

New York Officers Cannot Arrest or Hold People for Federal Immigration Enforcement

In November 2018, a New York State appellate court ruled that New York law forbids state and local law enforcement from arresting or detaining anyone solely because U.S. Immigration and Customs Enforcement (ICE) wants to pick that person up and have them deported. The court held that the Suffolk County Sheriff's Office violated state law by holding a Long Island man after he should have been released from jail.

WHAT DOES THE COURT'S DECISION MEAN?

- New York state and local officers – including police, sheriffs, and corrections officers – cannot arrest or hold someone on the basis of a request from ICE alone.
- This means officers can't honor immigration detainers, which are written requests to keep someone in custody beyond when they would have been released on local charges. They also can't honor administrative warrants, which are documents ICE issues themselves claiming to have cause to arrest someone, and are not signed by judges.
- If a person is in jail and posts bail or is ordered released by a judge, they cannot be held even longer simply at the request of ICE.
- Even jails that have contracts with ICE to house people detained by ICE, like Suffolk County, cannot hold a person after they are otherwise free to leave.

WHERE DOES THIS APPLY?

Though the court was considering a case out of Suffolk County, the court's decision applies statewide. Officers across New York must follow it.

WHAT HAS CHANGED?

- At ICE's written request, many jails had been agreeing to keep people locked up for two extra days, even though they had been ordered released by a local judge. That is not allowed under the court's decision.
- There are times when state or local police have pulled someone over for a traffic violation like speeding, and have then kept them in custody for ICE or U.S. Customs and Border Protection. This is also not allowed under the court's decision.

WHAT IS NOT AFFECTED BY THIS RULING?

- The court did not say anything about whether police and jails could give information to ICE, like where a person lives or when they'll be released from jail, or whether it's OK to let ICE interrogate people at county jails.
- Local officers might help ICE in a variety of ways, even after the court's decision.

CAN ICE STILL ARREST PEOPLE WITHOUT RELYING ON LOCAL POLICE?

- Yes. Even without the help of local officers, ICE has been known to arrest people on their own at their homes, at their workplaces, in public, and even in courthouses. The court's decision doesn't stop them from doing these things.

WHAT CAN I DO?

- **If you believe your local police or jail are violating the court's ruling, tell us about it at detainers@nyclu.org.**
- **Take action!** Contact your local and state representatives and ask them to play a proactive oversight role and support laws preventing officers from assisting immigration agents.
- Join local advocacy efforts by contacting the NYCLU chapter in your region:

NYCLU MAIN OFFICE (NYC)
212-607-3300
VOLUNTEER@NYCLU.ORG

NYCLU SUFFOLK COUNTY CHAPTER
631-650-2301 OR 631-512-1587 (SPANISH)
SUFFOLK@NYCLU.ORG

NYCLU NASSAU CHAPTER
516-741-8520
NASSAU@NYCLU.ORG

NYCLU LOWER HUDSON VALLEY CHAPTER
914-997-7479
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NYCLU CAPITAL REGION CHAPTER
518-436-8594

NYCLU CENTRAL NEW YORK CHAPTER
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NOVEMBER 2018