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9
10 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

11 RICARDO OLIVERA SILVA

12 Plaintiff,

13 v.

14
15 ED W. CAMPBELL, Director of Yakima
County Department of Corrections;
16 SCOTT HIMES, Chief of the Yakima
County Department of Corrections; and
17 YAKIMA COUNTY,

18 Defendants.

Case No. 1:17-CV-3215-SMJ

PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY
JUDGMENT

June 8, 2018
With Oral Argument: 11:00 a.m.
Richland, Washington

1 **I. INTRODUCTION**

2 Defendants (“Yakima County”¹) refused to release Plaintiff Ricardo
3 Olivera Silva (“Mr. Olivera”) from Yakima County Jail even though he had
4 posted bail, instead holding him for more than 48 hours so that the U.S.
5 Department of Homeland Security (DHS) could assume custody of him. It is
6 undisputed that Defendants’ actions violated Mr. Olivera’s Fourth Amendment
7 rights. Mr. Olivera accordingly moves for Partial Summary Judgment on Yakima
8 County’s liability under 42 U.S.C. § 1983 for detaining him in violation of his
9 civil rights.
10

11 **II. FACTUAL BACKGROUND**

12 Yakima County is the local governmental entity responsible for the Yakima
13 County Department of Corrections (DOC) and running of the Yakima County Jail.
14 Plaintiff’s Statement of Material Facts (PSMF) ¶ 1. Individual Defendants
15 Campbell—the Director of the Yakima County DOC—and Himes—its Chief—
16 are the only officials that Yakima County has identified as having information
17 about the policies and practices of the Yakima County DOC at issue in this action.
18 PSMF ¶ 2, 3, & 5. Director Campbell responded to legal requests related to
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20 ¹ Defendants Campbell and Himes are sued in their official capacity.

21 PSMF ¶ 4.
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1 immigration holds by the Yakima County DOC and engaged in policy
2 negotiations related to the policies and practices. PSMF ¶¶ 6 & 7. Chief Himes is
3 responsible for implementing and supervising Yakima County DOC policies and
4 the only Yakima County official who submitted declarations regarding the DOC's
5 immigration hold practices in *Sanchez Ochoa v. Campbell, et al.*, 17-CV-03124-
6 SMJ. PSMF ¶¶ 9 & 10.

8 The Yakima County DOC adopted a policy and procedure governing the
9 transfer of individuals in its custody to federal officials, requiring four clerical
10 steps. PSMF ¶¶ 11-13. The policy does not require the presence of a federal
11 immigration officer for a transfer of custody to DHS. PSMF ¶ 14.

12 Defendant Campbell, on behalf of Yakima County, entered into a
13 Detention Services Intergovernmental Agreement (IGA) with the federal
14 government in 2010. PSMF ¶ 15. The IGA is an agreement to, in effect, rent bed-
15 space at the Yakima County Jail, and requires that federal law enforcement
16 officials physically present the detainee in order for Yakima County to then
17 assume custody on behalf of the federal government. PSMF ¶ 16. Yakima County
18 has previously admitted the IGA does not provide it with authority to detain any
19 individual unless that person is presented by an appropriate federal official.

21 *Sanchez Ochoa*, [ECF No. 33 at 17:13-18:3](#).

1 In May 2014, in response to the federal district court’s ruling in *Miranda*
2 *Olivares v. Clackamas County*, No. 3:12-cv-02317-ST, 2014 WL 1414305 (D. Or.
3 Apr. 11, 2014), Defendant Himes advised all Yakima County DOC staff that
4 Yakima County changed its immigration hold policy: it would no longer hold
5 inmates past the length of their local charges based on receiving an immigration
6 detainer request on DHS Form I-247—instead it would require Form I-200, an
7 immigration administrative warrant. PSMF ¶¶ 20-22.²

