

## U.S. Citizen Jailed in Immigration Status Mistake



Ricardo Garza was just a few footsteps from freedom when the trouble started.

He had posted bail and was on his way out the door of the Grand Prairie Police Department Detention Center — where he had been booked on charges of driving while intoxicated — when a jailer began asking questions.

“I was maybe 3 feet away from breathing fresh air,” Garza recalled. “And [the jailer] said ‘What’s your name? What’s your birthdate? What’s your social? Where were you born?’”

That last question, and the way police reacted to his answer, would throw the 46-year-old warehouse manager into the messy intersection of local law enforcement and U.S. immigration policy, ultimately triggering a federal lawsuit.

Garza told jail officials he was born in Mexico but had since become a U.S. citizen. But when the jail contacted U.S. Immigration and Customs Enforcement to verify his status, federal immigration officials told jailers they believed Garza was a U.S. permanent resident whose criminal history potentially made him a deportable immigrant.

Their request to Grand Prairie: Don’t let him out.

What happened next highlighted the conflicting pressures local jails face when it comes to foreign-born inmates: On one hand, state and federal lawmakers want local law enforcement officials to be tough on immigrants accused of crimes. On the other, civil rights activists and immigrant advocates want federal immigration authorities to stop asking local jails to turn over information on people who are arrested. They cite the detention of potential citizens as Exhibit A in their quest.

ICE placed a detainer on Garza on Oct. 30, 2015, 13 days after he was arrested, the same day he was transferred to Dallas County Jail. A detainer is the agency’s way of asking a jail to delay an inmate’s release by up to 48 hours so immigration officials can take them into custody. Dallas County decided to hold Garza without allowing him to post bond. Garza’s detainer was not canceled until Dec. 5 — 36 days later — when his attorney, Eric Puente, provided evidence that Garza had “derived,” or acquired, U.S. citizenship when his mother naturalized in 1984. ICE has no civil authority to place immigration detainers on U.S. citizens.

"On Dec. 5, while still in the custody of Dallas County Jail, Mr. Garza's attorney provided additional documentation to ICE officers which indicated that Mr. Garza had derived U.S. citizenship," agency spokesman Carl Rusnok said in a statement. "Based on this information, ICE dropped its detainer the same day."

Garza and six other former Dallas County inmates filed a federal civil rights lawsuit on December 18 against Dallas County and Sheriff Lupe Valdez, alleging that Dallas County violated their constitutional rights by refusing to release them on bond because they had immigration detainers. Puente said the county's action amounted to illegal pretrial detention.

"What Dallas County does is they go much further than what ICE is asking them to do," Puente said. "They use the ICE detainer as an instrument to deny the constitutional right to bail. They say, 'because you have an ICE detainer, you just can't pay bail. You cannot get out, period, until your case is disposed of.'"

Rusnok said ICE asked Dallas County to notify its agents 48 hours before Garza was going to be released — not to hold Garza beyond when he would have otherwise been let go.

Melinda Urbina, a spokeswoman at the Dallas County Sheriff's Department, declined to comment on Garza's case because of the ongoing lawsuit. But she said that if ICE asks the county to hold an inmate for an extra 48 hours, the additional time typically does not begin until after the prisoner's county charges are resolved.

"We follow what [ICE asks] us to do," she said.

Garza's case is the latest challenging Dallas County's cooperation with immigration officials. In October, Valdez said she would decide case-by-case whether to honor ICE detainers for certain offenses. The policy change sparked the ire of Gov. [Greg Abbott](#), who characterized Valdez's new approach in [a public letter](#) as lenient and "a serious danger to Texans." The same day as Abbott's letter, 16 former Dallas County inmates who had been held on detainers filed a similar federal civil rights lawsuit against the county. Puente is also one of the attorneys representing the plaintiffs in that case.

But Texas law enforcement agencies rarely refuse a detainer. Between January 2014 and September 2015, more than 18,000 immigration detainers were declined by law enforcement agencies across the United States, but only 146 were declined by Texas law enforcement, according to [an analysis of federal immigration detainers by The Texas Tribune](#).

