



# Courting ICE:

How Connecticut's Judicial Marshals Work with ICE to Detain and Deport Immigrants



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## Executive Summary

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Judicial marshals are overzealously enforcing immigration detainers for immigrant residents of Connecticut. Judicial marshals, a component of the judicial branch, are charged with keeping Connecticut courthouses safe. They also ensure the smooth administration of justice by transporting detained individuals to court and maintaining lock-ups in courthouses. Rather than focusing on these critical responsibilities, judicial marshals are diverting resources to civil enforcement of federal immigration law.

Judicial marshals are *not* required by federal law to enforce federal immigration law; in fact, where enforcing federal law would conflict with the marshals' priorities, they can, and marshals in other states often do, decline to do so. Despite this degree of discretion, judicial marshals in Connecticut have chosen to aggressively enforce immigration detainers issued by Immigration and Customs Enforcement (ICE). This heavy-handed immigration enforcement in Connecticut's courthouses discourages victims of crime, witnesses, and family members from reporting crimes out of fear of deportation. It also unnecessarily uses judicial branch resources to enforce federal immigration law, and puts the judicial marshals at risk for civil liability for unlawful detention.

By contrast, Connecticut's Department of Correction (DOC) has limited when its officers will enforce civil immigration detainers. Connecticut's Trust Act sets a statutory threshold for when law enforcement officers can hold an individual pursuant to a civil immigration detainer. The Trust Act allows law enforcement officials to detain an individual only if one of seven conditions is met. Since Connecticut passed the Trust Act in 2013, some federal courts have questioned the constitutionality of detaining individuals based on civil immigration detainers. As a result, DOC only enforces ICE detainers in three situations: (1) when the detainer indicates that the individual has a serious felony conviction; (2) when the detainer indicates that the individual is on a terrorist watch list; or (3) when the detainer, accompanied by a judicial warrant, indicates that the individual is subject to a final order of deportation or removal.

The judicial marshals' excessive enforcement of civil immigration detainers creates an environment in which immigrants are afraid to seek legal redress for crimes. This report provides an overview of the extent to which judicial marshals enforce civil immigration detainers, raises concerns about the practice, and provides recommendations to the Judicial Marshal Services and the Connecticut legislature.

### *Key Findings*

- **Judicial marshals are enforcing civil immigration detainers that DOC would not have enforced.** At least 78% of detainers that the judicial marshals enforced between September 2016 and October 2017 would not have been enforced under DOC policy.
- **In particular, two overbroad categories—a final order of deportation or removal and unacceptable risk to public safety, as determined by a judicial marshal—comprise the majority of civil immigration detainers judicial marshals enforced.** Of the 50

detainers that judicial marshals enforced, 31 were enforced solely for these two reasons.

- **The judicial marshals' overbroad policy for enforcing ICE detainers appears to give outsized discretion to individual judicial marshals.** Nearly 56% of all individuals detained pursuant to detainers between September 2016 and October 2017 had their detention authorized by a single judicial marshal.

### **Key Recommendations**

- **Strengthen Connecticut's Trust Act.** Connecticut's state legislature should amend the Trust Act to make clear that judicial marshals and other law enforcement officials may only honor civil immigration detainers when they are accompanied by a judicial warrant.
- **Update the Judicial Marshals' Policy to End Connecticut's Role in the Deportation Pipeline.** Detaining an individual for transfer to ICE, allowing judicial marshals to communicate information about individuals in custody to ICE, and allowing ICE to enter Connecticut courthouses to interrogate individuals fuels the deportation pipeline via our state and local law enforcement agencies. The judicial branch should update its policies to prohibit these actions.
- **Provide Clearer Guidance and Better Training to Individual Judicial Marshals.** The judicial branch should provide clear guidance and better training to individual judicial marshals to minimize disparities between individual judicial marshals and between geographic areas in enforcing civil immigration detainers.

## Background

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ICE uses civil immigration detainers to enlist state and local law enforcement to detain individuals before transferring them into the federal deportation system. Detainers are written requests that a local law enforcement agent detain an individual for an additional 48 business hours after his or her release from custody. The additional 48 business hours in detention give ICE agents more time to take the individual into federal custody for removal, if the agency chooses to do so. A detainer is just a request—state and local officials have no legal obligation to comply.

When state and local officials enforce detainers, they imprison people solely on the basis of a civil immigration document. Many individuals with detainers do not have any pending charges and there exists no probable cause to detain them. They are not afforded any legal process, such as a hearing or other opportunity to challenge the detainer, before they are imprisoned by ICE. Moreover, detainers are issued by immigration officials, not judges. The enforcement of civil immigration detainers therefore raises serious constitutional concerns. In addition to these legal concerns, detaining immigrants on the basis of civil immigration detainers has enormous practical consequences. The detained individuals are prevented from seeing or supporting their families. Further, the honoring of ICE detainers undermines immigrant communities' faith in law enforcement and discourages them from reporting crimes or providing assistance.

