



Local jurisdictions remain legally vulnerable for honoring ICE detainees

Local jurisdictions and officers run the risk of litigation and damages liability when they honor ICE detainee 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 detainees. *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 detainees was not unconstitutional in every circumstance. The court made clear that an officer or locality could still be liable for honoring a detainee 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 detainees. Here are just a few recent examples:

- *Cisneros v. El Paso County*, No. 18-cv-30549 (Colo. D. Ct. Mar. 19, 2018) (ruling that county sheriff had no authority under state law to honor civil immigration detainee)
- *Palacios-Valencia v. San Juan County*, No. 14-cv-1050 (D.N.M. settled 2017) (San Juan County pays \$350,000 to settle detainee class action lawsuit, pays named plaintiffs \$25,000 and \$15,000 to settle their claims)
- *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 detainees seeking damages against Los Angeles County, which had paid \$255,000 to settle one named plaintiff's detainee claim)
- *Goodman v. Arpaio*, 2:16-cv-04388 (D. Ariz. settled 2018) (Maricopa County settles detainee lawsuit for \$30,750 in damages and \$50,000 in attorney's fees)
- *Gomez-Maciel v. Coleman*, No. 17-cv-292 (E.D. Wash. settled 2017) (City of Spokane settles detainee lawsuit for \$49,000)
- *Lunn v. Massachusetts*, 477 Mass. 517 (2017) (holding that police had no authority under state law to hold people on ICE detainees)
- *Alfaro-Garcia v. Henrico County*, No. 15-cv-349 (E.D. Va. settled May 2017) (Virginia pays \$23,000 to settle detainee lawsuit against county)
- *Figueroa-Zarceno v. City and County of San Francisco*, No. 17-cv-229 (N.D. Cal.) (San Francisco pays \$190,000 settlement to person unlawfully turned over to ICE)
- *Orellana v. Nobles County*, No. 15-cv-3852 (D. Minn. settled 2017) (Nobles County pays \$15,000 to settle detainee lawsuit)
- *Del Agua v. Jones*, No. 15-cv-185 (E.D. Cal. settled 2015) (Sacramento County settles detainee case for \$25,000)
- *Davila v. Northern Regional Police Department*, No. 13-cv-70 (M.D. Pa. settled 2015) (Allegheny County pays \$25,000 and agrees to stop holding people on detainees)
- *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014) (Lehigh County pays \$95,000 settlement for holding one person on a detainee, 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 detainee, along with \$97,000 in attorney fees)
- *Valdez-Sandoval v. Walcher* (Colorado 2014) (Arapahoe County pays \$30,000 to settle detainee case before lawsuit is filed)
- *Uroza v. Salt Lake County*, No. 11-cv-713 (D. Utah settled 2014) (Salt Lake County settles detainee case for \$75,000)