9 Yakima County enforced its immigration hold policy against Mr. Olivera
10 when it detained him after he posted bail even though no immigration official was
11 present, on the basis of an I-200. PSMF ¶¶ 35 & 54-58. Yakima County DOC
12 staff first refused to accept bail for Mr. Olivera and another individual because
13 both of them had immigration holds. PSMF ¶ 44. After the Yakima County DOC
14 finally accepted bail, it refused to release both Mr. Olivera and the other
15 individual for two days. PSMF ¶¶ 56-58 & 62-64. Yakima County instead

17 _____
18 ² This policy remained in effect until at July 31, 2017, when Yakima
19 County again chose to change its immigration hold policy in light of this Court’s
20 ruling in *Sanchez-Ochoa v. Campbell*, and Defendant Himes similarly instructed
21 Yakima County DOC staff that the DOC would no longer accept I-200s to hold
22 inmates past the time of their local charges. PSMF ¶¶ 23-24.

1 purported to unilaterally transfer them into immigration custody—all the while
2 remaining in custody at Yakima County jail—without the presence of any federal
3 immigration official. PSMF ¶¶ 57-64.

4 Yakima County admits Mr. Olivera was entitled to immediately release
5 upon posting bail and that he was unlawfully detained after he posted bail.

6 PSMF ¶¶ 55 & 60. Yakima County further admits its actions violated
7 Mr. Olivera’s rights under the Fourth Amendment. PSMF ¶ 61.

8 **III. ARGUMENT**

9 **A. Summary Judgment on Liability Is Appropriate.**

10 A court grants summary judgment if the movant shows “that there is no
11 genuine dispute as to any material fact and the movant is entitled to judgment as a
12 matter of law.” Fed. R. Civ. P. 56(a). Facts must be viewed in the light most
13 favorable to the non-moving party only if there is a genuine dispute as to material
14 facts. *Ricci v. DeStefano*, 557 U.S. 557, 586 (2009). A non-moving party “may
15 not rest upon the mere allegations or denials of his pleading, but ... must set forth
16 specific facts showing that there is a genuine issue for trial.” *Demarest v. City of*
17 *Leavenworth*, 876 F. Supp. 2d 1186, 1189 (E.D. Wash. 2012) (quoting *Anderson*
18 *v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).
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1 **B. Yakima County’s Policy or Custom Violates the Constitution.**

2 To establish liability for Yakima County’s violation of Mr. Olivera’s
3 constitutional rights under 42 U.S.C. § 1983, Mr. Olivera must show that (1) the
4 County acted under color of state law, and (2) the constitutional violation was
5 caused by the County’s official policy or practice. *See Tsao v. Desert Palace, Inc.*,
6 698 F.3d 1128, 1139 (9th Cir. 2012).

7 **1. Yakima County Acted Under Color of State Law.**

8 Defendants are local government actors; therefore, they are acting under
9 the color of state law. *See Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936 (1982).
10 There should be no dispute that Yakima County acted under color of state law in
11 its operation of the Yakima County Jail. *See Redman v. County of San Diego*, 942
12 F.2d 1435 (9th Cir. 1991).

13 **2. The County’s Policy Deprived Mr. Olivera of His Right to Be
14 Free from Unreasonable Seizure.**

15 A plaintiff seeking to impose liability on a municipality under § 1983 must
16 identify a “policy” or “custom” that caused the plaintiff’s injury. *Brown*, 520 U.S.
17 at 403.

18 Locating a “policy” ensures that a municipality is held liable only for
19 those deprivations resulting from the decisions of its duly constituted
20 legislative body or of those officials whose acts may fairly be said to
21 be those of the municipality. *Monell*, 436 U.S. at 694. Similarly, an
22 act performed pursuant to a “custom” that has not been formally
23 approved by an appropriate decisionmaker may fairly subject a

1 municipality to liability on the theory that the relevant practice is so
2 widespread to have the force of law.