In 2013, Connecticut became one of the first states in the country to pass legislation in response to the continued imprisonment of individuals solely on the basis of ICE civil immigration detainers. The Trust Act limits the enforcement of detainers to seven instances. In order to detain an individual, a law enforcement officer must determine that the individual: (1) has a felony conviction; (2) is subject to pending state charges where bond has not been posted; (3) has an outstanding arrest warrant in this state; (4) is a known gang member (as identified by the National Crime Information Center or the DOC's "Security Risk Group," or "SRG," designation); (5) is on a federal terrorist watch list; (6) is subject to a final order of removal; or (7) has been determined to pose an unacceptable risk to public safety as determined by the officer.<sup>1</sup> The Trust Act codified the terms of a settlement in *Brizuela v. Feliciano*, a class action lawsuit brought by the Worker and Immigrant Rights Advocacy Clinic at Yale Law School on behalf of persons held by the DOC on the basis of immigration detainers. The Trust Act extended the settlement's protections to other Connecticut law enforcement agencies, including judicial marshals.

Other states and localities have since joined Connecticut in limiting when local law enforcement may detain individuals based on civil immigration detainers.<sup>2</sup> Many jurisdictions have adopted more stringent limits on state and local officials' ability to

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<sup>1</sup> An Act Concerning Civil Immigration Detainers, No. 13-155, 2013 Conn. Acts 652 (Reg. Sess.) (codified at CONN. GEN. STAT. § 54-192h).

<sup>2</sup> See *generally* IMMIGRANT LEGAL RESOURCE CENTER, NATIONAL MAP OF LOCAL ENTANGLEMENT WITH ICE, (Sept. 9, 2018), <https://www.ilrc.org/local-enforcement-map>.

continue to detain individuals solely on the basis of a civil immigration detainer.<sup>3</sup> A growing number of federal courts have also rejected the authority of state and local enforcement agencies to detain immigrants pursuant to civil immigration detainers.<sup>4</sup>

In December 2014, DOC announced a new policy that further limited enforcement of civil immigration detainers.<sup>5</sup> Citing an intention to “ensure sound use and preservation of correctional resources,” the DOC updated Administrative Directive 9.3 (“Directive 9.3”) in early 2015 to clarify that an individual with an ICE detainer could be held “only if” there was: (1) a prior “violent felony conviction;” (2) a match in the terrorist screening database; or (3) “a final Order of Deportation or Removal issued by The United States which is accompanied by a Judicial Warrant.”<sup>6</sup>

Connecticut judicial marshals, who operate under the umbrella of the judicial branch, also enforce ICE detainers. Judicial marshals are tasked with keeping Connecticut courthouses safe and secure. Unlike DOC officials, they operate only in and around Connecticut courthouses, focusing on safely transporting detained individuals to court, maintaining lock-ups in courthouses, and other aspects of courthouse security. The judicial marshals are not required to follow DOC administrative directives, including Directive 9.3, but are bound by the Trust Act.<sup>7</sup> The Judicial Marshal Services’ out-processing form (JD-MS 45 form), which is included in the appendix, continues to provide for detainer enforcement under any of the seven categories covered in Connecticut’s Trust Act.

Local police officials’ strict enforcement of civil immigration detainers undermines immigrant communities’ faith in law enforcement.<sup>8</sup> Judicial marshals’ overbroad

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<sup>3</sup> See, e.g., 5 ILL. COMP. STAT. 805/15 (prohibiting law enforcement officials from detaining someone on the basis of an immigration detainer without a federal warrant); Policy Regarding U.S. Immigration and Customs Enforcement Agency Detainer Requests, Philadelphia Exec. Order No. 1-14 (Apr. 16, 2014), <https://www.phila.gov/ExecutiveOrders/Executive%20Orders/EO%201-14.pdf> (limiting enforcement of civil immigration detainers to persons being released after conviction for certain violent crimes and only if accompanied by a warrant).

