



Local jurisdictions remain legally vulnerable for honoring ICE detainers

Local jurisdictions and officers run the risk of litigation and damages liability when they honor ICE detainer requests. In fact, a federal district court recently ruled in favor of a large class of individuals seeking damages for being illegally held based on ICE detainers. *See Roy v. Cty. of Los Angeles*, 2018 WL 914773 (C.D. Cal. Feb. 7, 2018). The Fifth Circuit's decision in *City of El Cenizo v. Texas* does not change that exposure. 2018 WL 1282035 (5th Cir. Mar. 13, 2018). The Fifth Circuit simply held that a mandate to comply with detainers was not unconstitutional in *every* circumstance. The court made clear that an officer or locality could still be liable for honoring a detainer in a particular case. While many courts around the country have disagreed with the Fifth Circuit, even on its own terms the opinion does not protect law enforcement from liability. Nor is the risk of financial liability reduced by an I-200, I-203, or Intergovernmental Service Agreement, because they do not provide local officers with any arrest authority or excuse them from complying with the Fourth Amendment.

As cases and settlements in the last few years show, local officers and agencies face a significant risk of litigation and financial liability when they honor ICE detainers. Here are just a few recent examples:

- *Ahumada-Meza v. City of Marysville, et al.*, No. 2:19-cv-01165 TSZ (W.D. Wash. *settled* January 2020) (City of Marysville settles detainer lawsuit for \$70,000 in damages and \$15,000 in attorney's fees)
- *Esparza v. Nobles Co.*, No. 53-cv-18-751 (Minn. 5th Jud. Dist. Jan. 30, 2020) (granting summary judgment to plaintiffs on tort claim based on lack of state law arrest authority for detainer hold, and setting trial on damages)
- *Hernandez v. United States*, 939 F.3d 191 (2d Cir. 2019) (denying motion to dismiss in favor of a plaintiff held for four days on a detainer and seeking damages against New York City)
- *In re: Jilmar Ramos-Gomez* (Mich. Dept. Civil Rights *settled* Nov. 2019) (Grand Rapids settles claim of noncitizen held for ICE for \$190,000)
- *Caceda-Mantilla v. City of Palmer*, No. 3PA-18-0410 CI (Alaska Super. Ct. *settled* August 2018) (\$50,000 settlement by city of Palmer)
- *Roy v. County of Los Angeles*, No. 12-cv-9012, 2018 WL 914773 (C.D. Cal. Feb. 7, 2018) (ruling in favor of a class of noncitizens held on detainers seeking damages against Los Angeles County, which had paid \$255,000 to settle one named plaintiff's detainer claim)
- *Goodman v. Arpaio*, 2:16-cv-04388 (D. Ariz. *settled* 2018) (Maricopa County settles detainer lawsuit for \$30,750 in damages and \$50,000 in attorney's fees)
- *Gomez-Maciell v. Coleman*, No. 17-cv-292 (E.D. Wash. *settled* 2017) (City of Spokane settles detainer lawsuit for \$49,000)
- *Palacios-Valencia v. San Juan County*, No. 14-cv-1050 (D.N.M. *settled* 2017) (San Juan County pays \$350,000 to settle detainer class action lawsuit, pays named plaintiffs \$25,000 and \$15,000 to settle their claims)
- *Lunn v. Massachusetts*, 477 Mass. 517 (2017) (holding that police had no authority under state law to hold people on ICE detainers)
- *Alfaro-Garcia v. Henrico County*, No. 15-cv-349 (E.D. Va. *settled* May 2017) (Virginia pays \$23,000 to settle detainer lawsuit against county)
- *Figuroa-Zarceno v. City and County of San Francisco*, No. 17-cv-229 (N.D. Cal. *settled* 2017) (San Francisco pays \$190,000 settlement to person unlawfully turned over to ICE)
- *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014) (Lehigh County pays \$95,000 settlement for holding one person on a detainer, City of Allentown pays \$25,000)
- *Miranda-Olivares v. Clackamas County*, No. 12-2317, 2014 WL 1414305 (D. Or. Apr. 11, 2014), 2015 WL 5093752 (D. Or. Aug. 28, 2015) (Clackamas County pays \$30,100 settlement for holding a person on a detainer, along with \$97,000 in attorney fees)
- *Uroza v. Salt Lake County*, No. 11-cv-713 (D. Utah *settled* 2014) (Salt Lake County settles detainer case for \$75,000).