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ACLU Lawsuit Demands Release of Immigrant Detainees Vulnerable to COVID-19 Infection

SAN DIEGO – Today, attorneys for the American Civil Liberties Union filed a lawsuit in federal court on behalf of four people detained at the U.S. Immigration and Customs Enforcement's (ICE) Otay Mesa Detention Center and Imperial Regional Detention Facility who have medical conditions that make them highly vulnerable if infected with COVID-19. The suit demands the detainees' immediate release.

Because of their acute medical conditions — including leukemia, lung disease and HIV infection — the plaintiffs are at increased danger of contracting and dying from COVID-19 in these ICE detention centers, where as many as 60-100 people share living quarters. Detainees sleep in bunk beds only a few feet apart and share common areas, such as eating tables, showers, toilets and sinks. The recent positive test of a staff member at the Otay Mesa Detention Center heightens the risks and puts lives in immediate danger.

The lawsuit argues ICE's continued clustering of vulnerable individuals under these circumstances creates not only a humanitarian crisis but also a constitutional one. These conditions violate the plaintiffs' Fifth Amendment guarantee of due process, which prevents the government from exposing civil detainees to risk of serious illness and death.

The lawsuit and a request for a temporary restraining order were filed in the U.S. District Court in San Diego by the ACLU Foundation of San Diego & Imperial Counties, ACLU Foundation Immigrants' Rights Project, ACLU Foundation National Prison Project and ACLU Foundation Lesbian, Gay, Bisexual, Transgender & HIV Project.

"ICE's continued detention of these vulnerable people flies in the face of public health recommendations and government orders to practice proper hygiene and physical distancing," said **Monika Y. Langarica, immigrants' rights staff attorney with the ACLU Foundation of San Diego & Imperial Counties**. "ICE detention is cruel and unnecessary under ordinary circumstances. During this global pandemic, it can be a death sentence for people with health problems and serious illnesses."

Both the Otay Mesa and Imperial facilities are operated by private, for-profit companies, which have not provided detainees with adequate soap, hand sanitizer or cleaning supplies to ward off the virus, according to the court filings. Additionally, detainees are

not provided with gloves or masks and staff — who come and go every day — do not consistently wear gloves or masks.

The lawsuit asks the court to order the immediate release of the plaintiffs, pointing out that other courts across the country, including in California, have issued such orders during the COVID-19 pandemic. The lawsuit also notes that ICE has a range of tools at its disposal to ensure individuals continue attending court hearings and other appointments. A government-contracted evaluation of one such program reported a 99 percent attendance rate at all immigration court hearings.

"This is the ninth lawsuit we have filed around the country in the last three weeks," said **Eunice Cho, senior staff attorney at the ACLU Foundation National Prison Project**. "Public health officials have consistently instructed us all that reducing the number of people held in immigrant detention centers — as well as jails, prisons and other similar facilities — is a critical step to avoiding a humanitarian disaster from COVID-19. **ICE must do its part to flatten the curve by releasing people from its custody, starting with the most vulnerable to serious illness or death."**

The plaintiffs in the case are:

- Issis Yoselin Zelaya Sagastume (Lung Disease, Otay Mesa)
- Miguel Angel Benitez (Leukemia, Otay Mesa)
- Yusuf Ozdemir (HIV, Imperial)
- Mr. Ozdemir's wife, referred to in the case as "Jane Doe" (HIV, Imperial)

Read the lawsuit here: [link]

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