<sup>4</sup> See, e.g., *Jimenez-Moreno v. Napolitano*, 213 F. Supp. 3d 999 (N.D. Ill. 2016); *Morales v. Chadbourne*, 996 F. Supp. 2d 19 (D.R.I. 2014), *aff’d in part, dismissed in part*, 793 F.3d 208, 215-216 (1st Cir. 2015); *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317-ST, 2014 WL 1414305 (D. Or. Apr. 11, 2014); *Vohra v. United States*, 2010 U.S. Dist. LEXIS 34363 (C.D. Cal. 2010); see also Memorandum from Jeh Charles Johnson, Sec’y, U.S. Dep’t Homeland Sec., to Thomas S. Winkowski, Acting Dir., U.S. Immigration & Customs Enforcement (Nov. 20, 2014), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_secure\\_communities.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf) (recognizing “the increasing number of federal court decisions that hold that detainer-based detention by state and local law enforcement agencies violates the Fourth Amendment”).

<sup>5</sup> CONNECTICUT DEPARTMENT OF CORRECTION, ADMINISTRATIVE DIRECTIVE 9.3: INMATE ADMISSIONS, TRANSFERS, AND DISCHARGES, (2015), <https://portal.ct.gov/-/media/DOC/Pdf/Ad/ad0903pdf.pdf?la=en>; see also Christine Stuart, *DOC Changes Policy Next Week on ICE Detainers*, CT NEWS JUNKIE (Dec. 12, 2014, 2:00 PM), [https://www.ctnewsjunkie.com/archives/entry/doc\\_changes\\_policy\\_next\\_week\\_on\\_ice\\_detainers/](https://www.ctnewsjunkie.com/archives/entry/doc_changes_policy_next_week_on_ice_detainers/) (announcing policy change).

<sup>6</sup> CONNECTICUT DEPARTMENT OF CORRECTION, ADMINISTRATIVE DIRECTIVE 9.3: INMATE ADMISSIONS, TRANSFERS, AND DISCHARGES, (2015), <https://portal.ct.gov/-/media/DOC/Pdf/Ad/ad0903pdf.pdf?la=en>

<sup>7</sup> In April 2017, the Connecticut judicial branch represented to CIRA that it was following the Connecticut Department of Correction’s policy. They have since stated that they are not complying with the DOC policy.

<sup>8</sup> See, e.g., Fernández Campbell, *US Police Chiefs Are Fighting the Crackdown on “Sanctuary Cities,”* Vox (Aug. 18, 2017, 1:40 PM), <https://www.vox.com/policy-and-politics/2017/8/18/16130954/police-sanctuary-cities>.

enforcement of civil immigration detainers is no different. It diminishes immigrant communities' trust in judicial marshals and discourages immigrants from reporting crimes or providing assistance to law enforcement and courthouse personnel. Furthermore, misunderstandings about the role of judicial marshals may discourage immigrant communities from vindicating their rights or seeking redress for all sorts of legal wrongs.

Concerned that Connecticut's judicial marshals were improperly funneling immigrants from the courts into ICE custody, CIRA filed a Freedom of Information ("FOI") request to the Judicial Marshal Services, the organization governing judicial marshals, for records related to immigration enforcement between January 2016 and October 2017. In response to CIRA's request, the Judicial Marshal Services provided: (1) all JD-MS-45 forms completed by judicial marshals between September 2016 and October 2017; (2) civil immigration detainers received by judicial marshals between January 2014 and May 2018 and the corresponding JD-MS-45 forms; (3) records of communications between employees of the Judicial Marshal Services related to their enforcement of detainers; and (4) records of communications between judicial marshals and ICE officers.

An analysis of the documents received from the FOI request revealed that judicial marshals detain individuals under all seven categories. In particular, two extremely overbroad categories—individuals who present "an unacceptable risk to public safety" as determined by an individual marshal and individuals with a final order of removal—are responsible for the majority of detentions. This report summarizes the results of CIRA's FOIA request and provides recommendations to the Judicial Marshal Services and the Connecticut legislature.

