

ICE Detainers No Longer Enforced Landmark Decision Impacts Local Jail Operations

Dear Citizens,

A U.S. District Court Magistrate Judge issued a ruling on Friday, April 11, 2014, that impacts operational decisions in the Washington County Jail. The case is *Miranda-Olivares v. Clackamas County*.

While I recognize there are strong feelings on both sides of the issue around ICE detainers in local jails, this decision is important to properly managing risk to Washington County in light of the federal ruling.

In that case, a woman was arrested for a crime and lodged in the Clackamas County Jail. Immigration and Customs Enforcement (ICE) sent the jail a standard ICE detainer. The detainer indicated that ICE had initiated an investigation to determine whether the woman was subject to removal from the United States (deportation). The detainer requested the jail to notify ICE when the inmate was scheduled to be released and to "maintain custody of alien for a period not to exceed 48 hours".

Clackamas County honored the detainer because the Code of Federal Regulations, [8 CFR 287.7\(d\)](#), says that after local charges are resolved, the jail ". . . shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the Department."

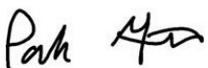
However, the court determined that an ICE detainer *is a request* to hold the inmate for 48 hours, not a mandate; that jail officials used discretion when honoring the ICE detainer; and the jail violated the woman's civil rights by holding her after release on local criminal charges. The next step in that case is for the court to determine the amount of damages that will be paid to the woman for violating her civil rights.

Effective April 14, 2014, the Washington County Jail is no longer holding inmates based solely on a request from ICE. All ICE detainers for inmates in our custody were dropped (49). All 49 inmates with prior ICE detainers were not eligible for release. Most still had pending criminal charges that needed to be resolved before the ICE detainer would impact their custody status. Those who qualified for release after the ICE detainers were dropped were notified of their release options.

Of those with prior ICE detainers who were eligible for release, 6 were released on their own recognizance, and 6 were released and immediately taken into custody by ICE agents (due to protocols in place before the court decision). The remaining inmates, who still have criminal charges pending, were notified that they are eligible for release if they post bail. In fact, several have posted bail and been released, while others are making arrangements.

In the future, our jail will not hold inmates based solely on a request or detainer from ICE. We do not know if Clackamas County will appeal the court's decision, but until that happens, this case sets a precedent that we cannot ignore.

Sincerely,



Sheriff Pat Garrett

