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Immigrants’ Rights Clinic, Legal Services Organization Sue Homeland Security for Records about COVID-19 Spread in US Detention Centers

Suit claims DHS failed to respond to their request for public records under the Freedom of Information Act

“My friends are still in there, and they are afraid of dying. They are seeking asylum, they are not criminals.” Omar* – a 21-year old Nicaraguan man recently released from Otay Mesa Detention Center after winning his asylum case.

LOS ANGELES, CA – Since at least March, COVID-19 has been spreading through immigrant detention centers nationwide, yet the Department of Homeland Security (DHS) continues to block advocates’ requests for information, according to a federal lawsuit filed here today by Al Otro Lado, a California-based bi-national legal services organization, represented by the Edwin F. Mandel Legal Aid Clinic at the University of Chicago Law School. The suit demands that the agency be held accountable for its violation of the Freedom of Information Act (FOIA) and that it produce requested public records regarding the impact of the COVID-19 pandemic on immigrants within its custody.

On May 6, Al Otro Lado requested information under FOIA pertaining to Otay Mesa Detention Center and Adelanto Detention Center, as well as all land ports of entry and Border Patrol stations in California. Otay Mesa is the site of the largest COVID-19 outbreak of any ICE detention facility. Adelanto is the subject of recent controversy as numerous detainees report serious illnesses resulting from exposure to toxic disinfectants, which detention center staff have allegedly used in retaliation for past complaints about COVID-19. Federal law required DHS to make a determination on the FOIA request within twenty working days, but DHS failed to do so.
“Public health experts have warned that immigrant detention centers are ‘a public health disaster waiting to happen,’ making DHS’s failure to provide information regarding protective measures being taken all the more egregious,” said Nicole Hallett, director of the Immigrant Rights’ Clinic, which is part of the Edwin F. Mandel Legal Aid Clinic at the University of Chicago Law School.

“DHS must be held accountable for running what have essentially become COVID-19 death camps,” added Nicole Ramos, director of Al Otro Lado’s Border Rights Project. “We cannot detain immigrants during a pandemic while refusing to implement critical protective measures or provide lifesaving medical care, and if DHS cannot do so, all detained immigrants must be set free. To do anything else is unconscionable.”

Al Otro Lado’s detained clients have documented numerous human rights violations inside California detention centers, including the failure to provide personal protective equipment, soap, and cleaning supplies. Detainees cannot socially distance as more immigrants are brought into the facilities every day. Al Otro Lado’s clients have reported that detainees who organize and make collective demands for PPE, soap, and cleaning products have suffered pepper spray attacks, solitary confinement, and physical violence in retaliation. This lawsuit aims to shed light on these issues.

“What happens behind detention center walls must be exposed,” said Kelly Geddes, a student attorney with the Mandel Legal Aid Clinic. “Lives are at stake, and DHS must be transparent about how it is protecting immigrants in its custody.”

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About: Al Otro Lado is a bi-national social justice legal services organization serving deportees, migrants, and refugees in Tijuana, Mexico, and Southern California. Its mission is to provide free legal aid and representation and to uplift and defend the rights of migrants against systemic injustices in the legal system.

The Edwin F. Mandel Legal Aid Clinic is a clinical program at the University of Chicago Law School that renders assistance to indigent clients. The Immigrants’ Rights Clinic, a component of the Mandel Legal Aid Clinic, provides representation to immigrant communities in Chicago and throughout the country.