3 *Id.* at 403-04 (citation omitted). A policy is “a deliberate choice to follow a course
4 of action . . . made from among various alternatives by the official or officials
5 responsible for establishing final policy with respect to the subject matter in
6 question.” *Tsao*, 698 F.3d at 1143. Where a plaintiff claims that a particular
7 municipal action itself violates federal law, or directs employees to do so,
8 resolving issues of fault and causation are straightforward. *Brown*, 520 U.S. at
9 404-405; *Tsao*, 698 F.3d at 1144 (recognizing the “direct path” to liability for
10 unconstitutional policies, which include practices so persistent and widespread as
11 to have the force of law).

12
13 **a. Yakima County Had a Policy or Custom of Detaining**
14 **Individuals Based on the Receipt of I-200s.**

15 There are no material facts in dispute that Yakima County had a policy or
16 custom of detaining individuals past the time of their local charges without an
17 immigration official present. Yakima County’s admissions, along with Yakima
18 County DOC’s written transfer policy, Chief Himes’ written instructions to DOC
19 staff on the changes in the immigration hold policy, the declarations from
20 Defendant Himes, declaration from the federal government, and the County’s
21 detention of Mr. Olivera and another individual at the same time, demonstrate
22

1 that Yakima County made the deliberate choice to hold individuals for civil
2 immigration enforcement without the presence of federal officials.

3 Yakima County admits in its Answer that the DOC had a policy of holding
4 individuals based on I-247s (also known as a “detainer”) and that it changed this
5 policy after April 2014. PSMF ¶ 26. This is consistent with Director Campbell’s
6 response in March 2017 to concerns about the DOC’s immigration hold policy
7 based on detainers, in which he confirmed that the DOC had changed its practice
8 as a result of the *Miranda-Olivares v. Clackamas County* decision, no longer
9 accepting detainers and instead requiring the I-200s, an administrative warrant
10 issued by DHS officials directed to other federal immigration officials.

11 PSMF ¶ 27. Director Campbell further confirmed the new practice had been in
12 place for the past two years and that the DOC worked closely with Yakima
13 County Corporate Counsel on this change. PSMF ¶¶ 28-29.

14 Chief Himes, who is responsible for implementing and supervising Yakima
15 County DOC policy, was the Yakima County DOC official who communicated
16 this policy decision to DOC staff in May 2014. Chief Himes instructed DOC staff
17 to no longer accept I-247s. Chief Himes further instructed DOC staff that I-200s
18 would be used to put individuals into immigration custody at the completion of
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1 their local charges. Chief Himes never included in his instructions to DOC staff
2 that federal immigration officials must be present to effect a transfer of custody.

3 Similarly, following this Court’s Temporary Restraining Order in *Sanchez*
4 *Ochoa*, Chief Himes again emailed Yakima County DOC staff stating that the
5 DOC would “no longer” accept I-200s to hold individuals past the time of their
6 local charges. PSMF ¶ 24. Chief Himes sent a short email confirming the change
7 in policy in the same manner he used to instruct staff that the DOC would no
8 longer accept detainers. Chief Himes’ email about the change in policy and
9 practice to *no longer* accept I-200s further confirms Yakima County *had* a policy
10 or custom of relying on I-200s to detain individuals past the time of their local
11 charges, just as it previously had a policy to detain based on I-247s.
12

13
14 It is clear that in 2014, when responding to litigation related to immigration
15 holds, Yakima County made a deliberate choice, among various alternatives, to
16 rely on I-200s to place immigration holds on individuals to prevent their release
17 and ensure their eventual transfer to federal custody. The communications by
18 Director Campbell and Chief Himes also demonstrate that these immigration hold
19 practices were department-wide, and DOC staff were directed to follow the policy.
20

21 In addition, Yakima County DOC had a written transfer policy directing
22 DOC staff on the manner in which transfers from Yakima County custody to
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1 immigration custody were to take place. The procedure identified four clerical
2 steps in a computerized and document completion process. The policy is
3 completely devoid of any requirement that a federal law enforcement officer be
4 present, let alone that the federal law enforcement officer present the detainee.