Garza's case highlights the complicated nature of determining U.S. citizenship, and many U.S. citizens have wound up with detainers placed on them in recent years. From fiscal year 2008 to fiscal year 2012, ICE issued [at least 834 detainers against U.S. citizens](#), including 83 in Texas and seven in Dallas County Jail, according to TRAC's Immigration Project, a research project at Syracuse University that compiles immigration data obtained from ICE.

To prove that Garza is a U.S. citizen, Puente gave ICE a 1999 decision from a Dallas immigration judge halting his removal proceedings initiated after Garza was sentenced to five years of deferred probation in 1996 stemming from an aggravated assault charge, an offense that often leads to deportation for non-citizens. After Garza successfully completed probation, the charge was dismissed in 2001, according to the Dallas County District Clerk's Office. To demonstrate his U.S. citizenship, Garza had to show the judge his birth certificate, his

parents' divorce certificate and his mother's certificate of naturalization. Puente said ICE should have had the case on file.

"If [ICE] would have paid attention to him, they would have found out, as I did, that he is a U.S. citizen," said Puente. "ICE has the documents to prove so. I supplied those documents to the ICE officers who then lifted and canceled his ICE detainer. But I used their own records to show that."

Garza acquired U.S. citizenship under a since-repealed provision of federal law allowing a child born outside of the United States to automatically acquire U.S. citizenship if both parents — or in the case of divorce, the parent with custody — became a naturalized citizen before the child turned 18.

Garza was born in 1969 in Monterrey, Mexico. When he was three years old, Garza and his parents entered the United States legally through Laredo. His parents divorced in 1982 and Garza's mother retained custody of him. In 1984, when Garza was 14 years old, his mother became a U.S. citizen, which also made Garza a U.S. citizen. He has always held a legal immigration status in the U.S.

Garza, a father of two boys, ages 9 and 16, said he feared he was really going to be deported and the extra time in prison placed a financial and emotional burden on him.

He said prison and immigration officials would not listen to him as he repeatedly told them he was a U.S. citizen. While in jail, Garza got behind on his bills, had to take out loans, paid \$2,000 to retrieve his impounded vehicle and missed doctors appointments related to the open-heart surgery he had undergone several months before his arrest.

"I lost a lot," he said. "[I lost] my job, my car, I'm behind on my bills, almost lost my house. I lost a lot of things emotionally."

*This story is part of The Texas Tribune's yearlong [Bordering on Insecurity](#) project.*

## Jails Refused to Hold Thousands of Immigrants Sought by Feds



*The Texas Tribune is taking a yearlong look at the issues of border security and immigration, reporting on the reality and rhetoric around these topics. [Sign up to get](#) story alerts.*

More than 18,000 times over the past two years, local jails across the country have failed to hand over deportable immigrants to federal authorities, according to U.S. Immigration and Customs Enforcement records obtained by The Texas Tribune.

The largest number by far of what the agency calls "declined detainers" was recorded in California — more than 11,000. Only 146 were recorded in Texas, 12th among all states and representing less than 1 percent of the total, and several county jail officials maintain even that number may be too high.

Detainers are requests from federal immigration authorities for a local jail to hold non-citizen inmates subject to removal — usually booked on crimes unrelated to immigration violations — for up to 48 additional hours so federal officials can take them into custody. In late 2014, the agency began targeting requests at cases involving serious criminal offenders.

The new policy was implemented by July 2015, and more law enforcement agencies are now cooperating with the agency, said spokeswoman Jennifer Elzea, who stressed that Texas jurisdictions are among its "strongest local partners."

"ICE is committed to focusing on smart, effective immigration enforcement and makes custody determinations on a case-by-case basis, prioritizing serious criminal offenders and other individuals who pose a risk to national security or public safety," she said.

According to the records released to the Tribune, almost 60 percent of the total declined detainers came from jurisdictions in California, followed by New York, Colorado and Florida.

California adopted strict "sanctuary city" policies limiting collaboration between local law enforcement and the federal government on immigration enforcement. The issue sparked national outrage when an undocumented immigrant for whom the agency had issued a detainer — declined by San Francisco County despite his long criminal history — shot and killed innocent bystander Kate Steinle after he got out of jail in July 2015.

