

Ending ICE Holds in Oregon

Fact Sheet

Current as of April 18, 2014

What is an ICE Hold?

The federal Immigration and Customs Enforcement routinely requests that the Oregon sheriffs detain a person beyond the time the person would otherwise be released by the sheriff. This is called an *immigration detainer* or an *ICE hold*.

End ICE holds for a stronger community

- ❖ **Community Safety and Public Trust** Oregon should be a place where all people feel safe to report crime and access services. The widespread perception in our community that ICE is looking to local law enforcement to enforce federal immigration law makes people less likely to come forward to report a crime or access services.
 - ❖ **Fiscal Responsibility** We oppose the expenditure of scarce county resources on detaining individuals in our community who have not yet been convicted of a crime.
 - ❖ **Family Unity** We support keeping families together and we believe that local law enforcement agencies should not assist with enforcement policies that only serve to tear apart families and communities.
 - ❖ **Civil Rights and Access to Due Process** We support preserving the constitutional rights of all persons. Detention under ICE holds violates the U.S. Constitution and Oregon law.
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Recent Developments

On April 11, 2014, a federal court ruled that the Clackamas County Sheriff violated the U.S. Constitution by detaining an Oregon woman only because of an ICE hold.

The sheriff detained Ms. Miranda-Olivares for 15 days because ICE issued a hold. Ms. Miranda-Olivares sued arguing that the Sheriff cannot detain her without probable cause and that ICE holds are not supported by probable cause. She argued that the sheriff cannot arbitrarily detain her. The federal court agreed and held that her detention by Clackamas County violated her Fourth Amendment rights and that because Clackamas County violated her constitutional rights, they will have to pay her damages.

A copy of the decision and updates are available at www.ilgrp.com/iceholds

The decision confirms three important points:

- ❖ ICE holds are requests. They do not authorize detention and are not mandatory orders.
- ❖ An Oregon Sheriff may be sued and forced to pay money for detaining a person solely for an ICE hold;
- ❖ Oregon sheriffs violate the US Constitution and Oregon law when they detain a person because of an ICE hold.

Implications for continuing to honor ICE holds

❖ **Lawsuits** Every Oregon Sheriff who detains a person because of an ICE hold could be sued or subject to a class action lawsuit for money damages. An ICE hold may authorize detention only when it is accompanied by a valid warrant issued by a judge (not ICE itself).

❖ **Legal precedent** ICE holds have *never* been mandatory. they are merely requests that the sheriff or police detain a person at local expense, using local personnel, in local facilities instead of federal resources. The decision in this case and other court cases confirm that ICE holds are voluntary and ICE itself in a letter to the U.S. Congress plainly says so, too. No sheriff has to comply with ICE's request to detain a person.

❖ **Join the rest of Oregon** Nine counties' sheriffs departments in Oregon have recently announced that they will no longer honor ICE holds. Does your sheriff's office want to be the outlier, especially when there is a risk of exposing the county to liability?

An opportunity to move forward

❖ **Stand with the community** This is a chance for sheriffs to do the right thing. Stop tearing apart families, stop needlessly deporting people, and keep local resources for local causes.

❖ **Restore trust** Honoring ICE holds breaks community trust and tears apart families. It is contrary to the "safety" purpose of a local law enforcement agency.

❖ **Save scarce local resources** Honoring ICE holds is a waste of local government's money. The vast majority of the costs incurred when local law enforcement detains someone at ICE's request are not reimbursed by ICE or the federal government.