5
6 Yakima County's policy and practice of unilaterally re-designating
7 detainees in their custody to indicate they have been transferred to the custody of
8 federal immigration officials, without the presence of those officials, is further
9 supported by the declarations submitted by the County and DHS in *Sanchez*
10 *Ochoa*. Chief Himes was the only Yakima County official who provided
11 declarations regarding the County's immigration hold policies and practices.
12 Chief Himes testified that "[i]n some cases where ICE has issued administrative
13 warrants for individuals incarcerated at the Yakima County Jail, the DOC has
14 used the IGA to effectuate a transfer of custody to ICE upon completion of
15 criminal sentences on state law charges." *Sanchez Ochoa*, [ECF No. 41 ¶ 11](#).

16
17 Notably Chief Himes never declared that Yakima County required the presence of
18 federal immigration officials. PSMF ¶ 30. Moreover, he acknowledged the
19 County's preference for in-jail transfers. PSMF ¶ 32. In addition, a federal
20 immigration official declared that when immigration officials were not able to
21 arrive at the jail to take custody immediately upon release, federal officials would
22

1 request the County continue to hold the individual pursuant to the Form I-200 and
2 the IGA. PSMF ¶ 33.

3 The uncontested facts in this case also demonstrate the existence of
4 Yakima County’s immigration hold policy.³ Early in the morning of July 22,
5 2017, Mr. Olivera’s partner posted bail on his state charges. However, Yakima
6 County DOC staff did not release Mr. Olivera. Yakima County admits no federal
7 immigration official was present and that no immigration official spoke to Mr.
8 Olivera on either July 22, or July 23, 2017. PSMF ¶ 58. Mr. Olivera was not
9 released until Defendants turned him over to federal immigration officials midday
10 on July 24, 2017. *Id.* ¶ 59.

11 Within days of this unlawful detention, this Court asked Yakima County to
12 provide examples of individuals whom it had released after posting bail where the
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15 ³ Indeed, Mr. Olivera contends that when his girlfriend, Genesis Cosina,
16 tried to post bail for him and another individual, Yakima County DOC staff
17 initially refused to allow her to post the bail because Yakima County had placed
18 immigration holds on both individuals. Only after the intervention of a local law
19 firm representative did DOC allow Ms. Cosina to post bail. Then after finally
20 accepting bail for both individuals, DOC staff immediately informed Ms. Cosina
21 both individuals were “now in immigration custody.” PSMF ¶ 50.
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1 individual also had an immigration hold. *Sanchez Ochoa*, [ECF No. 33 at 13:14-22](#).

2 The County provided none, yet repeatedly represented it would release such
3 individuals. *Id.* at [13:23-14:4](#), [16:6-15](#) & [18:6-13](#). To the contrary, Yakima
4 County's actions reconfirm its policy of detaining individuals based on I-200s
5 *after* they paid bail and were entitled to be released from local custody and
6 without the presence of a federal immigration official.
7

8 There are thus no material facts in dispute regarding the existence of
9 Yakima County's policy.

10 **b. Yakima County's Immigration Hold Policy Violates the**
11 **Fourth Amendment Because It Constitutes a Seizure Without**
12 **Legal Cause.**

- 13 1. Yakima County admits that its continued detention of
14 Mr. Olivera violated his Fourth Amendment rights.