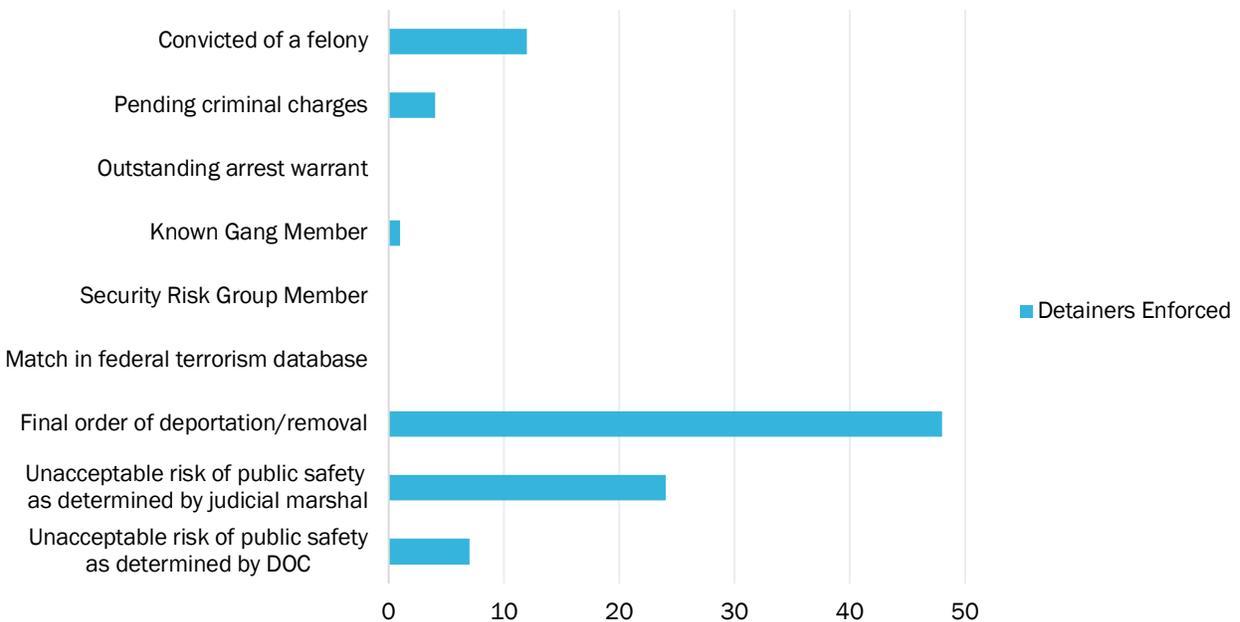
## Findings and Analysis

### Overview of the Judicial Marshal Services' Enforcement of Civil Immigration Detainers

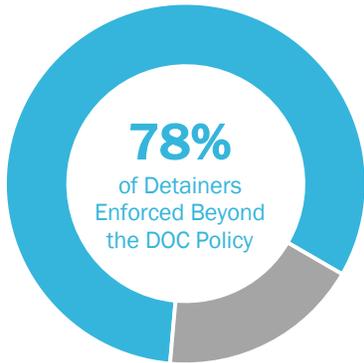
Records obtained pursuant to CIRA's FOI request reveal that Connecticut's judicial marshals enforced 38% of the detainers they received between September 2016 and October 2017. During that thirteen-month period, the Judicial Marshal Services received 130 detainers, and detained 50 persons until ICE officers could assume custody.

Judicial marshals complete a JD-MS-45 form when deciding whether they will detain someone for ICE pick-up. The JD-MS-45 form specifies eight bases on which a judicial marshal can decide to detain a person: (1) the person has been convicted of a felony; (2) the person is subject to pending criminal charges in this state where the bond has not been posted; (3) the person has an outstanding arrest warrant in this state; (4) the person is a known gang member or a Security Risk Group member; (5) the person is identified as a possible match in the federal Terrorist Screening Database or similar database; (6) there is a final order of deportation or removal; (7) the person presented an unacceptable risk to public safety, as determined by a judicial marshal; or (8) the person presented an unacceptable risk to public safety, as determined by the DOC. These bases correspond to the seven permissible grounds for honoring a detainer set out in the Trust Act. Judicial marshals can select multiple reasons for detaining a person for ICE pick-up.

**Figure 1: Basis for Enforcement of Detainers**



**Judicial Marshals Go Beyond the DOC’s Policy for Enforcing Civil Immigration Detainers**



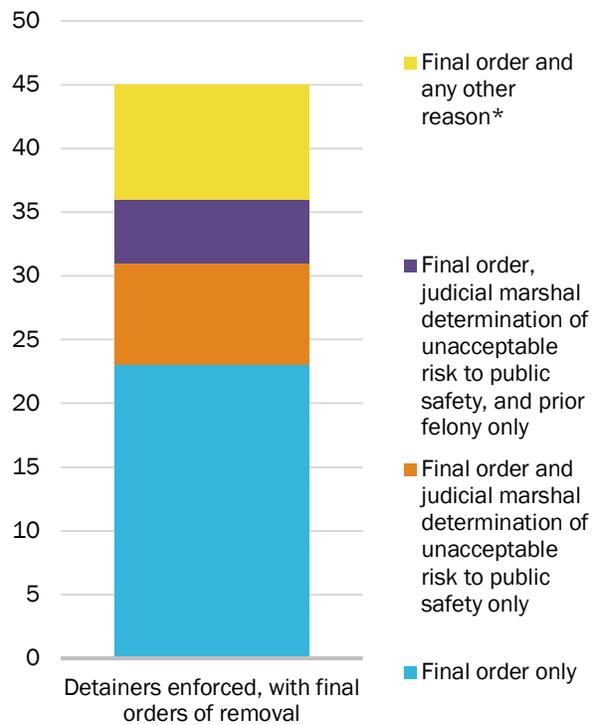
Judicial marshals regularly hold individuals pursuant to detainers when any of the Trust Act’s seven conditions are satisfied, not only when any of the DOC’s three conditions are satisfied. Between September 2016 and October 2017, 78% of individuals were detained pursuant to detainers in situations that would not be grounds for detention under DOC policy.<sup>9</sup>

