NEWS

N.J. county jails setting free alleged criminals facing deportation, feds say

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By Thomas Zambito | NJ Advance Media for NJ.com

082096.10 BURLINGTON COUNTY JAI.JPG

County jails in Burlington (shown here), Ocean, Union and Camden counties have changed their policies and are no longer honoring requests from federal immigration officials to hold individuals beyond their release date.

(The Times of Trenton)

NEWARK — New Jersey's county jails have become an unlikely flashpoint in the nation's simmering immigration debate.

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Faced with the threat of legal act from civil rmed with a favorab ourt ruling, some county jails are releasing defendants who may deported.

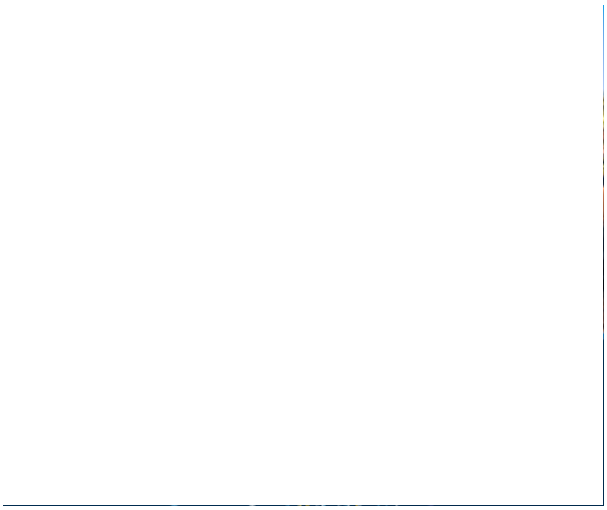
And the federal agency in charge of policing immigration — U.S. Immigration and Customs Enforcement — isn't very happy about it.

ICE says some jails are letting out individuals who may be facing deportation before agents get a chance to come by and pick them up on so-called detainer requests.

"When serious criminal offenders are released to the streets in a community, rather than to ICE custody, it undermines ICE's ability to protect public safety and impedes us from enforcing the nation's immigration laws," said Harold Ort, a spokesman for ICE in New Jersey.

"Jurisdictions that ignore detainers bear the risk of possible public safety risks," he added.

At issue are the detainers ICE sends to county jails asking that individuals who may be facing deportation be held for at least 48 hours after their release date. Once released into ICE custody, the agency could begin deportation proceedings.



County jails have routinely honored the requests.

That all changed in March when the U.S. Court of Appeals for the 3rd Circuit weighed in on the case of a Perth Amboy man held for three days in a Pennsylvania county jail on an ICE detainer after he'd been arrested and posted bail.

In the court case, it was later determined by ICE that Ernesto Galarza was a U.S. citizen of Puerto Rican descent and the detainer was withdrawn, according to lawyers for the American Civil Liberties Union, which sued on his behalf.

In its decision, the appeals court noted that the detainer requests are just that — requests — and that jails are not obligated to obey them.

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"Essentially the federal government cannot command the government agencies of the states to imprison persons of interest to federal officials," the appeals court wrote.

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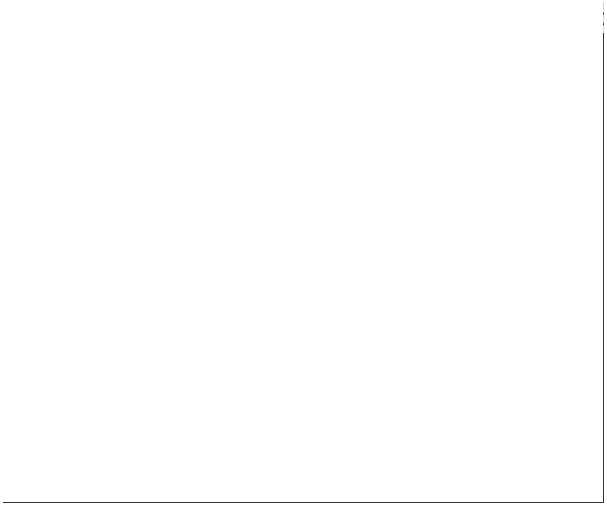
In the ensuing months since the court ruling, the people who oversee the state's county jails took notice, prompted in part by an 11-page letter from the ACLU this summer suggesting, in blunt language, that counties were risking costly lawsuits if they continued to honor detainers.



"Should an individual who has been wrongfully detained in your jail on the basis of an immigration detainer seek our assistance, the ACLU of New Jersey is prepared to pursue legal action to vindicate his or her rights," the letter said.