15 Yakima County recognizes that Mr. Olivera had the right to be physically
16 released from Yakima County Jail after posting bail, and that the failure to release
17 him was a violation of his rights under the Fourth Amendment. *See, e.g.*,
18 PSMF ¶¶ 55 & 60-61. Yakima County's concession that its actions were
19 unconstitutional is compelled by controlling caselaw. Indeed, in *Sanchez Ochoa v.*
20 *Campbell, et al.*, 266 F. Supp. 3d 1237 (E.D. Wash. 2017) (vacated as moot after
21 Plaintiff was released), this Court found that the same actions at issue here—i.e.,
22 Yakima County's reliance on a Form I-200 to unilaterally detain an individual on
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1 behalf of DHS—were unlawful; not only did the I-200 *not* constitute a request or
2 direction to Yakima County to detain the plaintiff, but Yakima County lacked the
3 authority to enforce federal immigration laws and the I-200 failed to furnish it
4 with that authority. *See Sanchez Ochoa*, 266 F. Supp. 3d at 1253-58.

5
6 2. A Form I-200 administrative warrant did not provide Yakima
County with probable cause to detain Mr. Olivera.

7 Even though Mr. Olivera had posted bail on his state criminal charges,
8 Yakima County relied on a Form I-200 issued by DHS to continue detaining him
9 in Yakima County Jail from July 22 to July 24, 2017. *See PSMF ¶¶ 35, 55, 57-60.*
10 As this Court held in *Sanchez Ochoa*, such reliance was in error, for “Defendants
11 could not rely on ICE’s probable cause determination.” 266 F. Supp. 3d at 1258.

12
13 The Fourth Amendment protects against “unreasonable searches and
14 seizures.” U.S. Const. amend. IV. It prohibits government officials from detaining
15 an individual in the absence of a probable cause finding made “by a neutral and
16 detached magistrate.” *Gerstein v. Pugh*, 420 U.S. 103, 112 (1975); *Manuel v. City*
17 *of Joliet, Ill.*, 137 S. Ct. 911, 917 (2017) (drawing on *Gerstein* to explain that “a
18 pretrial restraint on liberty is unlawful unless a judge (or grand jury) first makes a
19 reliable finding of probable cause”). Accordingly, holding a person in custody
20 “for a substantial period solely on the decision of a prosecutor” is unlawful.

21
22 *Manuel*, 137 S. Ct. at 917 (quoting *Gerstein*, 420 U.S. at 106); *see also Coolidge*

1 *v. New Hampshire*, 403 U.S. 443, 449-53 (1971) (finding warrant issued by the
2 Attorney General to be invalid because he was in charge of the investigation and
3 prosecution and therefore was not a neutral magistrate); *Shadwick v. City of*
4 *Tampa*, 407 U.S. 345, 350 (1972) (affirming that the probable cause
5 determination must not be “judged by the officer engaged in the often competitive
6 enterprise of ferreting out crime”) (internal quotation marks and citation omitted).
7

8 Although the Form I-200 asserts that there is probable cause for a
9 designated immigration officer to detain a noncitizen, it is undisputed that, unlike
10 a judicial warrant, it was issued by an immigration officer without any review by
11 a neutral judge or magistrate. *See* PSMF ¶ 35, Ex. 9 (I-200 warrant signed by
12 DHS Supervisory Detention Deportation Officer); 8 C.F.R. § 287.5(e)(2).⁴ Like
13 the Attorney General who oversaw the investigation and prosecution in *Coolidge*,
14 immigration enforcement officers are in charge of investigating and prosecuting
15 immigration violations and thus do not constitute neutral finders of probable
16 cause. *See* 403 U.S. at 453; *see also Gerstein*, 420 U.S. at 114 (“[T]he detached
17 judgment of a neutral magistrate is essential if the Fourth Amendment is to
18 furnish meaningful protection from unfounded interference with liberty.”); *El*
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20
21 ⁴ The immigration officer simply checked prepopulated boxes without
22 providing *any* information specific to Mr. Olivera. *See* PSMF ¶ 35, Ex. 9.
23

1 *Badrawi v. Dep't of Homeland Sec.*, 579 F. Supp. 2d 249, 275-76 (D. Conn. 2008)
2 (reading as warrantless an arrest pursuant to an administrative warrant signed by a
3 DHS agent because the agent was not a “neutral magistrate (or even a neutral
4 executive official”). Accordingly, Yakima County did not have the authority to
5 detain Mr. Olivera based on the probable cause allegation made on the I-200, for
6 such allegation did not comport with the requirements of the Fourth Amendment.
7