**Most of the ICE Detainers Enforced by Judicial Marshals Are Based on Two Factors**

Two categories in particular—a final order of deportation or removal and unacceptable risk to public safety, as determined by a judicial marshal—are responsible for an outsized number of detentions by judicial marshals. Of the 50 persons held for ICE pick-up, 32 were held solely for one of these two reasons. These two categories are inherently unreliable and overbroad. DOC does not enforce these categories.

The most commonly cited basis for holding a detainee was a final order of deportation or removal. Of the 50 persons held for ICE pick-up, judicial marshals indicated that 45 had a final order of removal. 23 of the individuals who were detained for having a final order of removal were detained solely for that reason. In no case was the final order of removal accompanied by a judicial warrant issued by a judge, as required by the DOC’s policy.

**Figure 2: Persons Detained on the Basis of a Final Order of Removal**



<sup>9</sup> For cases involving an individual with a felony, DOC will only enforce such a detainer if the underlying felony is a “serious felony” whereas judicial marshals can enforce a detainer for anyone with a felony, period. Because we are unable to differentiate which, if any, of the detainers enforced by the judicial marshals were for “serious felonies,” we did not factor those cases into the percentage and thus, the 78% figure is likely under-inclusive of the number of detainers enforced by the judicial marshals beyond DOC policy.

Of the 45 people who had a final order of removal, 22 individuals were also detained for an additional reason.<sup>10</sup> In 8 of those 22 cases, the *only* other reason given was that the individual posed an unacceptable risk to public safety as determined by a judicial marshal. In other words, of the 45 individuals who had a final order of removal, nearly 70% were detained either on that basis alone or on that basis and a judicial marshal's determination that the individual posed an unacceptable risk to public safety.

Enforcement of detainers for a final order of removal without an accompanying judicial warrant is concerning. First, the civil immigration detainer constrains an individual's liberty on the basis of a non-judicial determination and without judicial oversight. Federal courts across the country have rejected the authority of state and local enforcement agencies to detain immigrants pursuant to civil immigration detainers without a judicial warrant. Continuing to enforce detainers on this basis therefore risks exposing the judicial branch to legal liability. Furthermore, a civil immigration detainer may not accurately reflect an individual's immigration status or the legality of a final order of removal or deportation. Final orders of removal or deportation can be issued in absentia or in error, and may ignore potential legal issues that undermine the legality of the order, like derivative citizenship.<sup>11</sup>

The second most commonly cited basis for holding a person for ICE pick-up is that they pose an unacceptable risk to public safety. Judicial marshals held 23 individuals on this basis. The JD-MS-45 form asks the judicial marshal to detail why they believed the person poses an unacceptable risk to public safety. In most cases, the judicial marshal cited an attached criminal history in support of this determination. As CIRA was unable to obtain these attached criminal histories through its FOIA litigation, it is impossible to confirm on what basis the judicial marshal made this determination. The JD-MS-45 forms indicate that only ten people deemed an unacceptable risk to public safety had a felony conviction or were charged with a felony. Therefore, there is reason to believe that this basis is overbroad. Moreover, it is unclear whether the criminal convictions were serious, as required by the DOC policy, because CIRA was unable to obtain the complete criminal histories.

The third most frequently cited reason for enforcing detainers was that the person had a felony conviction. Of the 50 persons detained, judicial marshals indicated that only 11 had felony convictions, and 9 of those 11 also had final orders of removal. CIRA was unable to obtain the complete criminal histories that accompanied these JD-MS-45 forms, so it is unclear whether the criminal convictions were serious, as required by the DOC's policy for holding persons for ICE pick-up. In a small handful of cases, judicial marshals also detained individuals based on determinations that they were a known member of a gang, subject to pending criminal charges for which bond had not been posted, or an unacceptable risk to public safety as determined by DOC.

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<sup>10</sup> In Figure 2, the category "final order and any other reason" includes individuals who were detained on the basis of a final order *and* a felony conviction *and* a judicial marshal's determination that the individual posed an unacceptable risk to public safety *and* another reason.

