

December 30, 2019

Spokane County
Department of Risk Management
1033 W. Gardner
Spokane, Washington 99260

Sent via USPS Priority Mail

NOTICE OF CLAIM FOR [REDACTED]

Dear Risk Management:

We write to convey [REDACTED]'s offer to settle the claims arising from his unlawful detention by Spokane County Jail from April 4, 2018, to May 9, 2018. A Spokane County Claim for Damages Form and relevant documents are enclosed. As detailed below, Spokane County and jail employees violated Mr. [REDACTED]'s federal civil rights and committed state law torts by detaining him for over a month without any lawful basis.

Relevant Facts

On March 15, 2018, Mr. [REDACTED] was arrested and booked into Spokane County Jail for a violation of RCW 69.50.4013, possession of controlled substance, and other misdemeanor charges that had previously been filed with the Spokane Municipal Court.¹ On March 16, 2018, the Spokane County Superior Court found probable cause for the offense and set a bail in the amount of \$2,500. On March 20, 2018, the a deputy prosecuting attorney for Spokane County filed an information charging Mr. [REDACTED] for the above offense, and the court issued a warrant for Mr. [REDACTED]'s continued detention under the same bail amount.

On March 29, 2018, Spokane County Jail received a request for Mr. [REDACTED]'s detention from U.S. Border Patrol (USBP) on Department of Homeland Security (DHS) Form I-203, accompanied by an administrative warrant on Form I-200. The Form I-203 requested that Spokane County detain Mr. [REDACTED] for "removal proceedings." The accompanying Form I-200 was directed to a federal immigration officer and authorized Mr. [REDACTED]'s arrest for an alleged civil immigration violation. Neither document was signed by a judge. Upon receiving the USBP request, Spokane County Jail placed an immigration hold on Mr. [REDACTED].

¹ The Booking Summary for Mr. [REDACTED] shows additional misdemeanor charges, for which the Spokane Municipal Court had previously issued bench warrants. On March 16, 2018, the Municipal Court ordered Mr. [REDACTED] released on his personal recognizance on the misdemeanor charges.

Six days later, on April 4, 2018, Mr. ██████ entered a guilty plea for possession of a controlled substance and was sentenced to 20 days, with credit for time served. Because he had already served 20 days in jail, Mr. ██████ became entitled to release from Spokane County Jail that same day. However, Spokane County Jail did not release Mr. ██████. The county instead faxed a notice to USBP, stating that “as of 4/4/2018 at 1333 hrs” Mr. ██████ “was released on local charges to your detainer.” The notice also stated that DHS must pick up Mr. ██████ within 48 hours and requested that USBP “place a I-203 as soon as possible if you wish to hold your defendant in custody.”

USBP did not pick up Mr. ██████ on April 4, 2018, but Spokane County thereafter continued to hold him solely based on USBP’s prior request for several weeks. On April 22, 2018, Mr. ██████ sent an Inmate Request asking when he could request a bail or be released, to which Spokane County responded, “You don’t have a bond, you can’t be released. You are here on a border patrol hold until they come get you.” There were no state law charges authorizing Mr. ██████’s detention after April 4, 2018.

Spokane County did not release Mr. ██████ until May 9, 2018, when Border Patrol agents picked him up from the jail. In subsequent email correspondence, CBP Officer Bobby Garcia indicated to the County that “we have not received any release notifications via fax correspondence from Spokane County Jail in years” and stated that USBP was “notified of ██████’s release on May 9, 2018 at approximately 1704 hours and were given an hour to pick him up or he would be released.”

Liability

Spokane County and the jail employees are liable for Mr. ██████’s unlawful detention from April 4, 2018 to May 9, 2018. During that period, Mr. ██████’s detention violated both the Fourth Amendment and state tort law.