8 Nor can Yakima County rely on the collective knowledge doctrine. That
9 doctrine could not be triggered where, as here, there was no explicit request from
10 the relevant DHS official to Yakima County ordering or requesting Mr. Olivera’s
11 seizure. *See, e.g., United States v. Ramirez*, 473 F.3d 1026, 1037 (9th Cir. 2007);
12 *City of El Cenizo, Texas v. Texas*, No. 17-50762, 2018 WL 1282035, at *13
13 (5th Cir. Mar. 13, 2018) (noting that the doctrine requires communication
14 between the officer effecting the seizure and the one “who has knowledge of all
15 the necessary facts”) (internal quotation marks and citation omitted). More
16 fundamentally, the collective knowledge doctrine cannot be interpreted to provide
17 authority to local law enforcement officers to enforce civil federal immigration
18 laws when Congress has carefully established the parameters as to who may
19 enforce those laws, generally prohibiting local officers’ participation in civil
20 immigration arrests.
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1 3. Yakima County lacked the authority take *any* immigration
2 enforcement action based on the Form I-200.

3 It is well established that state and local law enforcement officers are
4 generally not authorized to make “warrantless arrests of [noncitizens] based on
5 possible removability except in specific, limited circumstances.” *Arizona v.*
6 *United States*, 567 U.S. 387, 410 (2012); *see also* 8 U.S.C. § 1357(a) (“Any
7 officer or employee of the [DHS] authorized under regulations prescribed by the
8 [Secretary] shall have power without warrant . . .”); 8 C.F.R. § 287.5(c)(1) (only
9 “immigration officers who have successfully completed basic immigration law
10 enforcement training are hereby authorized and designated to exercise the arrest
11 power conferred by [8 U.S.C. § 1357(a)(2)] . . .”); *see also Melendres v. Arpaio*,
12 695 F.3d at 1000-01 (finding that local officials lacked authority to enforce
13 federal civil immigration law). The I-200 did not constitute such a “specific,
14 limited circumstance”: it was directed only to “immigration officer[s]” authorized
15 by statute to serve immigration warrants. *See* PSMF ¶ 35, Ex. 9; *see also Sanchez*
16 *Ochoa*, 266 F. Supp. 3d at 1255-56. It did not even purport to direct or authorize
17 local officials to place an immigration hold or perform any other immigration
18 enforcement activity—nor could it have done so, as the controlling regulations
19 limit enforcement of immigration arrest warrants such as the I-200 to a select
20 group of *federal* immigration officers. *See* 8 C.F.R. § 287.5(e)(3) (enumerating
21 22 23

1 the types of immigration officers who have completed training that are authorized
2 “to execute warrants of arrest for administrative immigration violations issued
3 under [8 U.S.C. § 1226] . . .”); 8 C.F.R. § 236.1(b)(1) (cross-referencing
4 § 287.5(e)(3) and requiring the immigration officer to serve the administrative
5 warrant at the time of arrest); 8 C.F.R. § 241.2(b) (cross-referencing § 287.5(e)(3)
6 as the same trained immigration officer criteria for “execut[ing] a warrant of
7 removal [Form I-205]”).⁵

9 4. There is no other source of authority for Yakima County to
10 enforce a Form I-200.

11 Neither Washington law nor the IGA authorized Yakima County’s
12 enforcement of the I-200 against Mr. Olivera.

13 There is no basis in Washington State law for Defendants to perform
14 immigration enforcement activities. No state laws provide authority for state and
15 county enforcement officers to investigate, let alone detain, persons based on
16 allegations of civil immigration violations. *See* Wash. Const. art 1, § 7 (“No
17 person shall be disturbed in his private affairs, or his home invaded, without
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19 ⁵ The only exception is for state officials who undergo a special training
20 and certification program under 8 U.S.C. § 1357(g). Defendants have no such
21 agreement with DHS, however. *See* PSMF ¶ 19; *Sanchez Ochoa*, 266 F. Supp. 3d
22 at 1254 (“[N]o written agreement under § 1357(g) exists in this case.”).

