and Customs Enforcement
Department of Homeland Security
425 Eye Street, NW
Washington, DC 20536

Re: Victoria (a.k.a. Víctor) Arellano [A: 77991267]

Dear Ms. Myers,

We, the undersigned organizations, representing HIV/AIDS, civil rights, human rights, immigrant justice, and civil liberties advocates and service providers from across the United States, write to you today to express our outrage over the July 20, 2007 death of Victoria (a.k.a. Víctor) Arellano in the San Pedro detention center. Victoria's death was excruciating and needless. Her requests for her AIDS medication were deliberately and repeatedly denied, as were her fellow detainees' increasingly desperate pleas to staff to take her to the hospital.

When Victoria was sent to San Pedro in May, she was taking the antibiotic dapsone to prevent pulmonary infections from developing into pneumonia. At San Pedro, she was denied the medication despite the known consequences of discontinuing this antibiotic: the onset of treatment-resistant pneumonia within a few weeks. Indeed, Victoria's health deteriorated rapidly to the point where the pain was so great, she would scream if anyone tried to move her. She complained of severe nausea, headaches, cramps, and back pain. She was vomiting and suffering from diarrhea. Her care was left to the men detained with her. They administered cold compresses to bring down her fever and took turns taking her to the bathroom when she was too weak to get there by herself. Seventy of them signed a petition appealing for medical care for Victoria.

A week before her death she was taken to the infirmary and given amoxicillin. Again, the standard of care for people living with AIDS was ignored. Amoxicillin is ineffective against meningitis and AIDS-related lung infections. When Victoria returned from the infirmary, she began vomiting blood. Once again, her fellow detainees put themselves on the line to demand medical attention for Victoria. She was finally taken to a hospital but was returned to the detention center less than 24 hours later. By the time she was taken to another hospital, it was too late. She died shackled to her bed in the ICU. Her mother reports her body was wracked by pneumonia and meningitis.

With everything to lose – with their own futures uncertain – the men detained with Victoria Arellano met the brutality and the calculated negligence of ICE with profound humanity. They cared for her; they advocated for her; they even consoled her mother when she lost her child. Some of these men have been transferred out of San Pedro,

possibly to prevent them from participating in an investigation and/or in retaliation for their role in trying to save Victoria.

Although she was born male, Victoria had been living and identifying as a woman for years. It is not appropriate to house women, such as Victoria, in a male dormitory. ICE must revise its policies to ensure that transgender women are placed with other women in female facilities. While we are grateful for the care given to her by the men she was housed with, other transgender women have not been so lucky. It is widely known that they are at increased risk of assault when placed with the male population. In Victoria's case, it was the guards who harassed her. Further, another transgender woman testified at the National Prison Rape Elimination Commission in Los Angeles in December 2006 that she had been raped by an official at San Pedro.

Victoria's was not the only foreseeable, preventable death to have occurred in ICE detention. Hers wasn't even the first in San Pedro. Media reports indicate that since 2004, at least 65 people have died in ICE detention. The guidelines for medical care contained in the Department of Homeland Security's *Detention Operations Manual* (DOM) are insufficient and unenforceable. Far from providing a recognized standard of care, ICE fails to meet even its own standards of providing "primary medical care, and emergency care." Facilities the size of San Pedro are required to make medical personnel available to see detainees who request medical services in a clinical setting at least five days per week. Victoria, like many others, was not given this access and had to wait much too long before she received any care.

The *DOM* further states that following a clinical evaluation, if an HIV-positive person in detention "manifests symptoms requiring treatment beyond the facility's capability, the provider will recommend the detainee be transferred to a hospital, or other appropriate facility for further medical testing, final diagnosis, **and acute treatment as needed...HIV positive detainees should be hospitalized until any acute treatment deemed necessary is completed.**"

In response to the glaring violations of current DHS/ICE guidelines and of Victoria Arellano's human rights, we seek the implementation of new policies that meet appropriate standards of care and that are reviewable and transparent to the public.

We, the undersigned organizations, call on the Department of Homeland Security and Immigration and Customs Enforcement to:

- Implement revised standards that are enforceable and legally binding in all ICE/DHS detention facilities, regardless of whether said facilities are operated by the federal government, private companies, or state/county/local agencies. Detainees, their families, and their representatives must have legal recourse when these standards are violated.

- Provide effective internal and external oversight of detention conditions and treatment of detainees. This would include the establishment of an ombudsman, ongoing monitoring and frequent inspections with subsequent reports released to Congress and made available to the public.
- Immediately rectify any and all breaches of detention standards, including denial of medical care.
- Increase the availability of medical personnel to see detained individuals who are in need of care, regardless of whether or not a detainee has made a formal request for care. Currently, facilities with over 200 detainees are only required to schedule “sick calls” five days a week, while facilities with fewer than 50 detainees need only provide access to medical personnel one day a week. This is grossly insufficient.
- Commission an investigation into the death of Victoria Arellano that is independent and transparent, so that the public may have confidence in the investigation's outcome.
- Strengthen the DHS/ICE national detention standards to comply with human rights principles.
- Ensure that treatment regimens, including medication for HIV/AIDS and related infections and hormone therapy for transgender detainees are not interrupted.
- Adhere to international covenants and treaties mandating the humane treatment of all detainees, including the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.
- Pursue non-custodial alternatives (e.g., parole, supervised release to family members, regular reporting requirements, bond options) for immigration detainees, particularly for those individuals whose health or personal safety would be imperiled by detention.
- End the practice of prolonged and indefinite detention, which is a violation of both international and U.S. law.
- Publicly report all deaths that occur in ICE custody, refer them immediately to the Office of the Inspector General for investigation, and make the results of each inquiry available to the public as soon as it is complete.
- End the practice of placing immigration detainees with the general inmate population.

