

## WHAT ARE ICE DETAINERS?

No matter you call them, ICE detainers, ICE holds or immigration detainers are requests that Immigration and Customs Enforcement (ICE) sends to local enforcement agencies (e.g. police, sheriff, local jail) asking for information about a person who is about to be released from custody and/or asking that the local agency hold that person for an extra amount of time in order to facilitate their deportation.

ICE detainers are not mandatory. There is no legal requirement that a local agency respond to a detainer request. Law enforcement agencies can choose for themselves whether or not to cooperate voluntarily.

ICE detainers are not judicial warrants. An *arrest warrant* is an order signed by a judge that allows a police officer to detain a person because there is “probable cause” to believe that the person has committed a crime. “Probable cause” is the standard of proof that the government must show in order to deprive a person of his or her liberty under the Fourth Amendment.

In contrast, a *detainer* is a document signed by an immigration agent—not a judicial officer—requesting that a locality hold a person who the judicial system would otherwise have released, based on ICE’s interest in deporting the person. Most detainers are not supported by probable cause. In fact, [less than 1% of detainers](#) are accompanied by a judicial warrant. And, what many people don’t know is that the fact that ICE issues a detainer does not even mean that the individual is a non-citizen subject to deportation. That is because ICE issues detainers without probable cause, sometimes even for [U.S. citizens](#) and people who are not deportable at all.

Around the country, [courts are finding that ICE detainers are unconstitutional](#) when they are not supported by what is called “probable cause.” Recently, the federal court of appeals for the area that covers Massachusetts [ruled](#) that the Fourth Amendment requires that detainers be supported by probable cause.

When local agencies hold a person on an unconstitutional detainer, they can be liable. Detainers also regularly prevent people from being released on bail, limit their access to treatment programs, and result in longer jail time, even if all the charges are dropped.

For these reasons, cities, towns, counties, and states around the U.S. are limiting how and when they collaborate with ICE detainers. Hundreds of localities have passed laws and orders that limit or prohibit law enforcement from accepting these detainers, especially without a court order.