



ICE detention deaths reach 22-year high amid less oversight, research finds

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Appeals court rejects Trump administration's mandatory ICE detention policy

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A federal appeals court on Tuesday rejected the Trump administration's policy of making many of the immigrants it is trying to deport subject to mandatory detention by Immigration and Customs Enforcement, including those who have lived in the U.S. for years.

A panel of judges from the New York-based 2nd Circuit Court of Appeals called the policy the "broadest mass-detention-without-bond mandate in our Nation's history for millions of noncitizens."

The panel wrote that the Trump administration's interpretation of mandatory immigration detention would "send a seismic shock through our immigration detention system and society, straining our already overcrowded detention infrastructure, incarcerating millions, separating families, and disrupting communities."

The ruling creates a judicial divide over the mass ICE detention policy. While most judges across the country have declared the policy illegal, the 5th Circuit and 8th Circuit Courts of Appeals, based in Louisiana and Missouri, respectively, have endorsed the Trump administration's interpretation of mandatory detention. The 2nd Circuit's decision applies to Connecticut, New York and Vermont.

Tuesday's opinion was written by U.S. Circuit Judge Joseph Bianco, an appointee of President Trump, who was joined by Clinton appointee Jose Cabranes and Biden appointee Alison Nathan.

Last year, the Trump administration reinterpreted a 1990s immigration law to disqualify broad groups of immigrants living in the U.S. illegally from having the ability to ask an immigration judge to be released on bond after being arrested by ICE.

Previously, undocumented immigrants who had lived in the U.S. for years were generally eligible for bond hearings and could seek to convince an immigration judge that they should be allowed to fight their deportation outside of a detention center because they were not flight risks or threats to public safety.

Mandatory detention had previously been largely limited to those who had recently entered the U.S. illegally, including along the southern border, as well as detainees convicted of certain crimes.

But the Trump administration has taken the position that anyone who entered the U.S. illegally, irrespective of how long ago, is subject to mandatory detention while their deportation cases are decided.

The sweeping policy change has led ICE to indefinitely hold detainees who entered the U.S. illegally years or even decades ago and who previously would have been eligible for bond, including those without criminal records beyond alleged civil immigration violations.

In a statement Tuesday, the Department of Homeland Security, which oversees ICE, said the administration is enforcing the immigration detention law "as it was actually written to keep America safe."

"Regarding decisions from federal courts about mandatory detention, judicial activists have been repeatedly overruled by the Supreme Court on these questions," DHS said. "ICE has the law and the facts on its side and will be vindicated by higher courts."

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