



## MEDIA RELEASE

### JAIL NO PLACE FOR TUBERCULOSIS PATIENT SAY LEGAL AID SOCIETY AND ACLU

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Milwaukee -- The tragic death of Marshall Wilburn at the Milwaukee County Jail raises important questions about the City of Milwaukee Health Department's decision to seek his quarantine there, rather than in a hospital or other health care facility.

Based on media reports, Mr. Wilburn had active tuberculosis and had not taken his medications as prescribed in the community. He was arrested and jailed on a minor disorderly conduct charge. Once there, the City of Milwaukee asked a court to order him held in the jail for medical quarantine, arguing that his homelessness, "noncompliance" with treatment and "aggressive" behavior made him a danger to himself and others. It is unclear whether his disease was infectious at the time of his arrest. Mr. Wilburn consented to remain at the jail, saying he wanted "to get well." This cooperation suggests he may have been compliant with treatment in a less restrictive setting, such as a hospital. It is unclear whether that option was explored.

"Untreated tuberculosis is a serious public health concern, but jails are designed to hold people accused of crime, not those who are homeless and need medical treatment," said Larry Dupuis, the ACLU of Wisconsin's legal director. "Criminal conduct may justify time in jail, but being homeless and noncompliance with medical treatment don't."

The Wisconsin Supreme Court's recent decision, *City of Milwaukee v. Washington*, made clear that a person with tuberculosis may not be put in jail for failing to comply with treatment, unless a jail is the "least restrictive place" the person can be safely and adequately treated. With adequate resources, there should almost always be less drastic ways to treat tuberculosis patients who do not follow doctors' orders than putting them in jail.

"Until an autopsy and the jail's death review process are complete, we cannot know whether the jail's medical care was deficient in this case," added Peter Koneazny, litigation director of the Legal Aid Society of Milwaukee. "But it's evident that a jail is not a health care facility. Mr. Wilburn may have died in a hospital, too, but the easy access to emergency room physicians and other resources at a hospital couldn't have hurt his chances for survival."

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