



January 10, 2020

VIA FEDEX & EMAIL

Donna Schwartz
Office of the City Clerk
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255
dschwartz@hpca.gov

**RE: Claim Against the City of Huntington Park on Behalf of Jose Luis
Maldonado Aguilar**

Dear City Clerk Schwartz, Chief Lozano, and City Attorney Alvarez-Glasman:

The ACLU Foundation of Southern California, a non-profit civil rights organization, is filing the enclosed claim pursuant to Cal. Gov't Code § 910 on behalf of Mr. Jose Luis Maldonado Aguilar. We are representing Mr. Maldonado Aguilar in this matter. Please direct any correspondence to us at:

Jennie Pasquarella, Director of Immigrants' Rights/Senior Staff Attorney
ACLU of Southern California
1313 W 8th Street
Los Angeles, CA 90017
jpasquarella@aclusocal.org
(213) 977-5236

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to be "JP" followed by a long horizontal stroke.

Jennie Pasquarella, Director of Immigrants' Rights/Senior Staff Attorney
ACLU of Southern California

ENCLOSURES

CC: Chief Cosme Lozano, Huntington Park Police Department (via email:
clozano@huntingtonparkpd.org)
Arnold Alvarez-Glasman, City Attorney (via email: aglasman@agclawfirm.com)

CLAIM FOR MONEY OR DAMAGES AGAINST THE CITY OF HUNTINGTON PARK
(Pursuant to Govt. Code section 910 et seq.)

CLAIMANT INFORMATION

Claimant's Name: **Jose Luis Maldonado Aguilar**

Claimant's Date of Birth: [REDACTED]

Claimant's Address: [REDACTED]

Claimant's Phone Number: [REDACTED]

Name and address where correspondence should be sent (if different from above):

Jennie Pasquarella, Director of Immigrants' Rights/Senior Staff Attorney
ACLU of Southern California
1313 W 8th Street
Los Angeles, CA 90017

Exact date (including year) of the occurrence or transaction which gave rise to the claim asserted: **7/15/2019**

Exact location of the occurrence or transaction which gave rise to the claim asserted:

Huntington Park Police Department
6542 Miles Avenue
Huntington Park, CA 90255

Describe the circumstances of the occurrence or transaction which you claim caused the damage/injury/loss: **See Attached**

Police Agency/Report Number: **Huntington Park Police Department Booking No. 5688020 /**
Huntington Park Police Department FILE No. 1904008

Provide a description of the damage/injury/loss incurred so far as is known as of the time of this claim: **See Attached**

Name(s) of City employee(s) causing damage/injury/loss, if known: **Officer Nevels and other unknown officers**

Name, address and phone number of any and all witnesses known:



Any additional information that may assist us in evaluating your claim: **See Attached**

Damages Claimed: **See Attached. The amount claimed exceeds \$10,000 and the case would not be a limited civil case.**

I declare under penalty of perjury that the foregoing is true and correct.

Jose Luis MALDONADO
Signature of Claimant

01/09/2020
Date

ATTACHMENT

Describe the circumstances of the occurrence or transaction which you claim caused the damage/injury/loss:

On July 15, 2019, at approximately 12:32 a.m., Jose Luis Maldonado Aguilar was arrested by the Huntington Park Police Department. Mr. Maldonado Aguilar was held at the station and transferred directly to the U.S. Immigration and Customs Enforcement (“ICE”). ICE lodged a Form I-247A Immigration Detainer with the Huntington Park Police Department. *See* Exhibit A (Form I-247A). The Form I-247A requests that the Huntington Park Police Department notify ICE “as early as practicable...before [Mr. Maldonado Aguilar] is released from your custody.” *Id.* The Form I-247A further requests that the Huntington Park Police Department “[m]aintain custody of [Mr. Maldonado Aguilar] for a period not to exceed 48 hours beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody.” *Id.* The Huntington Park Police Department officers did not provide Mr. Maldonado Aguilar with a copy of the Form I-247A. The Huntington Park Police Department officers complied with the Form I-247A, notified ICE that Mr. Maldonado Aguilar was in their custody, and maintained custody of Mr. Maldonado Aguilar for approximately 7 hours – beyond the time he would otherwise have been released from their custody – which allowed ICE to assume custody of Mr. Maldonado Aguilar at the Huntington Park Police Department. ICE officers assumed custody of Mr. Maldonado Aguilar just as he was released from Huntington Park Police custody, and transferred him to an ICE facility in Los Angeles, California. Mr. Maldonado was released from Huntington Park Police custody at approximately 7 a.m. on July 15, 2019.