<sup>11</sup> See e.g., ASYLUM SEEKER ADVOCACY PROJECT & CATHOLIC IMMIGRATION LEGAL NETWORK, DENIED A DAY IN COURT: THE GOVERNMENT'S USE OF IN ABSENTIA REMOVAL ORDERS AGAINST FAMILIES SEEKING ASYLUM (2018), <https://asylumadvocacy.org/wp-content/uploads/2018/04/Denied-a-Day-in-Court.pdf> (detailing the prevalence of final orders of removal issued in absentia and common reasons that the person failed to appear at their immigration hearings).

## **A Small Group of Judicial Marshals Play an Outsized Role in Enforcing Civil Immigration Detainers**

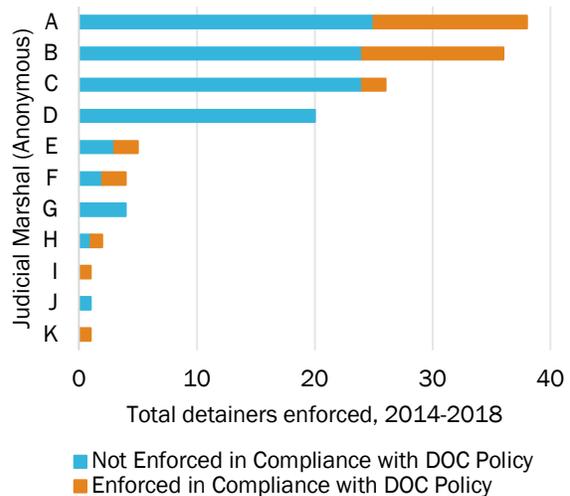
A handful of judicial marshals are responsible for determining whether individuals are detained or released. Only eleven judicial marshals completed any of the 152 JD-MS-45 forms spanning 2014 to 2018, and only four judicial marshals completed more than 10 forms. Two officers in particular completed 42 and 38 of the JD-MS-45 forms, respectively, during that period. Between September 2016 and October 2017, only three judicial marshals completed any of the 130 JD-MS-45 forms.

Whether a person is detained based on a civil immigration detainer varies among individual judicial marshals. For example, one judicial marshal enforced 28 out of 51 (55%) detainers he received between September 2016 and October 2017, while another enforced 18 out of 69 (26%) detainers he received during that period. However, this discrepancy may be partly due to the type of detainers a judicial marshal receives. All of the marshals for whom data was provided enforced about 90% of detainers they received where the only basis for the detainer was a final order of removal.

In particular, the subjective aspects of the JD-MS-45 form allow for variance between judicial marshals on whether to detain a person. Some judicial marshals are more likely to indicate that a person poses an “unreasonable risk to public safety as determined by a judicial marshal.” For example, of the marshals discussed above, the judicial marshal who enforced 28 detainers found that the individual was an “unacceptable risk” in 18 cases (64%), while the marshal who enforced 18 detainers found an “unacceptable risk” in only 4 cases (22%). While each individual has a unique criminal history that may partly explain the varying determinations by different judicial marshals, the stark difference between 22% and 64% raises concerns.

The substantial autonomy given to individual judicial marshals can also lead to mistakes when enforcing detainers, as shown by potential discrepancies between a civil immigration detainer and the JD-MS-45 forms authorizing an individual’s detention pursuant to that detainer. For example, in 31 cases between January 2014 and May 2018, the JD-MS-45 form indicated that the person had a final order of removal, but the civil immigration detainer did not state the person had an order of removal. In eight of those cases, the alleged final order of removal was the only basis for holding the person in state jail. In seven cases between January 2014 and May 2018, the judicial marshal held an individual for ICE pick-up but did not check any of boxes on the JD-MS-45 form to indicate why. In one particularly egregious case, the judicial marshals improperly released an individual to ICE

**Figure 3: Detainers Enforced by Judicial Marshal (2014-2018)**



over the objections of the individual's social worker that she should be transferred to the hospital for an emergency committal upon release.

Certain judicial marshals are also more likely to enforce civil immigration detainers in contravention of the DOC policy. For example, not one of the 20 detainers one judicial marshal enforced between 2014 and 2018 would have satisfied the DOC's criteria. In each case, enforcement was based on a final order of removal without an accompanying judicial warrant. Other judicial marshals also did not conform to the DOC policy in the majority of cases.

The Judicial Marshal Services can address these disparities by adopting the DOC's policy, which limits discretion. At the very least, the Judicial Marshal Services should improve training and guidance for judicial marshals and implement more robust supervisor review. As of now, the judicial marshals do not have to articulate factors they considered when determining whether someone is a danger to public safety. Supervisors are also unable to meaningfully review these discretionary decisions for potential abuses of discretion.

