



SEDGWICK COUNTY, KANSAS

SHERIFF'S OFFICE

Jeff Easter
Sheriff

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TESTIMONY HB 2466
Committee on Judiciary
February 3, 2016

The Honorable John Barker and members of the committee, my name is Jeff Easter, Sheriff of Sedgwick County. Thank for the opportunity to provide neutral testimony on behalf of the Sedgwick County Sheriff's Office on HB 2466.

In March of 2014, the *Galarza v. Szalczyk* ruling was handed down by the 3rd Circuit. The case ruled on the Fourth Amendment rights of illegal aliens and particularly the use of federal detainer holds (ICE Detainers) requests placed upon local Sheriff's. The ruling stated that ICE detainers are simply a request and violate a person's 4th Amendment rights if not accompanied by other charges. Second, Congress's only specific mention of detainers appears in INA § 287, 8 U.S.C. § 1357(d). The Act does not authorize federal officials to command state or local officials to detain suspected aliens subject to removal. Moreover, in reviewing this statute, the Supreme Court has noted that § 1357(d) is a request for notice of a prisoner's release, not a command (or even a request) to LEAs to detain suspects on behalf of the federal government. *Arizona v. United States*, — U.S. —, —, 132 S.Ct. 2492, 2507, 183 L.Ed.2d 351 (2012) (observing that “[s]tate officials can also assist the Federal Government by responding to requests for information about when an alien will be released from their custody. See § 1357(d).”).

In the above named ruling, the county had to pay out over \$100,000.00 to the plaintiff. This was taxpayer money. I discussed this issue with several attorneys and each felt that the case law was binding and would be applied to Sedgwick County if we maintained the practice of honoring ICE requests for holds without the absence of other charges.

After this ruling I contacted local ICE officials to discuss the consequences of this decision. At the time, I had been in law enforcement for 26 years and did not know that coming into the United States illegally was not a crime. I was informed by ICE that in fact illegal immigration is not a crime, it is a civil procedure. I also asked the ICE representative why they did not file affidavits with a judge for judicial review. I was told that they did not have the time nor were they required to by Federal Law. In all facets of law enforcement, Federal, State or Local, a probable cause affidavit has to be filed with a judge for a sheriff to maintain control of the suspect. The exception is ICE.

Due to the case ruling and a letter I received, along with all other Sheriff's in Kansas, we re-examined our ICE Detainer policy. Our policy reads as such:

Illegal Aliens

- A. Individuals arrested solely for the charge of "Illegal Alien" or on a BICE detainer will not be accepted. Aliens may be accepted for admission and processing only if they are arrested on violations of other federal, state or local laws.
- B. Illegal Aliens will be accepted from or on the authority of the Bureau of Immigration Control and Enforcement (BICE) if they are able to provide paperwork showing the inmate has had judicial review.
- C. If a BICE detainer is received it will be placed in the inmate file but the detainer will not in any way delay the release of the inmate.

We notify ICE prior to the inmate being released on criminal charges. It is up to ICE whether or not they choose to pick up the illegal alien and process them as such. The policy prevents the Sheriff Office and citizens of Sedgwick County from being sued on a request from the Federal Government.

The Sedgwick County Sheriff's Office is committed to being focused on local crime prevention, and the Sheriff's office works to appropriately cooperate with federal agencies in this mission. The designation "sanctuary city" is a political term, not a legal term. We have and still cooperate with ICE when conducting sweeps or other joint enforcement actions. Local law enforcement does not have any authority to enforce immigration laws, only the federal government can enforce immigration laws.

As Sheriff of Sedgwick County I firmly believe the immigration system in the United States is broken and can only be fixed from a federal level. I do not take any satisfaction in releasing criminals back into our community because of the on-going debate and non-action of our federal legislatures.

Thank you Mister Chairman for the opportunity to present this testimony.

Jeffrey T. Easter
Sedgwick County Sheriff