

Sheriffs Limit Detention of Immigrants

By [JULIA PRESTON](#) APRIL 18, 2014

Sheriffs in nine Oregon counties announced this week that they would no longer hold people in jail based on requests from federal immigration authorities after a United States magistrate judge in Portland ruled that an immigrant's rights had been violated when she was held in a county jail on such a request.

In response to the judge's decision last week, the nine sheriffs, including those in the counties where Portland and Salem are located, said they would no longer comply with documents, known as detainers, issued by the federal immigration enforcement agency.

Sheriff Gary Bettencourt of Gilliam County, the president of the Oregon State Sheriffs' Association, said Friday that he expected more counties would make similar policy changes in the coming days.

"We will no longer violate anybody's constitutional rights, I can guarantee that," Sheriff Bettencourt said.

The Oregon decision was the latest of several federal rulings this year that raised doubts about the constitutionality of detainers that federal authorities have routinely issued to state and local police, asking them to hold foreigners they had arrested for additional time.

The detainers, which are issued by [Immigration and Customs Enforcement](#), known as ICE, request that immigrants be held for up to 48 hours so their legal status can be investigated.

The shift by sheriffs in Oregon adds to growing resistance nationwide to the expansion under the Obama administration of the local reach of federal immigration enforcement. The effort has helped produce about two million deportations under President Obama, more than any other president.

In response to pressure from immigrant communities and advocates, Homeland Security Secretary Jeh C. Johnson is reviewing the administration's enforcement policies, including federal cooperation with state and local police.

The [decision](#) by Janice M. Stewart, magistrate judge in federal court in Portland, came in the case of Maria Miranda Olivares of Mexico, who was arrested in March 2012 for violating a restraining order in a domestic violence case.

After Ms. Miranda was sentenced to time served and was ready for release, the Clackamas County jail kept her for an additional 19 hours under a federal hold until immigration agents arrived to take her away.

In response to a lawsuit by Ms. Miranda questioning her prolonged detention, the county argued that the sheriff had been required to hold her by the federal detainer. Judge Stewart found that the detainer was not mandatory and “alone did not demonstrate probable cause” for Ms. Miranda to be held. The judge said the county was liable for damages, which have yet to be determined.

“The jail was making a decision not to release this person until immigration agents showed up,” said David Henretty, the lawyer at the [Oregon Law Center](#) in Portland who represented Ms. Miranda in the federal lawsuit. “Now the jails will not hold someone only on a detainer.”

Legal experts said the Oregon decision may be felt far beyond the state. “It could be a game-changer,” said Juliet Stumpf, a professor at Lewis and Clark Law School in Portland. “It opens potential liability for counties all over the country for following ICE’s requests.”

Immigration agents determined that Ms. Miranda, a longtime Oregon resident with two children who are American citizens, was in the country illegally. She is free on bail and fighting deportation, her immigration lawyer, Alejandro Villacorta, said.

The use of detainers by the immigration agency has expanded as a result of a program called [Secure Communities](#), which the Obama administration extended to every law enforcement jurisdiction. Under the program, fingerprints of anyone booked by local or state police are checked against federal immigration databases. Based on those checks, ICE agents decide whether to ask the police to hold the immigrants.

An ICE spokeswoman, Barbara Gonzalez, said she was confident the agency would “continue to work cooperatively with law enforcement partners throughout Oregon.” She said the agency issued detainers on convicted criminals and other immigrants posing public safety threats to ensure they were not released into communities.

This year, federal courts in Pennsylvania and Rhode Island also ruled that immigration detainers did not amount to the probable cause required by the Constitution for people to be kept in jail.

“Localities for years have been treating these detainers as warrants,” said Kate Desormeau, a lawyer with the American Civil Liberties Union Immigrants’ Rights Project. “The courts are finding this is just a piece of paper.”

Last year, California passed a law curbing the cooperation of state and local police with Secure Communities, by blocking the police from holding immigrants arrested for minor violations.

On Wednesday, the mayor of Philadelphia, Michael A. Nutter, issued an order barring police from holding immigrants solely on immigration detainers without an additional warrant. And on Friday, Gov. Martin O’Malley of Maryland announced that the Baltimore City Detention Center would comply with detainers only for those immigrants charged with or convicted of serious crimes.

<http://www.nytimes.com/2014/04/19/us/politics/sheriffs-limit-detention-of-immigrants.html>