Texas officials reacted with confusion when asked about the agency's numbers for their counties.

Many said the agency's definition of a "declined detainer" was misleading because it included circumstances beyond their control, such as cases where inmates were transferred to other jurisdictions in response to outstanding warrants or had to be released after federal authorities failed to pick them up within 48 hours. An agency official acknowledged that in jurisdictions with low numbers of declined detainees, the totals could contain minor administrative errors on either the local or federal level.

All but one of the 11 counties contacted by the Tribune were unable to provide details for the outcomes of specific cases in their jurisdictions — raising troubling questions about the exchange of information between local and federal authorities.

The number of declined detainees in Travis County — 72, including 33 with a prior criminal history on different charges — topped the Texas list.

A spokesman for Travis County Sheriff Greg Hamilton, Roger Wade, referred all questions about the data to the federal government.

"I do not know how ICE came up with those numbers and we do not keep stats for ICE," Wade said in an email. "You will have to ask ICE how they arrived at those numbers and what their definition is of declining detainees."

A distant second to Travis is Bexar County, where Democrats have pushed a proposal to adopt "sanctuary city" as an official label. There, the federal agency's records show declined detainees on 11 inmates, four of whom had a prior criminal history.

James Keith, a spokesman for Bexar County Sheriff Susan Pamerleau, also could not account for what happened in those 11 cases.

"We don't keep that information," he said in an email. But he emphasized that the county cooperated with federal authorities on all detainer requests.

"If a person is no longer in the jail, whether it be because of a release or transfer, that would qualify for a detainer being denied," he said. "In the case of a transfer, ICE would still be able to place a detainer on the inmate, they would just have to notify the agency the inmate was transferred to."

In Collin County, north of Dallas, where agency records show two declined detainees, one for an inmate with a criminal history, a spokesman for the sheriff's office said it "would literally be too manpower-intensive and potentially impossible to locate the reasons they were released."

Most Texas counties on the list — the majority of which had between one and three declined detainees — did not fall into any kind of pattern.

Declined detainees appeared in Texas jurisdictions known for their fiercely conservative politics, such as

Williamson County, which has declined detainees on three inmates, including two with previous criminal histories. Harris County, home to the state's largest city, also had just three declined detainees.

Conversely, in counties where a higher number of declined detainees might be expected either because of their proximity to the border or local officials who vocally oppose expanding immigration powers, numbers of declined detainees were very low.

In Webb County, where the district attorney's office estimates about 25 percent of its caseload involves defendants that are either undocumented or in the country on a visa, the jail showed three declined detainees during that timeframe. But a spokeswoman for the Webb County Jail said it didn't deny those requests — the inmates were transferred to another county where they also faced charges.

The only two other border counties on the list, Hidalgo and El Paso, had one declined detainee each.

The documents released to the Tribune also included information on 165 jurisdictions nationwide that ICE determined to have a specific policy limiting cooperation with federal authorities. Dallas, where Sheriff Lupe Valdez [recently drew fire](#) from Abbott in October for what he viewed as lenient enforcement of federal immigration policy, was the only Texas county on the list. The same records reported only two declined detainees in that county.

A spokeswoman for Valdez's office said she would have to verify the information before responding to a request for comment.

When asked for further clarification on the Texas numbers, an ICE official — speaking on condition of anonymity because they were not authorized to comment — said that in many jurisdictions the small numbers of declined detainees might result from paperwork mistakes at the federal or local level, not from a lack of cooperation.

"We cannot determine exactly what happened in each of these instances without examining the individual cases, which would be resource-prohibitive," the official said.

*Texas Tribune reporters Terri Langford, Julian Aguilar and Jolie McCullough contributed to this story.*



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**From:** Ric Bruner <RIC.BRUNER@dallascounty.org>  
**Sent:** Tuesday, July 28, 2015 10:05 AM  
**To:** Raymond Hindieh  
**Subject:** RE: ICE question

Hey Ray,

Mr. [REDACTED] case hasn't been filed yet with us. Due to his prior conviction for Poss MJ and Assault F/V, he is mandatory detention and was sent to Haskell awaiting a hearing with the immigration judge. If his case is filed with us, we will not bring him back. There will be a warrant waiting on him if he returns to the U.S.

