

Immigration Detainers

What is an immigration detainer?

An ICE detainer is a written request from ICE to a local law enforcement to detain an individual for an additional 48 hours to give ICE time to take the inmate into federal custody.¹ Immigration detainers are not mandatory, therefore localities may choose not to honor an ICE request to hold an individual.²

How immigration detainers can negatively affect communities

- **Immigration detainers can undermine community policing efforts and public safety.** When local law enforcement officials participate in immigration enforcement notification programs such as detainers, they risk losing the local relationship and trust they have worked hard to build with the immigrant communities they serve. Statistics show that community policing builds trust between law enforcement and their immigrant constituents³—making residents more comfortable to report crimes and assist officers in solving crimes by coming forward with helpful tips. When that trust is broken, immigrants become less likely to offer information about crimes to law enforcement for fear of immigration consequences.⁴
- **Immigration detainers cost local governments money.** Local government and law enforcement resources wind up being diverted to implementing ICE detainer policies as local law enforcement assumes the substantial cost of holding individuals in custody until ICE picks them up. Often the local government is not reimbursed for these expenses.
- **Honoring immigration detainer requests exposes localities to extra liability.** Detainers are often issued without ICE first interviewing the person to verify their immigration status. There are instances where local law enforcement have detained individuals pursuant to ICE requests and were later determined to have wrongfully detained U.S. citizens in the process and were held liable as a result.⁵
- **Immigration detainers can inhibit immigrant participation in daily life.** Immigrant detainer policies can create fear of deportation and discrimination among immigrants. This fear can restrict undocumented immigrants' ability to freely access services such as police protection, public transportation, and domestic violence counseling.

- **Immigration detainers create opportunities for racial profiling.** Officials may use a person's race or national origin as a basis to notify ICE to place a detainer on the individual.
- **Use of immigration detainers could cause immigrants that are contributing to the local economy to migrate to more immigrant-friendly states to invest their resources.** Many undocumented immigrants work and contribute to local business which provides tax revenues to the state. Immigrants living in jurisdictions that honor ICE detainers may feel unwelcome and vulnerable and may end up relocating to other states which could cause local communities to lose money and tax revenues.⁶

What can you do to limit immigration detainers in your community?

- Impress upon officials to consider restricting ICE detainer policies for local jails through Trust Acts or other related legislation.⁷
- Organize town hall meetings with local law enforcement and the community to discuss concerns regarding detainers and urge officials to use discretion to stop honoring detainers in jails
- Create written materials and conduct educational programs to raise awareness in your area about ICE detainers
- Help immigrants in your area share their personal stories with lawmakers about the human impact of ICE detainers on their individual lives and their families.
- Create messaging in the media to help shape public opinion to support separation of local policing from federal immigration enforcement. Consult Transactional Records Access Clearinghouse (TRAC) reports to educate the public about ICE enforcement trends in your state.⁸

End notes

- ¹ § 287.7 Detainer provisions under § 287(d)(3)(d) INA <https://www.uscis.gov/ilink/docView/FR/HTML/FR/0-0-0-1/0-0-0-88492/0-0-0-91881/0-0-0-93528/0-0-0-93855.html>
- ² Jimenez Moreno et al vs. Napolitano et al, No. 1:2011 cv05452-Document 56 (N.D. ILL. 2012); Galarza v. Szalczyk, et al, No. 12-3991 (3d. Cir. 2014); Morales v. Chadbourne, et al, No. 14-1425 (1st Cir. 2015).
- ³ Why 250 Counties Have Stopped Honoring Local ICE Detainers, American Immigration Council, Amanda Peterson Beadle, September 2014, retrieved from: <http://immigrationimpact.com/2014/09/22/why-250-counties-have-stopped-honoring-local-ice-detainers>
- ⁴ Local Immigration Enforcement Harms Community Policing and Public Safety, American Immigration Council, Matthew Kolodziej, September 2013 retrieved from: <http://immigrationimpact.com/2013/09/13/local-immigration-enforcement-harms-community-policing-and-public-safety>
- ⁵ Galarza v. Szalczyk, et al, No. 12-3991 (3d. Cir. 2014)
- ⁶ "State Anti-Immigration Laws Discourage All Latinos from Moving In", NBC News, Brian Latimer, March 30, 2016, retrieved from: <http://www.nbcnews.com/news/latino/state-anti-immigration-laws-discourage-all-latinos-moving-n547396>
- ⁷ Trust Acts are laws that limit local law enforcement's cooperation with ICE enforcement of federal immigration programs. California, Connecticut, and Colorado have enacted Trust Acts to limit law enforcement role in enforcing ICE detainers.
- ⁸ Transactional Records Access Clearinghouse (TRAC) is an organization at Syracuse University which gathers and analyzes data on various activities by the federal government across the country, including immigration enforcement by federal agencies. For more information, visit: <http://trac.syr.edu/immigration/>