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SANTA ANA RESIDENT SAMUEL SIXTOS-GOMEZ COULD BE DEPORTED BECAUSE OF OC SHERIFF'S DEPARTMENT MISTAKE

By Gabriel San Roman

Around 1 p.m. on April 14, a pair of Santa Ana police officers responding to complaints of gang activity in the city's Bishop Manor neighborhood encountered Samuel Sixtos-Gomez. According to police, he was walking along East Bishop Street with a "known documented gang member." Officers ran his name and found that Sixtos-Gomez had an outstanding warrant for driving without a valid license in 2008. The native of the Mexican state of Guerrero had no other prior criminal record, although he had previously entered the United States illegally and had been deported several times.

The misdemeanor offense for which police arrested Sixtos-Gomez that afternoon falls under the TRUST Act, which became law on Jan. 1 and protects undocumented, low-level offenders from being turned over to Immigration and Customs Enforcement (ICE) by law-enforcement agencies. But, on April 18, after several days in the Orange County Jail, Orange County Sheriff's Department (OCSD) officials allowed ICE agents to fetch Sixtos-Gomez at the jail and transport the 25-year-old to San Bernardino County's Adelanto Detention Center, a facility run by the Geo Group, a controversial, lawsuit-ridden private for-profit firm. He remains there until an immigration court decides if he should be deported.

"For me, it would be very sad and very unjust if they deport my son," Sixtos-

Gomez's mother, Martha Sixtos, says in Spanish. "He's not a criminal. He's not a delinquent. His only 'mistake' is being undocumented. He's been in this country since he was 7 years old." She hasn't seen her son since the day of his arrest. Sixtos-Gomez also remains separated from his 6-year-old daughter and his two younger siblings, all of whom are U.S. citizens. "I haven't been allowed to visit because they ask for legal papers that I don't have," Martha says. The family maintains contact via infrequent, expensive telephone conversations.

Sixtos-Gomez's mother is a volunteer with Latino Health Access, so his ordeal made its way to activist organization RAIZ, whose name translates into "root" in Spanish and is an acronym in the same language for "resistance, autonomy, equality and leadership." The youth group's online petition calls for his release and for elected officials to pressure ICE, including U.S. Congresswoman Loretta Sanchez (D-Garden Grove), who wrote a letter asking ICE's LA Field Office to review the case.

In rallying around Sixtos-Gomez, as it has for other local deportees, RAIZ has argued the TRUST Act should have protected him from the clutches of ICE. And according to statements to the Weekly by an OCSD spokesman, the group is right. "We've acknowledged our error of detaining and releasing Mr. Sixtos-Gomez into the custody of ICE in violation of the TRUST Act on

April 18," Lieutenant Jeff Hallock stated in a July 5 email. "Our action was based on review of information in his [local arrest record] that has been recently determined to be inaccurate."

For RAIZ, the news doesn't exactly come as a revelation. "We are not surprised they admitted to violating TRUST Act because we already knew," says Alexis Nava Teodoro, the group's deportation defense coordinator. "RAIZ will look into possible litigation regarding OCSD violating his civil rights. We have also approached the office of state Attorney General Kamala Harris to investigate the matter and take disciplinary action toward OCSD."

When the Weekly initially inquired about OCSD's compliance with the law in late May, Hallock insisted Sixtos-Gomez met the criteria for being transferred to ICE, explaining that fellow Lieutenant Mike McHenry had reviewed the case.

Unfortunately, and despite the department's recent admission of error, there is little they can do at this point. "Once [a person] is in ICE's custody, we have no jurisdiction," Hallock says, adding that measures are being taken so that no similar mistake happens again. "We have immediately put in place a process that requires screening deputies to review, as well as compare, an inmate's [local arrest record] with court records, as well as other accessible databases, to confirm qualification under the TRUST Act."

Aside from OCSD's new policy, were Sixtos-Gomez arrested today, it would have been unlawful for the agency to remand him to ICE; an April ruling by a Oregon federal court has disallowed the holding of undocumented detainees beyond their release dates for ICE transfer. In Sixtos-Gomez's case, a judge had ordered him to be released on April 16, but OCSD kept him in

custody for two more days so he could be picked up by immigration authorities.

In response to OCSD's new policy, a coalition of local immigrants' rights groups, including RAIZ, sent Sheriff Sandra Hutchens a letter in late June calling on an end to all collaboration with ICE. A week later, she replied with a letter stating, "While I sympathize with your concern about the separation of families, I must respectfully decline to honor your demand. I am simply trying to keep criminals who are convicted of serious crimes from re-victimizing our communities, businesses and schools."

But Sixtos-Gomez isn't a criminal convicted of a serious crime. And immigrants' rights activists say his case is just another example of the deep gulf of mistrust between OCSD and immigrant communities. "If OCSD turned over Samuel to ICE in violation of California law, then there are many more cases we don't know about where unnecessary separation of families could have been prevented," says RAIZ's Nava Teodoro. "OCSD is supposed to protect the local community. They have no business in federal immigration enforcement."

Sixtos-Gomez's fate remains in the hands of ICE, which claims that how undocumented immigrants come into the agency's custody isn't its concern. According to ICE spokeswoman Virginia Kice, "The TRUST Act is a state statute. ICE is a federal agency responsible for enforcing federal law, and we will continue to do so as our priorities dictate. This individual has been encountered in the U.S. illegally six times previously and repatriated to Mexico on each of those occasions."

Sameer Ashar, director of the UC Irvine Immigrant Rights Clinic, can't recall a case in which a law-enforcement agency admitted to failing to uphold the TRUST Act. "There's an opportunity for ICE to

attempt to remedy the legal violation," he says. "Yes, they're a federal agency and they're bound by federal law, but they're also bound by state laws in the jurisdictions in which they work." He believes that Sixtos-Gomez has a good case for prosecutorial discretion since he hasn't been convicted of a serious crime, has citizen family members and was transferred into ICE custody without his due protections under the TRUST Act.

Meanwhile, Sixtos-Gomez remains at Adelanto. His bail is set at \$15,000, an amount his family in Santa Ana says it can't afford to pay.

"My hope is that my son will be allowed to stay in this county," says Martha Sixtos. "I believe he can qualify for Deferred Action to study and work for his daughter and brothers who need him."

According to Martha, after her son was detained, his daughter asked where he had gone. On the telephone from behind bars, he told his daughter where he was. "Are you coming back soon?" she asked.

"Yes, mija," he replied, "I'll be back with you all soon enough."

The little girl remains certain that her dad will return to her. "Grandma, my daddy isn't going to Mexico," Martha Sixtos recounts her granddaughter saying. "He's going to stay here with us."