

**Compilation of Sheriffs' and Mayors' Statements on Illegality of DHS
Immigration Detainer Requests and Need for Judicial Warrants**

Updated August 17, 2015

Arizona

- *Fox News* (8/13/2015)¹: “The **Arizona Sheriffs' Association** agrees, noting every day ICE asks local sheriffs to ‘detain’ an inmate, yet don’t provide ‘rational, legal authority to do so,’ putting sheriffs at enormous risk for legal liability.”

California

- *Buzzfeed* (7/10/2015)²: “ICE did not provide **San Francisco sheriff's with a warrant** or judicial order for immigration proceedings,’ Mirkarimi said.”
- *Monterey Herald* (7/10/2015)³: “**In Monterey County**, for example, Sanchez would have been detained in custody only if federal authorities held him in a “criminal violation or a warrant issued by a state or federal magistrate” — and not solely on his immigration status.

“‘If they want to hold that person, they can get a warrant signed by a judge, and we will hold them on that warrant,’ Moore said, adding that the law does not require them to do more.”

- *Fox News* (8/13/2015)⁴: “‘We have to follow the law or the threat of violating the law ourselves,’ [San Luis Obispo Sheriff Ian] Parkinson said, citing a Court decision issued approximately one year ago. ‘The law actually does not give us the right to place an ICE hold, unless there is a warrant for them.’”

Florida

- *The Tampa Tribune* (7/18/2015)⁵: “As a result of those cases and the Florida Sheriffs Association memo, the **Pinellas County Sheriff's Office** changed its policy regarding ICE detainers and now requires a warrant or judge’s order to hold someone who is otherwise able to bond out or leave the jail. The Hillsborough County Sheriff’s Office did the same thing.”
- *St. Pete Patch* (7/20/2015)⁶: “Sheriffs’ offices from all three counties are crying foul on the findings. All three frequently place federal holds on inmates, their jail records

¹ <http://www.foxnews.com/us/2015/08/13/police-chiefs-sheriffs-blast-ice-over-policy-say-frees-violent-illegal/>

² <http://www.buzzfeed.com/adolfoflores/san-francisco-sheriff-says-ice-didnt-provide-legal-basis-to#.gm3y2Rg0P>

³ <http://www.montereyherald.com/government-and-politics/20150710/monterey-county-jail-chief-no-plans-to-change-immigration-policy>

⁴ <http://www.foxnews.com/us/2015/08/13/police-chiefs-sheriffs-blast-ice-over-policy-say-frees-violent-illegal/>

⁵ <http://tbo.com/news/crime/fla-sheriffs-deny-claims-of-sanctuary-cities-in-state-20150718/>

⁶ <http://patch.com/florida/stpete/bay-area-sheriffs-fire-back-sanctuary-county-claims>

indicate, and all three have gone on the record adamantly saying they follow the U.S. Constitution when it comes to detaining prisoners.

“‘It’s certainly not true; we cooperate fully with ICE,’ said **Hillsborough County’s Col. Ken Davis**, who oversees Hillsborough County’s jails. ‘We require the same thing we require to hold for anybody else. We require probable cause.’”

Georgia

- *WABE* (7/9/2015)⁷: “McKoon accuses DeKalb, Fulton and Clayton counties of not fully cooperating with federal immigration officials. The Fulton County Sheriff’s Department says it holds those living in the country without legal permission at the request of customs officials if a warrant has been issued.”

Iowa, Nebraska

- *World-Herald Bureau* (7/14/2015)⁸: “Authorities in many Nebraska and Iowa counties adopted policies during 2014 that bar them from honoring immigration detainees without a warrant.”

“Among the counties are **Douglas, Lancaster, Hall and Sarpy** in Nebraska and **Pottawattamie and Polk** in Iowa.”

Nevada

- *Las Vegas Review-Journal* (7/17/2015)⁹: “At the time, Gillespie said the detainees were not taking a political stand on immigration, but waiting for the federal government to provide a constitutional solution to the immigration issue. Federal officials could provide a warrant or a judicial determination of probable cause if they wanted to take custody of an individual, police said.”

“‘**LVMPD police officers** do not act as agents of the U.S. immigration (sic) and Customs; to do otherwise can seriously undermine our relationships with immigrant and minority communities,’ Metro said. ‘We are hopeful that the federal government can establish the proper mandates and more clear procedures to reform this issue.’”

- *Reno Gazette-Journal* (7/27/2015)¹⁰: “If an officer receives an NCIC (national crime database) ‘hit’ on an immigration-related federal warrant, they will need to contact the ICE 24-hour hotline 1-800-sectorX. The on-duty agent will determine if they want to take the person into custody or not based on the warrant. If they do want to take the person into custody, we will assist them by transporting the subject to the Washoe County jail.”

⁷ <http://wabe.org/post/ga-state-senator-wants-expand-illegal-immigration-bill>

⁸ http://www.omaha.com/news/metro/nebraska-iowa-counties-reject-immigrant-sanctuary-label/article_a3e341f6-60c7-5d3a-8771-63884f6f0ec7.html

⁹ <http://www.reviewjournal.com/news/las-vegas/las-vegas-no-sanctuary-city-metro-says-policy-says-otherwise>

¹⁰ <http://www.rgj.com/story/news/2015/07/23/fact-checker-reno-sanctuary-city/30580557/>

For more information, please contact Joanne Lin, Legislative Counsel, at 202/675-2317; jlin@aclu.org.

