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## Mentally ill immigrants have little hope for care when detained

12:00 AM CDT on Monday, July 13, 2009

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AUSTIN – Jose Fernandez Sanchez was delusional when he broke a window to enter his neighbor's apartment. The schizophrenic and epileptic 45-year-old, who had gone to an Austin hospital the day before, complaining of hearing voices, told police he was trying to light a candle for his dead mother. But instead of taking Sanchez to get medical attention, authorities started deportation proceedings against him, leaving the legal permanent resident in a detention-center cell for eight months. By the time a judge saw Sanchez, he was so catatonic that he couldn't answer a simple question.

Sanchez was one of the lucky few: His siblings pooled their money to hire an attorney, who made a compelling case to an immigration judge. Sanchez went from the detention center to a San Antonio psychiatric hospital, where he should have been all along.

But most mentally ill immigrants aren't so fortunate.

They get limited mental-health care while in detention, advocates say – and that's only if they're diagnosed.

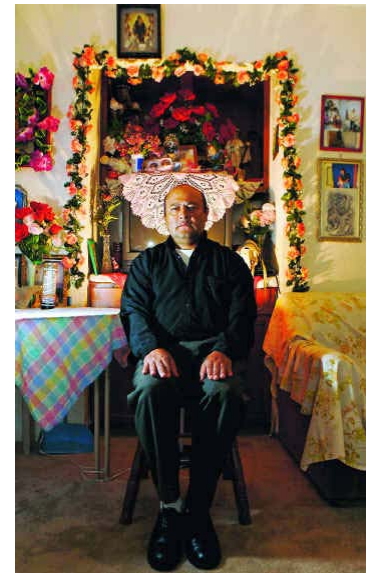
They aren't entitled to competency hearings before standing trial. And the majority of them face judges without legal counsel, and with little recourse to defend themselves from deportation.

"I felt like I didn't have the power to get help. They didn't care how they were taking care of me," said Sanchez, who emigrated from Mexico in 1988 and received amnesty in the United States. "I was very scared, because I knew if I was sent back to my country, they wouldn't be able to help me like the U.S."

National guidelines

Immigration detention officials say they have strict guidelines for mental-health care in detention centers. All inmates receive a mental-health screening as part of their intake exam, they say. Those with suspected mental illness are referred for more tests and treatment. In fiscal 2008, detention-center personnel performed nearly 30,000 mental-health interventions – including providing emergency care to detainees seen as suicide risks.

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**ERICH SCHLEGEL**/Special Contributor  
**Jose Fernandez Sanchez** was taken to a detention center after his recent arrest. By the time he saw a judge, he was so catatonic that he couldn't answer a simple question.

"We are continuing to work ... to improve the services and the availability of health care to those in our custody," said Tim Counts, spokesman for U.S. Immigration and Customs Enforcement.

But immigration court officials acknowledge there's little guidance for how to handle mental health once these detainees come before a judge. Although judges can't accept an admission of guilt from an "unrepresented incompetent," there are no immigration-court proceedings to determine a person's competency. Judges have to go with their gut – which can be tough to gauge with language barriers and the frequent use of long-distance video conferencing.

"There are no rules or any guidelines or any laws related to determining mental competency," said Elaine Komis, spokeswoman for the Executive Office for Immigration Review, which oversees deportation hearings for the U.S. Department of Justice. "When judges encounter someone who seems to be mentally incompetent, they do try as much as possible to arrange for some kind of pro bono counsel."

Social-justice advocates say that's not good enough. Researchers from the nonprofit advocacy group Texas Appleseed have teamed up with pro bono attorneys from the Akin Gump law firm to study mental-health procedures in detention and deportation proceedings. Their focus is on Texas, which houses a third of the country's immigrant detainees and is home to eight of the nation's 55 immigration courts.

These advocates say detention facilities don't consistently follow mental-health standards, and often don't have enough mental-health workers to handle the estimated 15 percent of detainees suffering from mental illness.

Until early this year, they say, two Texas detention centers housing a combined 2,700 people shared a single psychiatrist. As a result, they say, detainees who receive mental-health treatment in the community rarely get it once they're incarcerated. They miss medicine doses, get misdiagnosed or are prescribed drugs with which they aren't familiar.

"There are no real standards for diagnosing or dealing with mental-health issues while in the system," said Steve Schulman, a partner with Akin Gump who heads the firm's pro bono practice.

### Lack of hearings

Advocates say that even if someone is diagnosed with mental illness in the detention setting, it's rare for that to get passed along to a judge.

Unlike in the criminal-justice system, there are no mental-competency hearings. Fewer than half of detainees have legal representation. Immigrants represented by attorneys are 50 percent more likely to avoid deportation, but the government has no obligation to appoint counsel for those who can't afford it.

"The end result is that people are being deported without regard for their mental health," said Ann Baddour, senior policy analyst at Texas Appleseed.

In one case, advocates say, a severely mentally ill woman was nearly deported to Russia because she told authorities she was a Russian immigrant. She was actually a U.S. citizen from Indiana. In another, a Haitian immigrant whom a criminal court had declared incompetent to stand trial was taken into custody by immigration officials at a psychiatric hospital.

Sanchez's siblings are sure their brother would have wound up back in Mexico – or worse, dead – if they

hadn't been able to hire an attorney.

"He was never evaluated properly, never given proper treatment," said Sanchez's brother, who asked not to be identified because of his immigration status. "He was all alone in there. We feared the worst, that he would be deported or even take his own life."

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