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Immigrants Held for Days in Freezing, Unsanitary Cells File Class-Action Lawsuit

Plaintiffs seek an end to unconstitutional Border Patrol detention practices

TUCSON — Tucson Sector Border Patrol holds men, women, and children in freezing, overcrowded, and filthy cells for extended periods of time in violation of the U.S. Constitution, a group of legal organizations allege in a [class-action lawsuit](#) filed Monday. The class-action suit, which was filed on behalf of two people detained in the Tucson Border Patrol Station as well as a Tucson man detained multiple times in that facility, describes Border Patrol limiting or denying access to beds, soap, showers, adequate meals and water, medical care, and lawyers, in violation of constitutional standards and Border Patrol's own policies.

The National Immigration Law Center, the American Immigration Council, the ACLU of Arizona, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, and Morrison & Foerster LLP filed the suit after interviewing the plaintiffs as well as more than 75 former detainees. Both current and former detainees consistently recount being subjected to days of mistreatment, abuse, and neglect.

"Our plaintiffs were detained for civil matters, but there is nothing civil about being deprived of water, provided inadequate or expired food, and being subjected to sleep deprivation," said Nora Preciado, staff attorney with the National Immigration Law Center. "We filed this lawsuit because the federal government has systemically failed to adhere to its own meager standards and constitutional requirements and thousands of people have suffered as a result."

Former and current detainees described being packed into crowded cells with only concrete benches or the floor for a "bed." They were stripped of warm clothing and provided with only flimsy aluminum sheets that do not protect against the frigid temperatures. In most cases, the lights are left on 24 hours a day, making sleep difficult, if not impossible. Immigrants have no soap or water to wash after using the restroom and before meals, and do not have access to showers.

“Thousands of people are subjected to these inhumane and intolerable conditions every year,” said Mary Kenney, senior staff attorney with the American Immigration Council. “Our investigation revealed that these filthy, overcrowded and punitive conditions are the norm in all eight Border Patrol stations within the Tucson Sector.”

The government’s own standards state that people should be detained in holding cells like those in the Tucson Border Patrol facility for no more than 12 hours, but all of the plaintiffs were held for much longer. In fact, Border Patrol’s [own records](#) show that, during a six month period in 2013, U.S. Customs and Border Protection (CBP) detained over 58,000 people for 24 hours or longer in holding cells within the Tucson Sector; more than 24,000 of these individuals were held for 48 hours or longer.

“Border Patrol seems to think these brutal conditions, and the human suffering that results, will deter immigration, but the fact is that many of these people are fleeing persecution and violence, reuniting with family, or are themselves U.S. citizens,” said James Duff Lyall, an attorney with ACLU of Arizona. “These policies and practices serve no legitimate purpose, violate the U.S. Constitution, and offend basic American values.”

Children traveling with their mothers are subjected to similar abuse. Several declarants described their children crying through the night from hunger and cold. One declarant reported that she did not receive clean diapers for her two-year-old for the duration of her 28 hours in detention. The woman’s declaration reports that she was finally forced to remove her two-year-old daughter’s soiled diaper—with nowhere to dispose of it and no replacement available.

“All detainees should receive basic medical care in these facilities,” said Travis Silva, Equal Justice Works Fellow at the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area. “CBP routinely confiscates medication from detainees, even those carrying a valid prescription. This behavior endangers lives and inflicts unnecessary suffering.”

CBP fails to screen detainees for health conditions and does not provide adequate medical attention even in extreme cases. One woman who survived sexual assault during her journey reported heavy vaginal bleeding and failed to receive any medical attention at the facility. Agents confiscated another woman’s pain medication; she was eight months pregnant and her ankle was broken. Agents told her not to cry because she “was just going to be deported,” she said.

“It is important to break through the secrecy that surrounds these holding facilities,” said Colette Reiner Mayer, Palo Alto partner at Morrison & Foerster LLP. “No American would accept how the government treats people whose only crime is wanting a better life.”

Jane Doe, et al. v. Johnson, et al. was filed in the U.S. District Court for the District of Arizona. Attorneys on the case include Preciado, Linton Joaquin, and Karen C. Tumlin of the National Immigration Law Center; Kenney, Emily Creighton, and Melissa Crow of the American Immigration Council; Mayer, Harold J. McElhinny, Louise C. Stoupe, Kevin M. Coles, Pieter S. de Ganon, and Elizabeth Balassone of Morrison & Foerster LLP; Silva of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area; and Lyall, Victoria Lopez, and Dan Pochoda of ACLU of Arizona.

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