New Jersey

- *NJ.com* (7/19/2015)¹¹: “More than that, it may not be legal, said **Princeton's** Sutter. “‘If somebody is legally allowed to leave our custody and we hold them past that time, there's a constitutional issue,’ he said.”

“The simple solution, he said, would be for ICE to get a warrant, he said.”

- *NJ.com* (11/17/15)¹²: “In recent months, the heads of several county jails have changed their policy, informing ICE that they would no longer be honoring detainer requests.” “Among them is David Owens, the warden of the **Camden County Jail**.”

Owens said he was left with little choice after the 3rd Circuit ruling. He has agreed, however, to let ICE know one day ahead of time that the jail is about to release someone who may have an immigration issue.

“‘We will give ICE a heads up,’ Owens said.”

“He said the Camden jail averages about five detainer requests per week. ICE officials said they are not pleased with his decision. “Reasonable people will disagree,” Owens said.”

“‘**Ocean County** recently joined them, according to Warden Theodore Hutler.’”

“‘It is the policy of this department that individuals shall not be housed in this facility solely on an ICE detainer or warrant,’ Ocean’s policy reads. “Nor shall they be committed to this facility by a law enforcement agency without an accompanying commitment issued by a judge.’”

“‘**Union County** was among the first to embrace a change, issuing a news release heralding the policy in August.’”

“‘In the face of congressional inaction, counties across the country are responding to senseless family separations by issuing policies that prevent families from being funneled into detention and promote trust between immigrant communities and police departments,’ the release said.”

New York

- *Washington Post* (8/3/2015)¹³: “Meanwhile, officials in **New York City**, which has the nation’s largest police department, said only that they are still in talks with DHS. But the

¹¹ http://www.nj.com/news/index.ssf/2015/07/new_jerseys_sanctuary_communities_-_sheltering_cr.html

¹² http://www.nj.com/news/index.ssf/2014/11/immigration_debate_hits_county_jails_feds_say_criminals_facing_detention_are_being_set_free.html

¹³ http://www.washingtonpost.com/politics/dhs-finds-resistance-to-new-program-to-deport-illegal-immigrants/2015/08/03/4af5985c-36d0-11e5-9739-170df8af8eb9_story.html

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city's policy severely limits its cooperation with ICE detainers, saying they must be accompanied by a federal warrant.

“Families will no longer be needlessly torn apart by ICE’s dragnet enforcement efforts,” New York City Council Speaker Melissa Mark-Viverito said before the policy was approved in October.”

Pennsylvania

- *Philly Voice* (7/21/2015)¹⁴: “Per an executive order signed by Nutter, **Philadelphia police** cannot detain any undocumented immigrant who otherwise would be released pending trial — unless they have been convicted of a violent felony and the detainer is supported by judicial warrant.”
- *Galarza v. Szalczyk*, 745 F.3d 634, 642 (3d Cir. 2014): “On April 16, the Mayor of Philadelphia signed an [Executive Order](#) that prohibits the Police Department and the Prison from detaining anyone based on an ICE detainer unless there is "a judicial warrant" authorizing detention, and even then, only if the person has been convicted of a serious felony. During the public hearing before the EO was signed, Philadelphia Director of Public Safety Mike Resnick testified that the EO “impose[d] the warrant requirement based on the recent 3rd Circuit opinion in the case of *Galarza v. Szalczyk*.” (Public testimony, March 12, 2014.)”

Texas

- *Fox 7 News* (7/15/2015)¹⁵: “The sheriff said ICE has access to records on undocumented immigrants that are not available to the sheriff's office. That's why he thinks it's better to let ICE decide what to do with undocumented immigrants that have been arrested in **Travis County**. After all, the sheriff said he doesn't have the manpower to enforce immigration laws without ICE's help.

“I think that we need to give ICE the opportunity to vet these individuals,” said Hamilton.

“Just last week the Travis County Sheriff's Office softened how they handle undocumented immigrants in their jails. That was required by the Department of Homeland Security.

“Now, instead of a placing them on a 48-hour hold, undocumented immigrants are released unless there is a warrant on them.”

¹⁴ <http://www.phillyvoice.com/congressional-republicans-target-sanctuary-cities/>

¹⁵ <http://www.myfoxaustin.com/story/29559254/debate-over-how-austin-authorities-handle-immigration-laws-continues>

Virginia

- *The Virginian-Pilot* (7/19/2015)¹⁶: “**Virginia Beach Sheriff** Ken Stolle asked for the opinion after seeing cases in other states in which sheriffs were held responsible for unlawful-immigrant detentions.

“As a result, some groups since have labeled Virginia Beach a sanctuary, even though the City Council has never adopted ordinances that would make it so.”

Washington

- *Q 13 FOX* (7/29/2015)¹⁷: “‘We cannot simply hold them on say so,’ [Pierce County Sheriff Paul] Pastor said. ‘We can hold them with sufficient paper provided by ICE. And if we have a reason to believe that ICE is interested in this person, we may say, ‘Hi. If you have some valid, court blessed reason to hold him please let us know.’”

¹⁶ <http://hamptonroads.com/2015/07/virginia-beach-called-weak-illegal-immigration>

¹⁷ <http://q13fox.com/2015/07/29/local-sheriff-immigration-agents-asked-to-do-mission-possible/>