Provide a description of the damage/injury/loss incurred so far as is known as of the time of this claim:

Mr. Maldonado Aguilar was detained by the Huntington Park Police Department for additional incarceration past his release in order to effectuate his transfer to ICE custody pursuant to an ICE detainer, Form I-247A. As described in further detail below, these actions violated his right against unlawful search and seizure under the Fourth Amendment to the U.S. Constitution and Article I, Section 13 of the California Constitution; his due process rights under the Fourteenth Amendment to the U.S. Constitution and Article 1, Section 7 of the California Constitution; the prohibition against holding individuals on the basis of an immigration detainer request and restrictions on transferring individuals to ICE custody under the California Values Act (Cal. Gov’t Code §§ 7284.6(a)(1)(B), (a)(4)); his rights to notification under the Truth Act (Cal. Gov’t Code §7283.1); and his right to be free from coercive unlawful detention in violation of the Bane Act (Cal. Civ. Code § 52.1). Mr. Maldonado Aguilar further alleges that the Huntington Park Police Department engaged in false imprisonment, intentional infliction of emotional distress, negligent infliction of emotional distress, and negligence.

The delay in Mr. Maldonado Aguilar’s release constituted an unlawful seizure because it was not justified by probable cause. The Huntington Park Police Department relied on an immigration detainer request to delay Mr. Maldonado Aguilar’s release. The detainer request was signed by a deportation officer and not a judge, and therefore did not contain the necessary

judicial finding of probable cause to justify further detention. *See Miranda-Olivares v. Clackamas County*, 2014 WL 1414305, at * 9-10 (D. Or. Apr. 11, 2014) (“the continuation of [plaintiff’s] detention based on the ICE detainer” constituted a “new arrest, and must be analyzed under the Fourth Amendment”); *see also Berry v. Baca*, 379 F.3d 764 (9th Cir. 2004) (recognizing due process violation for intentional delays in processing individuals for release). Because the Huntington Park Police Department detained Mr. Maldonado Aguilar and delayed his release without a judicial finding of probable cause, the detention violated his Fourth Amendment, Fourteenth Amendment, and California constitutional rights.

The Huntington Park Police Department also violated the California Values Act by detaining Mr. Maldonado Aguilar in response to an immigration detainer request. Cal. Gov’t Code § 7284.6(a)(1)(B). Under the Values Act, there is a blanket prohibition on “[d]etaining an individual on the basis of a hold request.” *Id.* The Huntington Park Police Department detained Mr. Maldonado Aguilar for approximately 7 hours to facilitate his transfer to ICE custody in response to an immigration detainer request. Moreover, the Huntington Park Police Department effectuated Mr. Maldonado Aguilar’s transfer to ICE in violation of the Values Act. Cal. Gov’t Code § 7284.6(a)(4). Under the Values Act, local law enforcement agencies may not transfer a person to ICE “unless authorized by a judicial warrant or judicial probable cause determination” or in accordance with a limited list of convictions codified in section 7282.5. *Id.* ICE did not present a judicial warrant or judicial probable cause determination, and Mr. Maldonado Aguilar has no convictions covered by section 7282.5.

Moreover, it appears Huntington Park has had an unlawful practice of working with ICE to transfer individuals to federal custody, including after the effective date of the California Values Act. *See* Exhibit B (Huntington Park PD Jail Cell Log included in PRA response dated August 15, 2019). Mr. Maldonado Aguilar is not the only individual that the Huntington Park Police Department has transferred to ICE. Between January 2018 and August 2019, the Huntington Park Police Department released 29 people to ICE. The Huntington Park Police Department violated Mr. Maldonado Aguilar’s rights under the Values Act by both holding him on an immigration detainer request and transferring him to ICE custody. The Huntington Park Police Department also violated the Truth Act by failing to provide Mr. Maldonado Aguilar with a copy of the ICE detainer request (Form I-247A). *See* Cal. Gov’t Code § 7283.1(b) (“Upon receiving any ICE hold, notification or transfer request, the local law enforcement agency shall provide a copy of the request to the individual...”).