- Ensure that the safety of detainees, particularly transgender detainees is the paramount consideration when deciding whether to place an individual with the male or female population. Solitary confinement must not be considered a viable option.
- Grant transgender detainees the right to choose to be housed in a facility that corresponds with their gender identity, regardless of which sex is listed on their legal documents and/or regardless of their birth-sex.
- Revise the DOM to address the particular needs of gay men, lesbians, bisexuals, and transgender men and women, including health and safety issues.
- Train all staff in all facilities where ICE detainees are held to comply with these standards and safeguard the inherent dignity of all persons.

We are bringing this matter to the attention of our elected officials and we urge you to take prompt and necessary action to prevent further threats to health and loss of life among immigrants in ICE detention.

Sincerely,

African American Hispanic Health Education Resource Center
 African Services Committee
 AIDS Action Council
 ACT UP Philadelphia
 AIDS Foundation of Chicago
 The AIDS Institute
 AIDS Legal Council of Chicago
 AIDS Project Los Angeles
 Ali Forney Center
 American Academy of HIV Medicine
 American Civil Liberties Union
 amfAR
 Artists for a New South Africa
 API Equality-LA
 Asian American Institute
 Asian American Justice Center
 Asian Law Caucus
 Asian Pacific AIDS Intervention Team
 Asian and Pacific Islander American Health Forum
 Astraea Lesbian Foundation for Justice
 The Audre Lorde Project
 Bienestar

East Bay Community Law Center
Empire Justice Center
Episcopal Migration Ministries
Casa de Esperanza
Center for Constitutional Rights
Community HIV/AIDS Mobilization Project (CHAMP)
Gay & Lesbian Advocates & Defenders
Gay Men's Health Crisis
Fundación Latino Americana Contra El SIDA, Inc.
Health Global Access Project (Health Gap)
Housing Works
Hudson Pride Connections
Human Rights Campaign
Immigration Equality
International AIDS Empowerment
International Federation of Black Prides, Inc./IFBP Fund for Leadership, Inc.
International Gay and Lesbian Human Rights Commission
Intersect Worldwide
Jews for Racial and Economic Justice (JFREJ)
Kentucky Coalition for Immigrant and Refugee Rights
Koreatown Immigrant Workers Alliance of Southern CA (KIWA)
L.A. Gay & Lesbian Center
Las Americas Immigrant Advocacy Center (El Paso)
Latino Commission on AIDS
The Lesbian, Gay, Bisexual & Transgender Community Center (New York)
Less AIDS Lesotho
Mexicanos Sin Fronteras
National Association of Lesbian, Gay, Bisexual & Transgender Community Centers
National Association of People with AIDS
National Center for Lesbian Rights
National Gay and Lesbian Task Force
National Immigrant Solidarity Network
National Immigration Project of the National Lawyers Guild
National Minority AIDS Council
National Network for Immigrant and Refugee Rights
Neighborhood Legal Services, Inc.
New York AIDS Coalition
NYC AIDS Housing Network (NYCAHN)
New York Immigration Coalition
Nicaragua Solidarity Fair Trade Resource
Political Asylum Project of Austin (PAPA)
Prostitutes of New York (PONY)
Rocky Mountain Survivors Center
Search for a Cure
STOP AIDS Project
Stop Prisoner Rape

Sylvia Rivera Law Project
Transgender Law Center
Treatment Action Group
Triangle Foundation
Unitarian Universalist Association of Congregations

Cc: Secretary Michael Chertoff
Director John P. Torres
Dr. Timothy T. Shack
Ambassador Mark Dybul
Warden Rudolph Garcia
Senate Majority Leader Harry Reid
Speaker Nancy Pelosi
Senator Barbara Boxer
Senator Hillary Clinton
Senator Dianne Feinstein
Senator Patrick Leahy
Senator Joseph Lieberman
Senator Charles Schumer
Representative Tammy Baldwin
Representative Xavier Becerra
Representative Howard Berman
Representative John Conyers, Jr.
Representative Barney Frank
Representative Charlie Gonzalez
Representative Raul Grijalva
Representative Luis Gutierrez
Representative Barbara Lee
Representative Zoe Lofgren
Representative Jerry Nadler
Representative Ileana Ros-Lehtinen
Representative Lucille Royball-Allard
Representative Linda Sanchez
Representative Hilda Solis
Representative Bennie G. Thompson
Representative Nydia Velázquez
Representative Maxine Waters
Representative Henry Waxman