

ICE Is Holding Migrants in Crowded and Unsanitary Cells, Suit Claims

The Immigration and Customs Enforcement facilities in New York have been used to detain migrants for days. U.S. officials have denied that the conditions are poor.



By Luis Ferré-Sadurní

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A recently detained immigrant filed a potential class-action lawsuit against the Trump administration on Friday, denouncing the conditions inside holding cells at the main federal immigration offices in Manhattan as overcrowded and unsanitary.

The cells belong to the Immigration and Customs Enforcement agency, at 26 Federal Plaza. They have drawn scrutiny as ICE has hastened the pace of arrests in New York City, with migrants filling the holding facility on the building's 10th floor. In the past, the cells were used to hold migrants for just a few hours, but amid the Trump administration's immigration crackdown, migrants often remain there for days or for more than a week.

The lawsuit said that migrants often sleep on the concrete floor or sitting upright, lack access to legal counsel and are subjected to a "horrific stench" emanating from toilets next to where they sleep.

A video recorded by a migrant who sneaked in a cellphone last month appeared to confirm some of those complaints, as has recent reporting by The New York Times.

The lawsuit was filed in Manhattan federal court by Sergio Alberto Barco Mercado, a Peruvian immigrant who entered the United States in July 2022 and lives in New Jersey. He was arrested by ICE on Friday as he was leaving a routine appearance

in immigration court, where he was facing deportation proceedings and applying for asylum after being charged with entering the country unlawfully.

Mr. Barco Mercado, a father of two, including a 3-month-old, is being held at 26 Federal Plaza, where the lawsuit said dozens of people were often crammed into a space that was just 215 square feet. His lawyers are seeking that a judge certify the suit as a class-action lawsuit.

“People are being deprived of their basic rights, facing medical neglect, and they lack access to adequate food and hygiene,” said Harold Solis, a co-legal director of Make the Road New York, an immigrant advocacy group representing Mr. Barco Mercado. “This cruel detention policy is immoral and inhumane.”

The Department of Homeland Security, which oversees ICE, did not immediately respond to a request for comment.

The agency has denied claims of unsanitary conditions at 26 Federal Plaza, telling The Times recently that “overcrowding or subprime conditions at ICE facilities are categorically false.” Agency officials have described the holding cells as temporary processing centers, not long-term detention facilities. They have used that designation to justify denying access to members of Congress who have sought to inspect the cells in recent months.

The 10th-floor cells hold undocumented immigrants arrested by agents at the city’s immigration courts, one of which is just two floors above the cells. Immigrants held there are typically processed and shuttled to detention centers elsewhere in the New York area or in other states, including Pennsylvania and Texas.

New federal data analyzed by The Times shows that about half of the more than 2,300 people arrested by ICE in the New York City area since Mr. Trump returned to office in January have been held at 26 Federal Plaza. Concerns about detention facility conditions have surfaced across the country as Trump officials race to find enough space to hold the migrants whom Mr. Trump wants to expel as part his mass deportation campaign.

The lawsuit argued that detainees have no way to communicate with their lawyers while being held in the Lower Manhattan cells, are denied access to their prescribed medications and are served meals so meager that one detainee lost 24 pounds. It also said that ICE was violating its own policies that limit stays at such facilities to 72 hours. The lawsuit said that some detainees have been held for more than a week and that one person was held for 10 days.

Mr. Barco Mercado is also being represented by the American Civil Liberties Union, the New York Civil Liberties Union and the law firm Wang Hecker.

Some of the same groups filed a lawsuit in Manhattan federal court last week challenging the federal government's practice of arresting migrants showing up for routine hearings in immigration court. That lawsuit, coming two weeks after a similar class-action lawsuit was filed in Washington, D.C., argued that the arrests had turned the courts "into traps."

The courthouse arrests have driven a spike in the detention of undocumented immigrants without criminal records in New York, according to the recent Times analysis. The lawsuit filed last week in Manhattan argued that the arrests have undermined due process and discouraged migrants from appearing for their mandated court hearings, which in turn puts them at risk of deportation.

Trump officials have defended the courthouse arrests as a "common sense" tactic to easily arrest and swiftly deport migrants who entered the country illegally under former President Joseph R. Biden Jr. without having to send ICE agents into neighborhoods.

Democratic members of Congress from New York have sought access to the holding cells at 26 Federal Plaza but have repeatedly been denied entry by ICE. A dozen Democratic lawmakers — including Representatives Adriano Espaillat and Dan Goldman of New York — sued the federal government last month because of its refusal to allow members into immigration facilities in California, New York, Texas and elsewhere.

Many migrants held at 26 Federal Plaza are moved to detention centers in the New York City region, including a new facility in Newark known as Delaney Hall, a county jail on Long Island that began holding immigrants for ICE this year, and longstanding facilities in the Hudson Valley and near Buffalo.

Under a recent agreement with the Bureau of Prisons, ICE also began holding more than 100 detainees at the Metropolitan Detention Center in Brooklyn, which has a long history of conditions that some federal judges have described as “barbaric.”

Mr. Goldman and Mr. Espaillat, along with Representative Nydia Velázquez, a fellow Democrat of New York, were denied access to the Metropolitan Detention Center on Wednesday after showing up to conduct oversight.

Luis Ferré-Sadurní is a Times reporter covering immigration in the New York region.

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