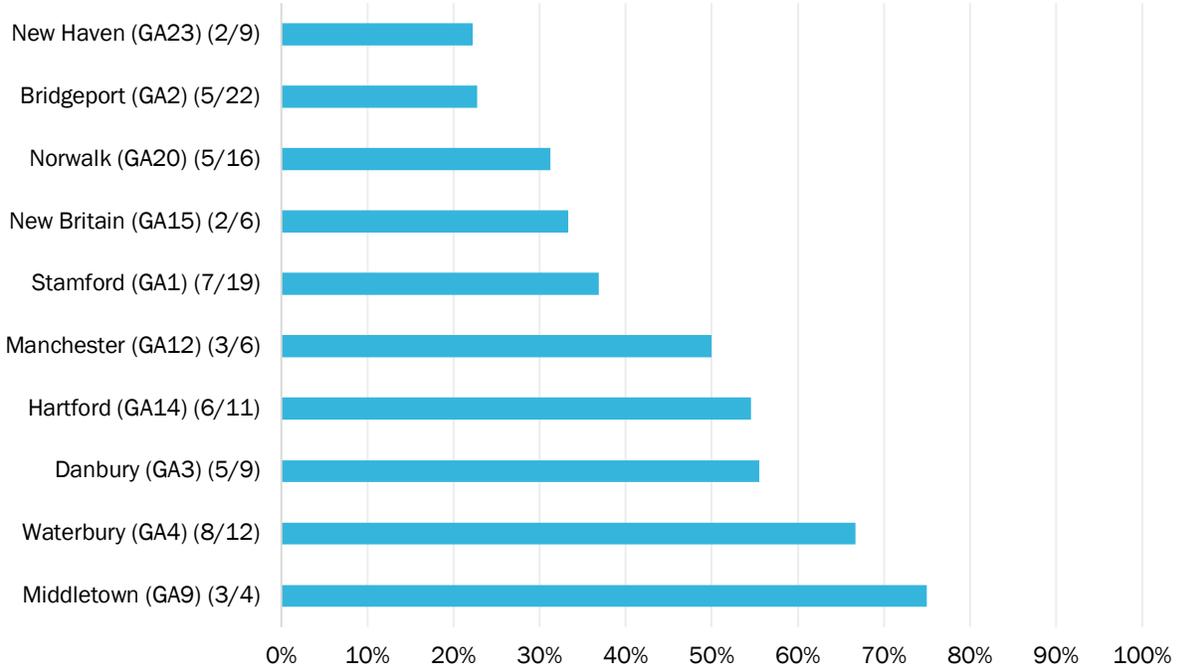
### ***Enforcement of Civil Immigration Detainers Varies by Courthouse***

Enforcement of civil immigration detainers varies between geographic area (GA) courts, which are courts that hear misdemeanor cases and handle arraignments. The geographic area courthouses that received more than 10 detainers are Bridgeport (22); Stamford (19); Norwalk (16); Waterbury (12); and Hartford (11).

At certain courthouses, individuals were more likely to be detained for ICE pick-up. At the Waterbury GA courthouse, 67% of individuals with detainers were detained, whereas at the Bridgeport GA courthouse, only 23% of individuals were detained.

These geographic disparities may be the product of who is reviewing the detainers from specific courthouses, or differences between the individuals detained at each courthouse. For example, in Waterbury, 67% of the detainers issued included a final order, while in Bridgeport, only 32% included a final order. Still, some of the differences in enforcement do seem to depend on discretion. Waterbury, for example, enforced 88% of the detainers it received that included a final order (seven out of eight detainers issued), while Bridgeport enforced only 70% (five out of seven detainers issued). Waterbury enforced every detainer it received that included a felony conviction, while Bridgeport enforced only 66%. Of course, it is important to note that the overall number of detainers received in most geographic areas is quite low. Still, while it is difficult to pinpoint exactly why there are variations between courthouses, the data suggests that individual officer determinations play some role.

**Figure 4. Percentage of Detainers Enforced by Geographic Area Court<sup>11</sup>**



<sup>12</sup> Geographic Area courthouses that received three or fewer detainers during the relevant time period are omitted from the figure.