It is unclear how many detainer requests are currently not being honored in New Jersey. Ort said ICE did not have figures for the number of detainer requests it has issued in recent years.

However, the ACLU said ICE issued some 6,000 detainer requests to New Jersey county jails between October 2011 and August 2013. ICE could not provide figures on how many of those 6,000 people were subsequently picked up by ICE and held in a federal detention center to await a deportation hearing.

In recent months, the heads of several county jails have changed their policy, informing ICE that they would no longer be honoring detainer requests.

Among them is David Owens, the warden of the Camden County Jail.

Owens said he was left with little choice after the 3rd Circuit ruling. He has agreed, however, to let ICE know one day ahead of time that the jail is about to release someone who may have an immigration issue.

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“We will give ICE a heads up,” Owens said.

He said the Camden jail averages about five detainer requests per week.
ICE officials said they are not pleased with his decision. "Reasonable people will disagree," Owens said.

ICE officials say that on July 22, they sent a detainer request to the Camden County Jail requesting that it hold Ventura Amozokeno-Gomez, who was suspected of being in the country illegally. He had been arrested the day before in Camden, accused of assaulting a police officer and resisting arrest, according to Camden police.

ICE officials say Amozokeno-Gomez was released July 22 before they were notified, according to Ort. ICE agents arrested Amozokeno-Gomez the next day at his home and he was ordered removed from the county by an immigration judge in August, according to ICE. He was returned to his native Mexico in September.

Owens says the jail was only following current federal law.

“We will do what the 3rd Circuit tells us to do,” Owens said. “I will obey the law.”

At least two other counties — Union and Burlington — have adopted a policy not to honor detainers, according to Ari Rosmarin, the public policy director for the New Jersey ACLU.

Ocean County recently joined them, according to Warden Theodore Hutler.

“It is the policy of this department that individuals shall not be housed in this facility solely on an ICE detainer or warrant,” Ocean’s po reads. “N mmitted to this faci by a law enforcement agency without an accompanying commitment issued by a judge.”

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Other county jails continue to honor the detainers. Several contacted by NJ Advance Media did not return requests for comment.

Union County was among the first to embrace a change, issuing a news release heralding the policy in August.

“In the face of congressional inaction, counties across the country are responding to senseless family separations by issuing policies that prevent families from being funneled into detention and promote trust between immigrant communities and police departments,” the release said.

The city of Newark and the township of Princeton have adopted a similar policy for their local jails, the ACLU says.

Major U.S. cities and hundreds of other jurisdictions have followed, the ACLU’s letter notes.

And the New York City Council recently passed a measure that would allow police and corrections officials to stop honoring detainer requests.

Cities and counties found to have wrongfully held individuals on ICE detainer requests have had to pay out six-figures to settle lawsuits, Rosmarin noted.

But at least one immigration group says the ACLU is bullying New Jersey’s sheriffs and wardens into not honoring the detainer requests.

“The ACLU has turned this into a campaign,” said Jessica Vaughan, the director of policy studies for the Center for Immigration Studies in Washington, D.C., a group that advocates for lower immigration levels and tougher immigration laws. “It’s trying to intimidate sheriffs into not cooperating with ICE by telling them they’re going to sue them.”

Vaughan said that based on her analysis of ICE [illegible]ency issued more than 2,000 detainer requests in New Jersey during th[illegible]scal year t[illegible]ember. Of those, more than 1,500 were targeted because they had criminal convictions, Vaughan said.

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During the same time frame, ICE's New Jersey office removed more than 2,700 individuals from the country after issuing detainers, she said. Some could have been holdovers from detainers issued in prior years.

The ACLU, however, claims that many of those targeted by ICE were not even up for deportation.

"With disturbing regularity, ICE has issued detainer requests erroneously to detain United States citizens and legal residents who are not subject to deportation," the ACLU letter noted.

ICE disagrees.

The agency says its detainers focus largely on those with criminal records, recent border crossers and those who have continually flouted the nation's immigration laws by returning to the country after removal. Of the 4,361 individuals removed to other countries from New Jersey last year, half were criminals, according to ICE.

The ACLU, meanwhile, says the only person who should be deciding whether someone belongs behind bars is a judge, not an ICE agent armed with a detainer.

Judges who set a defendant's bail should be the ones deciding whether he or she is a danger to society, the civil liberties group says.

“We’re not saying we should let murderers out,” Rosmarin said. “The criminal justice system will take into account the public safety concerns inherent here.”

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