To answer your question regarding bonds: if you bond someone out on the state bond and they have an ICE hold, then they will be transferred to ICE custody. The federal hold works similar to a state hold with another agency. For example: Defendant posts a bond with Dallas County for BMV, but there is also a hold on him from Denton county for Theft. The jail notifies Denton County that the defendant posted the required bond with Dallas and Denton has 72 hours to pick him up or he will be released. ICE works the same way. The jail notifies ICE when the defendant has either posted their bond, has time served, probation, etc... and ICE has 48 hours to pick them up. A federal hold has the same weight as a state hold, unless the agency cancels the hold. The difference with federal holds (ICE holds) is unlike a state hold where the defendant (a United States citizen) posts the Dallas bond, he/she can also go to Denton and post their bond there and be released to the streets. A non-citizen can because he/she isn't a citizen and is here in the country illegally. If they do have some sort of visa or paperwork that allows them to be here, then because they were arrested and charged (not convicted), then they have violated the agreement to enter our country. ICE can choose to give them a bond (no prior criminal history, no prior immigration history, no conviction) if the offense they were arrested for is not a violent crime or a crime that if released, poses a threat to society (like DWI, drugs, etc..). Any drug conviction no matter what degree, is mandatory detention for ICE. What that means is if a person has a drug conviction in their background,

I hope this helps,

Ric

Ric Bruner #480  
Criminal Investigator  
Dallas County District Attorney's Office  
ICE Liasion/NTFTF U.S. Marshals  
(214) 653-3893 office  
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**From:** Raymond Hindieh [mailto:rhindieh@phflaw.com]  
**Sent:** Monday, July 27, 2015 4:38  
**To:** Ric Bruner  
**Subject:** ICE question

Hi Ric,

Hope you're well. I have a client that hired us, [REDACTED]. He has a Poss MJ case that has not been closed out but he has been sent to Haskell. Do you know why? Also, I had a more general question, since there are not really anymore ICE bonds since November of last year, if we post a state bond for someone that has an ICE hold will they bond out? Or will they be kept in on the hold? Thanks Ric.

Best,

Ray

Raymond M. Hindieh  
Attorney and Counselor at Law

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[REDACTED]

[REDACTED]

Eric,

[REDACTED]

3. I have no authority, nor does the DA's office have the authority to cancel a federal hold. If you want to get a detainer cancelled, you will need to go to the source, ICE, to get them to remove it. I can facilitate that, but I cant remove the hold; therefore the threats of having full blown hearings regarding this is a mute point because we don't have the authority to remove federal holds, nor does a state judge.

Ric

Ric Bruner #480  
Criminal Investigator  
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(214) 653-3893 office 1  
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From: Eric Puente [epuente@phflaw.com]  
Sent: Monday, December 07, 2015 3:32 PM  
To: Albert Roberts; Ric Bruner  
Subject: [REDACTED]

Hello Gentlemen,

I am writing to discuss the status of [REDACTED] I have recently received Mr. [REDACTED]  
immigration file from the national archives.

[REDACTED]

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From: Raymond Hindieh  
Sent: Tuesday, December 2, 2014 4:32 PM  
To: Ric Bruner  
Subject: [REDACTED]

Oh ok, thanks, we'll take care of it then.

Best,

Ray

Raymond M. Hindieh

Attorney and Counselor at Law

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From: Ric Bruner <RIC.BRUNER@dallascounty.org>  
Sent: Tuesday, December 2, 2014 4:22 PM  
To: Raymond Hindieh  
Subject: RE: [REDACTED]

Hey Ray,

I never said he wouldn't be held on his immigration hold. I said we (the DA's office) wont seek to hold his bond insufficient for that charge. He still has to go to ICE. He is going to ICE tomorrow morning.

Ric

-----Original Message-----

From: Raymond Hindieh [mailto:rhindieh@phflaw.com]  
Sent: Tuesday, December 02, 2014 2:23 PM  
To: Ric Bruner  
Subject: [REDACTED]

Hey ric!

