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*****FOR IMMEDIATE RELEASE*****

***Legal Aid Sues To Free Medically Vulnerable Clients From Otisville Prison As
COVID-19 Infection Rate Continues To Skyrocket***

***COVID-19 Case Count At Otisville Among Incarcerated New Yorkers Has
Increased Fivefold In Just Two Weeks***

(NEW YORK, NY) – **The Legal Aid Society**, in light of the quickly escalating public health crisis that the COVID-19 pandemic has triggered within New York State prisons, filed a [petition](#) for habeas corpus on behalf of 16 medically vulnerable clients seeking their immediate release from Otisville Correctional Facility (OCF) in Orange County, New York. As of May 6, 2020, 44 incarcerated New Yorkers had tested positive for COVID – the second highest number in the entire New York State prison system – and at least one person has died. These cases make up more than 10 percent of all cases in DOCCS’s 52 prisons statewide.

According to client reports, the situation at OCF is rapidly deteriorating. At least four housing units have locked down under quarantine. Inside each are approximately 50 individuals living in dormitory settings, their beds no more than a few feet apart. In the prison’s only mess hall, where almost everyone not under quarantine must congregate for meals, mask-less individuals line up for food, and glove-less inmate workers gather dirty plates. Some cannot smell or taste the food—a recognized symptom of COVID-19— but eat for sustenance. The visibly ill—weak, coughing, feverish, short of breath—cry out for help, but few are removed for testing. The healthy try to remain that way by

practicing good personal hygiene—taking extra showers and washing hands—or social distancing by staying on the bed all day. But when the bunkmate above is sick, or when their bodies accidentally brush up against another in the cramped communal bathrooms, such efforts to fend off a disease that is universally recognized as unusually contagious and deadly feel useless.

The situation presents a grave threat not only to incarcerated individuals and prison staff, but also to the broader community by enabling the spread of the coronavirus both inside and outside the walls of Otisville Correctional Facility. Indeed, in Orange County, where OCF is located, the number of cases and deaths has continued its upward march since local health officials reported the first case on March 12, 2020. The total case count in the county stood at 9,030 as of May 5, 2020, and its infection rate per capita now exceeds that of New York City.

As of May 6, 2020, DOCCS [reports](#) that 1,143 staff members, 415 incarcerated people, and 53 parolees in DOCCS custody are infected. Per DOCCS, four staff members, 15 New Yorkers in custody, and four parolees have already succumbed to the virus.

The lawsuit seeks the immediate release of these clients from prison on the grounds that continuing to incarcerate them under these unprecedented conditions constitutes deliberate indifference to a risk of serious medical harm, and imposes upon them punishment that is grossly excessive and grossly disproportionate to their offense, in violation of the Eighth Amendment to the United States Constitution and Article I, Section 5 of the New York State Constitution.

"By all accounts, OCF presents a dramatic and disturbing illustration of the impossibility of protecting the most vulnerable individuals from infection in a prison setting," said **Tina Luongo, Attorney-in-Charge of the Criminal Defense Practice at The Legal Aid Society**. "While the spread of the disease may be slowing elsewhere, the infection rate among people inside New York State's prisons—and at Otisville Correctional Facility in particular—is spiking. Unless this Court intervenes, infections will grow exponentially. These New Yorkers must be released immediately."

Petitioner D.A. has been diagnosed with cirrhosis of the liver, which developed as a result of chronic hepatitis C. This medical condition alone would place him at risk of developing serious illness if he were to be exposed to COVID-19. However, D.A. also has a weakened immune system as a result of HIV. He presently takes Symtuza once per day as treatment. This diagnosis also elevates his risk profile, as does his age of 52, particularly in light of his long history of substance use disorder. D.A. also suffers from asthma.

D.A. is housed in a dormitory that is under quarantine after an individual apparently tested positive. Prisoners detained in this area were not given masks until on or about April 28, 2020. The open dormitory where D.A. sleeps is shared by 24 individuals whose beds are separated by dividers approximately four feet high. His bed is only approximately two feet from the next bed over.

Though he has been incarcerated since his arrest in 2012, D.A. remains in contact with his family, and his sister is prepared to transport him to either her home in New Jersey or their brother's home in Delaware.

D.A. was convicted after trial of second-degree burglary in 2014 and sentenced to a term of 12 years in prison plus five years of post-release supervision ("PRS"). While in DOCCS custody Plaintiff has addressed his substance use disorder by completing a comprehensive treatment program. He has also taken courses in computer and small engine repair, and he has worked as a porter and in maintenance.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities.

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