## Selected Excerpts from Communications with ICE

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In response to CIRA's FOI request, the Judicial Marshal Services disclosed communications regarding enforcement of detainees, including communications with ICE officers. A full set of these disclosures is available online.<sup>13</sup> Below are excerpts, with emphases added:

1. "Gentlemen, [Individual's name], (ICE Detainer attached). In Middletown today for a breach of peace, released on a PTA. No prior criminal history record. **We are holding him until we hear back from you.**" – Judicial Marshal to ICE Agent, July 2015
2. "[An individual in Judicial Marshal custody] has a . . . bond . . . that he is going to be able to post. Would you like to take over custody? **I will put a halt on the bond out.**" – Judicial Marshal to ICE Agent, May 2015
3. "Roger, thank you sir. **I'm sure business is booming over there!**" – Judicial Marshal to ICE Agent, Feb. 2017  
  
"Yes, it is . . . **We've gone from the Maytag repair man to Fed-Ex.**" – ICE Agent, in response, Feb. 2017
4. "Hi [ICE Agent's name], we are currently stalling on [an individual in custody's] bond out . . . Per my deputy director without a final order of deportation we can not [sic] hold him or directly turn him over. However, if you can provide me an ETA **we will stall his release until you are on site.**" – Judicial Marshal to ICE Agent, May 2017
5. "I have viewed more than a handful of detainees where the box is incorrectly checked or there is not a checked box at all." – ICE Agent to Judicial Marshal, May 2017
6. "Sorry about the late notice [of an individual in judicial marshal custody.] I found out about the detainer pretty late in the day. He will be released on bond in this case. His next court date is 3/12/18." – Judicial Marshal to ICE Agent, Feb. 2018  
  
"Thank you, [Judicial Marshal]. **Hey we tried**" – ICE Agent, in response, Feb. 2018
7. "**As always, thank you for your support.**" – ICE Agent to Judicial Marshal, Feb. 2018

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<sup>13</sup> See Worker and Immigrant Rights Advocacy Clinic, Yale Law School (2019), <https://law.yale.edu/studying-law-yale/clinical-and-experiential-learning/our-clinics/worker-and-immigrant-rights-advocacy-clinic>.

## Recommendations

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In order to best ensure the safety of Connecticut's courthouses and access to justice for Connecticut residents, Connecticut and the Judicial Marshal Services should consider implementing the following recommendations:

### ***Strengthen Connecticut's Trust Act***

Connecticut's state legislature should amend the Trust Act to make clear that judicial marshals and other law enforcement officials may only honor civil immigration detainers when they are accompanied by a judicial warrant. Currently, Connecticut's Trust Act limits enforcement to the seven categories on the JD-MS-45 form. The Act was at the forefront of protecting immigrant members of our community when it was passed in 2013, but now lags behind the policies adopted by other states and communities, as well as the constitutional requirements recognized by federal courts. In the 2018 legislative session, CIRA advocated for a new Connecticut Trust Act, although the bill was unsuccessful. The Trust Act needs updating to meet new threats to Connecticut's immigrant community.

### ***Prohibit Judicial Marshals from Detaining Any Individual on the Basis of an Immigration Detainer or an Administrative Warrant***

Detaining an individual for transfer to ICE fuels the deportation pipeline via state and local law enforcement agencies. In recent years, the federal government has targeted immigrant communities through federal policies that harass and persecute individuals on the basis of their national origin. Under the Trump administration, enforcement activities targeting the criminal justice system have skyrocketed. Connecticut's judicial marshals should not expend state resources supporting these activities. Many courts have held that state and local enforcement agencies lack authority to detain immigrants pursuant solely to civil immigration detainers. ICE itself has clarified that immigration detainers are only requests—not judicial warrants. Judicial marshals should focus their efforts on securing Connecticut's courthouses, rather than diverting resources to federal immigration enforcement and discouraging undocumented victims, witnesses, and family members from accessing justice.

### ***Prohibit Judicial Marshals from Communicating Confidential Information about Individuals, to ICE***

Numerous communications between the Judicial Marshals and ICE show Judicial Marshals proactively reaching out to ICE to share information about an individual, such as when they will be released on bond, and to conspire to prolong the detention of Connecticut residents in JMS custody for no reason other than to facilitate deportation. Unless required by federal law, the state of Connecticut is under no obligation to share this information with the federal government.

### ***Prohibit ICE from Entering Connecticut Courthouses for the Purposes of Interrogating an Individual***

ICE agents are notorious for using deceptive practices to elicit information to arrest individuals and place them in removal proceedings. Individuals have reported that ICE agents questioned them without identifying themselves as such, or, worse still, completely misrepresented their identity. This enforcement tactic creates mistrust, stress, and anxiety in people under judicial branch custody. Additionally, by allowing ICE to access courthouses, the judicial branch is complicit in the deportation of members of our community.

***Provide Clearer Guidance and Better Training to Individual Judicial Marshals***

The judicial branch should provide clearer guidance and better training to individual marshals to minimize disparities between individual judicial marshals and courthouses in enforcing civil immigration detainers. In addition, better training is needed to ensure full compliance with the Trust Act and any new policies the judicial branch implements.

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*\* This report has been prepared by the Worker and Immigrants' Rights Advocacy Clinic at Yale Law School, but does not purport to represent the school's institutional views, if any.*