We discussed this guy with you before, and you had said that as long as we bond him out he won't be held on his immigration hold. We bonded him out and he wasn't released, and the bond desk is saying the won't release him because he has an immigration hold. Is there anything we can do to show the bond desk that he's ok to be bonded out? Thanks man! Sorry to hit you with a complicated issue in between the holidays.

Ray

Sent from my iPhone

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**From:** Ric Bruner <RIC.BRUNER@dallascounty.org>  
**Sent:** Wednesday, April 23, 2014 12:32 PM  
**To:** Raymond Hindieh  
**Subject:** Stip forms

Hey Ray,

Here are the stip bond forms that we are using now. Please don't hesitate to shoot me an email regarding any requests you have. Just remember if your client has a misdemeanor case and is approved to receive an ICE bond, you need to go to LaQuita Long to sign off on the stip. If it's a felony, then please go to the ADA handling the case.

Thanks bro,

Ric

Sr. Sgt Ric Bruner #480  
Criminal Investigator  
DCDA I.C.E. Liaison Officer  
NTFTF Officer/U.S. Marshals  
(214) 653-3893 office



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From: Ric Bruner <RIC.BRUNER@dallascounty.org>  
Sent: Tuesday, June 3, 2014 2:46 PM  
To: Raymond Hindieh  
Subject: Re: [REDACTED]

Hey Ray,

ICE is dropping the detainer on this guy today. He will probably be able to bond out today, or if he makes it to ICE, they will just release him. No need to do a stip in him.

Thanks,

Ric

Ric

> On Jun 3, 2014, at 2:35 PM, "Raymond Hindieh" <rhindieh@phflaw.com> wrote:  
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> Hey man,

>

> Just wanted to check his eligibility. Thanks!

>

> Sent from my iPhone

>



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**From:** Ric Bruner <RIC.BRUNER@dallascounty.org>  
**Sent:** Thursday, February 26, 2015 3:27 PM  
**To:** Eric Puente  
**Subject:** [REDACTED]

Hey Eric,

Her detainer is going to be dropped. Should be today. She will be able to post bond from the jail and leave.

Ric

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**From:** Eric Puente [mailto:epuente@phflaw.com]  
**Sent:** Thursday, February 26, 2015 1:17 PM  
**To:** Ric Bruner  
**Subject:** [REDACTED]

Ric,

I have a client that just hired me. She has been charged with a harassment case, but she's a full Permanent Resident Alien with an ICE HOLD. Her name is

Can you please run her and let me know if she is eligible for a bond?

Thank you sir!

Eric Puente

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**From:** Ric Bruner <RIC.BRUNER@dallascounty.org>  
**Sent:** Monday, December 14, 2015 4:39 PM  
**To:** Eric Puente  
**Subject:** Re: [REDACTED]

Eric,

We arent really doing those anymore. Instead we are going back to the normal Dallas county bond schedule and letting them go to ICE. You can contact ICE once she gets there to see if she will get a bond with them. If she is a reinstate or has no options to stay, then ICE will contact me before she goes to them and we will hold her bond insufficient and keep her here. If she does have options, then she will be sent to Johnson county or Haskell and wait until her IJ hearing. If you want her back to Dallas county after she gets there, you will need to get the judge to issue a bench warrant or hold her bond insufficient in order to get her back. If she is ordered removed before her criminal case is dispo'd, then ICE will contact me.

What we dont want to happen is she goes there, cant post bond if she is eligible, and then we bench her back only to send her back with no dispo on her case. Once she is ordered removed and we bring her back, then you will need to go to trial, plea or dismiss her case before she returns to ICE.

Ric

On Dec 14, 2015, at 4:12 PM, Eric Puente <[epuente@phflaw.com](mailto:epuente@phflaw.com)> wrote:

Hi Ric,

I wanted to run this person by you to see if she would qualify for a stip bond.

[REDACTED]  
[REDACTED]

Please let me know.

Best regards,  
Eric Puente  
Puente & Hindieh, PLLC  
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