1 authority of law.”); *see also Ramirez-Rangel v. Kitsap County*, No. 12-2-09594-4,
2 2013 WL 6361177, at *2 (Wash. Super. Ct. Aug. 16, 2013) (declaring that
3 Article 1, §7 of the Washington State Constitution “forbids local enforcement
4 officers from prolonging a detention to investigate or engage in questioning about
5 an individual’s immigration status, citizenship status and/or national origin”);
6 *Bueno Decl.*, Ex. 14 - Br. for the State of Washington as Amicus Curiae at §§ IV.
7 *A-B, Sanchez Ochoa v. Campbell et al.*, 2018 WL 1548228
8 (9th Cir. Mar. 30, 2018) (No. 17-35679), ECF No. 21 (arguing that law
9 enforcement agencies in Washington are not generally authorized to enforce
10 federal civil immigration laws and lack the authority to detain individuals solely
11 for civil immigration enforcement). *Cf. Lunn v. Commonwealth*, 78 N.E. 3d 1143,
12 1156-58 (Mass. 2017) (finding that no Massachusetts state law authorizes officers
13 to make arrests for federal civil immigration matters and that state officers do not
14 have inherent authority to carry out detention requests made by DHS); *Cisneros v.*
15 *Elder*, No. 2018-CV-30549 (Colo. Dist. Ct. Mar. 19, 2018) (order granting
16 preliminary injunction) (holding that I-200 did not authorize local sheriff to effect
17 a seizure under Colorado’s warrantless-arrest statute, which only authorized
18 warrantless arrests for, inter alia, criminal offenses) (Attachment 1).
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1 Similarly, the IGA did not authorize Yakima County to arrest Mr. Olivera,
2 extend his detention, or place him under DHS custody. *See* PSMF ¶¶ 15-18; *see*
3 *also Sanchez Ochoa*, 266 F. Supp. 3d at 1253 (noting that the IGA concerns only
4 “the housing of persons under federal custody in Yakima”). No provision of the
5 IGA authorizes Yakima County to rely on a Form I-200 in order to prolong the
6 detention of individuals in DOC custody beyond the time period it may lawfully
7 detain them, or to unilaterally “transfer” them into DHS custody. In fact, the
8 agreement specifically requires Yakima County “to accept federal detainees *only*
9 *upon presentation by a law enforcement officer of the Federal Government.*”
10 PSMF ¶ 16 (emphasis added). Mr. Olivera did not speak with any federal
11 immigration officer until he was removed from Yakima County Jail on July 24,
12 2017, over 48 hours after posting his bail.
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15 For these reasons, Defendants’ seizure of Mr. Olivera after he posted bail
16 was an abridgment of his rights under Fourth Amendment to the United States
17 Constitution.
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18 IV. CONCLUSION

19 Because there are no genuine disputes of material fact that Yakima County
20 had a policy or custom that violated the constitutional right of Mr. Olivera to be
21 free from unreasonable seizures, this motion should be granted.
22
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1 DATED this day 3rd of April, 2018.

2 COLUMBIA LEGAL SERVICES

NORTHWEST IMMIGRANT RIGHTS
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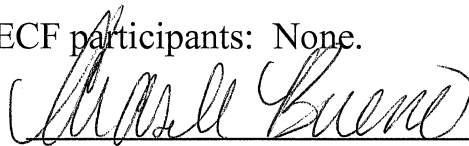
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of April, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- Lori Jordan Isley lori.isley@columbialegal.org,
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And I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: None.



Arasele Bueno