The Huntington Park Police Department violated the Bane Act when they coercively imprisoned Mr. Maldonado Aguilar so he could be transferred to ICE. Police officers may be liable under the Bane Act for “*intentional* conduct that is *separate* and *independent* from a lawful arrest.” *Simmons v. Superior Court*, 7 Cal. App. 5th 1113, 1127 (Ct. App. 2016) (emphasis in original); *see also Venegas v. County of Los Angeles*, 32 Cal. 4th 820, 843 (2004) (holding that plaintiffs’ stated claim under the Bane Act when police officers illegally detained them was in violation of the Fourth Amendment). Here, Huntington Park police officers deliberately and callously disobeyed the California Values Act and held Mr. Maldonado Aguilar while he was transferred to ICE. The officers’ failure to provide Mr. Maldonado Aguilar with a copy of his Immigration Detainer, in violation of the Truth Act, further demonstrates their coercive interference with Mr. Maldonado Aguilar’s rights. *See* Cal. Gov’t Code § 7283.1(b). The

officers then incarcerated Mr. Maldonado Aguilar for an excessively long period of time and released him only when ICE arrived. *See McConney v. City of Houston*, 863 F.2d 1180, 1185 (5th Cir. 1989) (holding that while a person charged with public intoxication constitutionally be detained for four or five hours, the person must be released once no longer intoxicated). These actions clearly state a claim under the Bane Act.

The Huntington Park Police Department's detention of Mr. Maldonado Aguilar pursuant to the ICE detainer also constitutes false imprisonment, as Mr. Maldonado Aguilar's confinement was a (1) nonconsensual, intentional confinement of a person, (2) without lawful privilege, and (3) for an appreciable period of time, however brief. *See Young v. City of Los Angeles*, 655 F.3d 1156, 1169 (9th Cir. 2011) (citing *Easton v. Sutter Coast Hosp.*, 90 Cal. App. 4th 458 (Cal. App. 2000)). The Huntington Park Police Department did not have the requisite probable cause to detain Mr. Maldonado Aguilar pursuant to the ICE detainer, and therefore the delay in his release and transfer to ICE was unlawful.

In addition, the Huntington Park Police Department's unlawful detention of Mr. Maldonado Aguilar pursuant to the ICE detainer caused him emotional distress, as the Huntington Park Police Department "engaged in extreme and outrageous conduct that exceeded the bounds of what is generally tolerated in a civilized society." *Braunling v. Countrywide Home Loans, Inc.*, 220 F.3d 1154, 1158 (9th Cir. 2000). The Huntington Park Police Department's conduct went beyond the bounds of decency by detaining Mr. Maldonado Aguilar without cause and transferring him to ICE in violation of the law. As a result of the Huntington Park Police Department's conduct, Mr. Maldonado Aguilar has suffered extreme emotional distress, including, but not limited to, anxiety, worry, and fear. Finally, the Huntington Park Police Department's actions constitute negligence, as the Huntington Park Police Department failed to exercise due care, which resulted in Mr. Maldonado Aguilar's unlawful detention and transfer to ICE custody.

Damages Claimed

Mr. Maldonado Aguilar requests the following:

1. \$100,000 in compensatory, statutory, treble, and punitive damages for violating his right against unlawful seizure; his right to due process; his rights under the California Values Act and the Truth Act; false imprisonment; causing him emotional distress; and negligence;
2. A signed U Visa certification because he was a victim of false imprisonment by the Huntington Park Police Department. Cal. Penal Code § 236;
3. An internal investigation by the City of Huntington Park into the Huntington Park Police Department officers responsible for arresting, detaining, and transferring Mr. Maldonado Aguilar to ICE, including the extent of those officers' interactions with ICE, and the release of findings of that investigation to at least Mr. Maldonado Aguilar and his counsel;

4. Huntington Park Police Department's implementation of and compliance with a comprehensive policy consistent with the California Values Act and Truth Act; and
5. A training regarding the California Values Act and Truth Act for all Huntington Park Police Department staff who may interact with noncitizens within their course of their duties to be conducted in consultation with the ACLU of Southern California.