Prior to Mr. ██████’s detention by Spokane County, several federal courts—including courts in Washington and Oregon—held that a detainer request or administrative warrant from federal immigration authorities does not provide local law enforcement a lawful basis to hold an individual who is otherwise entitled to release from custody. Specifically, the U.S. District Court for the Eastern District of Washington held that placing an immigration hold and detaining an individual based on Form I-200 administrative warrants violates the Fourth Amendment. *Sanchez Ochoa v. Campbell*, 266 F. Supp. 3d 1237 (E.D. Wash. 2017); *see also, e.g., Miranda-Olivares v. Clackamas Cty.*, No. 3:12-cv-02317-ST, 2014 WL 1414305 (D. Or. Apr. 11, 2014) (holding that county violated Fourth Amendment by holding individual based on immigration detainer). More recent court decisions have continued to affirm that local law enforcement agencies violate the Fourth Amendment when they seize an individual based on administrative immigration warrants or suspected civil immigration violations. *See, e.g., Rodriguez Macareno v. Thomas*, 378 F. Supp. 3d 933 (W.D. Wash. 2019) (seizure based on ICE administrative warrant violates Fourth Amendment); *Reynaga Hernandez v. Skinner*, 383 F. Supp. 3d 1077 (D. Mont. 2019) (seizure based on suspected unlawful presence violates Fourth Amendment, even where ICE later requested the seizure). These cases make clear that Spokane County violated Mr.

█████'s Fourth Amendment rights by holding him based on Forms I-203 and I-200 for over a month.

Additionally, Mr. █████'s detention also constitutes false imprisonment under state tort law. Under Washington state law,

[a] person is restrained or imprisoned when he is deprived of either liberty of movement or freedom to remain in the place of his lawful choice; and such restraint or imprisonment may be accomplished by physical force alone, or by threat of force, or by conduct reasonably implying that force will be used. One acting under the apparent authority-or color of authority as it is sometimes described-or ostensibly having and claiming to have the authority and powers of a police officer, acts under promise of force in making an arrest and effecting an imprisonment.

Bender v. City of Seattle, 99 Wn. 2d 582, 590, 664 P.2d 492 (1983) (quoting *Kilcup v. McManus*, 64 Wn. 2d 771, 777, 394 P.2d 375 (1964)). Here, Spokane County deprived Mr. █████ of his liberty of movement and freedom by continuing to incarcerate him after he became entitled to release. Starting on April 4, 2018, the County had no basis for holding Mr. █████ because he had completed his criminal sentence. Indeed, Spokane County's notification to USBP on April 4, 2018, acknowledges that Mr. █████ "was released on local charges." In continuing to imprison Mr. █████ unlawfully, the County and its employees acted under the promise of force because they acted under color of authority.

The length of Mr. █████'s unlawful detention—35 days—is particularly egregious given that the County itself evidently believed that USBP should pick him up within 48 hours. The notification of release that the County sent to USBP on April 4, 2018, cites 8 C.F.R. § 287.7(d), which provides that detention pursuant to a DHS detainer is "not to exceed 48 hours." The County also continued to detain Mr. █████ despite his request for bail or release, informing him that his release was not possible until immigration officers arrived to take custody of him. Furthermore, it appears that there was a misunderstanding or lapse in communication between Spokane County and USBP that resulted in Mr. █████'s lengthy detention.

Damages & Settlement

In light of the above, we hope that Spokane County will agree to resolve this claim without proceeding to litigation. Mr. █████ is willing to settle his claims against the County for a total of \$350,000, inclusive of general damages for the emotional and physical toll of being jailed for 35 days, attorney's fees, and costs. Should Mr. █████ proceed to pursue damages through federal litigation, Spokane County will be exposed to liability and may be required to pay a significantly greater amount in attorney's fees.

Pursuant to RCW 4.96.020(4), Mr. █████ requests that Spokane County respond to his damages claim by **February 28, 2020**.

Sincerely,



Aaron Korthuis
Matt Adams
Northwest Immigrant Rights Project
Attorneys for Mr. [REDACTED]

Enclosures:

1. Executed Spokane County Notice of Claim Form;
2. Spokane County jail and superior court documents pertaining to Mr. [REDACTED]'s booking, custody, and release;
3. DHS Forms I-203 & I-200;
4. Spokane County Detention Services fax to "Immigration/Border Patrol" regarding Mr. [REDACTED]'s release on local charges, dated April 4, 2018;
5. Mr. [REDACTED]'s Inmate Requests submitted to Spokane County Detention Services on April 18 and April 24, 2018; and
6. Email correspondence between Spokane County and USBP, in May and June 2018.

