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CGRS and ACLU File Suit Seeking Information on ICE Policies for Asylum Seekers

San Francisco, CA (October 20, 2016) - The ACLU of Northern California, the ACLU Immigrants' Rights Project (IRP), the Center for Gender and Refugee Studies at UC Hastings College of the Law (CGRS), and pro bono counsel at Riley Safer Holmes & Cancila (RSHC) today filed suit against the US Immigration and Customs Enforcement (ICE) for refusing to release documents that would shed light on the agency's treatment of asylum seekers.

Last October, the IRP and the CGRS sent two Freedom of Information Act (FOIA) requests to ICE, seeking statistical data on parole decisions for detained asylum seekers from 2010 to present, as well as policy documents to show how the decision of whether to grant parole is reached. ICE ignored most of the request.

"We've seen a nationwide shift in detention policies for arriving asylum seekers who are found to have a credible fear of persecution, and we need this information to find out what has changed and why," said Angélica Salceda, a staff attorney with the ACLU of Northern California. "The public has a right to know if ICE has reversed its policy."

Previously, ICE routinely granted parole so that asylum seekers could pursue their claims outside of detention. Since at least November of 2014, ICE has been denying parole to asylum seekers even though they meet the criteria of an ICE policy directive that calls for their release. The directive went into effect in January of 2010 and has been touted by ICE as a major Detention Reform Accomplishment.

The directive says that "when an arriving alien found to have a credible fear establishes to the satisfaction of [ICE] his or her identity and that he or she presents neither a flight risk nor danger to the community, [ICE] should" – absent "exceptional, overriding factors" – "parole the alien on the basis that his or her continued detention is not in the public interest."

"We are concerned that this turn toward locking up asylum seekers is meant to deter efforts by people who are fleeing persecution, extreme violence, and even death," said Michael Tan, a staff attorney with the ACLU Immigrants' Rights Project. "It doesn't make sense to detain people up who don't pose a danger and have a strong incentive to show up for court. They have a right to seek protection under U.S. and international law."

Publicly available documents show that in 2012, ICE reported that 80 percent of asylum seekers who established a credible fear were released on parole. In 2015, that number dropped to just 47 percent. The majority of detained asylum seekers are locked away in privately-run immigration detention centers, currently under review by DHS.

“The mass detention of asylum seekers is both unnecessary and inhumane,” said Eunice Lee, co-legal director at the Center for Gender and Refugee Studies. “Imprisoning people who have demonstrated a significant possibility of winning asylum raises serious human and civil rights concerns.”

The complaint was filed in the Northern District court in San Francisco.