




**KENTUCKY ASSOCIATION OF COUNTIES  
ALL LINES FUND**

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**MEMORANDUM**

**DATE:** September 15, 2014  
**TO:** Kentucky Jailers  
**FROM:** Larry Crigler, KACo/KALF Litigation Manager 

**Legal Alert: Jails holding Inmates on ICE Detainers/  
KACo Recommendation**

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The Kentucky Association of Counties (KACo) has received inquiries regarding whether county jails should detain individuals solely on the basis of a U.S. Immigration and Customs Enforcement (ICE) detainer. An ICE detainer is a request by the United States government for jailers to hold an inmate that is otherwise eligible for release for an additional 48 hours beyond the time the inmate would have otherwise been released. These requests are not mandates and are left to the discretion of the local jurisdiction.

Having reviewed applicable case law, it is clear that ICE detainers are not mandates and compliance with the requests are left to the discretion of local officials. Therefore, KACo recommends jails not hold a person beyond their release date solely on the basis of an ICE detainer as the county and jailer could be held liable for unlawful imprisonment. In addition, KACo recommends that you notify ICE upon receipt of a detainer that you will not be holding the prisoner beyond the release date.

Should you have additional questions regarding this matter, we recommend discussing this issue with KACo or your county attorney.

Cc: County Judge/Executives  
County Attorneys

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