1

SPOKANE COUNTY CLAIM FOR DAMAGES FORM
General Liability Claim Form

Pursuant to Chapter 4.96 RCW, this form is for presenting a claim for damages against Spokane County. Information requested on this form may be subject to public disclosure. This claim form must be presented with an original signature and cannot be submitted electronically (via e-mail or fax).

PLEASE TYPE OR PRINT IN INK

Mail or Deliver
Original claim to: **Spokane County**
Department of Risk Management
1033 W. Gardner
Spokane, Washington 99260

CLAIMANT INFORMATION

(1) Claimant's name: _____
(Last Name) (First) (Middle) (Date of Birth: mm/dd/yyyy)

(2) Current residential address: _____
City Zip Code

(3) Mailing address (if different): c/o NWIRP, 615 Second Ave. Ste. 400 Seattle, WA 98104
City Zip Code

(4) Residential address for Six Months prior to the date of the incident (if different from current address):

(5) Claimant's daytime phone numbers: _____
Home Business Cell

(6) Claimant's e-mail address: c/o Aaron Korthuis: aaron@nwirp.org

INCIDENT INFORMATION

(7) Date of Incident: 04/04/2018 - 05/09/2018 Time: unknown a.m. p.m. (check one)
(mm/dd/yyyy)

(8) If the incident occurred over a period of time, date of first and last occurrences:
From: 04/04/2018 Time: unknown a.m. p.m. (check one)
(mm/dd/yyyy)
To: 05/09/2018 Time: unknown a.m. p.m. (check one)
(mm/dd/yyyy)

(9) Location of incident: Washington Spokane County Spokane Spokane County Jail
(state and county) (city if applicable) (place where occurred)

(10) If the incident occurred on a street or highway: _____
(name of street/highway) (mile post) (at intersection with or nearest intersecting street)

(11) Spokane County Departments or employee(s) alleged responsible for damage/injury: Spokane County Jail

(12) Names, address, and telephone numbers of all persons involved in, or witness to, this incident:
_____ (claimant) - please contact through attorneys Matt Adams and Aaron Korthuis, Northwest Immigrant Rights Project, 615 Second Ave. Ste. 400 Seattle, WA 98104; (206) 957-8611 and (206) 816-3872.

(13) Names, address, and telephone numbers of all Spokane County departments or employee(s) having knowledge about this incident:
Spokane County Jail "Responding Staff" number 1922 (per Spokane County Detention Services Inmate Request form); Don Hooper (Spokane County); Jason J. Rogers (Spokane County)

(14) Names, addresses, and telephone numbers of all individuals not already identified in (11) and (12) above that have knowledge regarding the liability issues involved in this incident, or knowledge of the claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.
see attached

(15) Describe the cause of the injury or damages. Explain the extent of property loss or medical, physical, or mental injuries. Attach additional sheets if necessary.

see attached

(16) Has the incident been reported to law enforcement, safety or security personnel? If so, when and to whom?

N/A

(17) Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.

N/A

(18) Please attach documents which support the claim's allegations.

(19) I claim damages from Spokane County in the sum of \$350,000

(20) If you are injured, are you a Medicare beneficiary? Yes No (check one), if Yes, please provide Medicare #

(21) If your claim involves a motor vehicle accident, complete, sign and include the attached vehicle collision form.

(22) If you are presenting a personal injury claim, complete, sign and include the attached Medical Release form.

This claim form must be signed by either: the claimant, verifying the claim; pursuant to a personal written power of attorney, by the attorney in fact for the claimant, by an attorney admitted to practice in Washington state on the claimant's behalf, or by a court-appointed guardian or guardian ad litem on behalf of the claimant.

I declare, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.



Signature of Claimant

12/30/19 615 2nd Ave Ste. 400

Date & Place (residential address, city and county)

Seattle, WA
98144