



Talking Points on ICE Detainers

1. ICE relies on local law enforcement cooperation and the criminal justice system as a force multiplier to separate families. Seventy-five percent of ICE arrests in the interior United States is from contact with local law enforcement.¹ With Oklahoma leading the world in incarceration rates per 100,000 population², this means separating even more Oklahoma families and funneling even more children without legal custodians into DHHS custody.
2. ICE detainers have been deemed unconstitutional by numerous federal courts. The Oklahoma County Sheriff's Department itself declared in a [public statement](#) on August 1, 2019 that *"honoring the 48 hour ICE detainers could subject Oklahoma County and the Sheriff's Office to unnecessary legal liability"*. ICE detainers have been ruled to be voluntary, constituting a new arrest requiring probable cause, & exceeding ICE's own statutory authority. Local police must have probable cause of a crime, not deportability.³
3. ICE's poor record of documentation of arrests based on unreliable data systems would open the door for potential lawsuits against the State of Oklahoma. Litigation already exists against ICE for these reasons.⁴ Any U.S. citizen wrongfully detained and/or profiled could take legal action against the State.
4. County jails cooperating with ICE are actively violating due process of individuals who are entitled to constitutional rights regardless of immigration status⁵. This cooperation removes individuals from criminal proceedings and routes them into the immigration system where they have limited access to legal representation, If one cannot afford an attorney, they are not provided one. Detained persons with attorneys are five times more likely to pursue relief and nearly five times more likely to win their cases than those without counsel.⁶
5. Oklahoma State Statute §22-171.2 refers to jail officers making a "reasonable effort" to verify lawful admission to the U.S. of persons charged with a felony or with driving under the influence. This statute is dangerously misinterpreted and weaponized by the Sheriff's department and legislators in ways which strongly encourage racial profiling and criminalization.

¹https://cache.webcasts.com/content/citr003/1280044/content/6f97fddbda04fc22c9e414f5032f4d485510cf24/pdf/2-5-20_Enforcement_101_Webinar-_v2FINAL.pdf

² <https://www.prisonpolicy.org/profiles/OK.html>

³ https://www.ilrc.org/sites/default/files/resources/immig_detainer_legal_update-20180724.pdf

⁴ https://www.justice.gov/sites/default/files/crt/legacy/2011/12/15/mcso_findletter_12-15-11.pdf

⁵ <https://www.aclu.org/issues/immigrants-rights>

⁶ <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>



6. Four counties in Oklahoma officially collaborate with ICE via 287(g) agreements and/or Intergovernmental Service Agreements (IGSAs). While the Oklahoma County Sheriff's department does not have a 287(g) agreement (which deputizes local law enforcement as Immigration Officers), Sheriff PD Taylor — an elected official — voluntarily stationed 2 ICE officers at the booking counter in the county jail in 2015⁷ without the public's knowledge. We know that several other law enforcement jurisdictions in the state already feed the deportation pipeline by voluntarily sharing information with ICE.
7. The current Administration's discriminatory agreements pertaining to Mexican nationals and some Central American nationals eliminates due process, meaning those detained have no hearing in front of a judge.⁸ This rule equates to a "show me your papers" rule which codifies national racial profiling affecting all immigrants — not only those with less than 2 years in the US or those who cannot prove 2 or more years of residence.
8. All local law enforcement retain discretion on whether to arrest individuals, and city & state authorities have no legal obligation to share information with ICE.⁹ Local law enforcement should not play gatekeepers that decide which noncitizens to expose to federal immigration enforcement.¹⁰
9. Local law enforcement and jails are not reimbursed for costs associated with complying with ICE detainers. Oklahoma counties would foot the bill for a federal agency, subsidizing their practice of cruel separation of families with little to no accountability.

⁷ <https://nondoc.com/2019/07/23/ice-agents-oklahoma-county-jail/>

⁸ <https://www.commondreams.org/news/2019/07/22/warning-new-show-me-your-papers-era-rights-advocates-vow-fig-ht-unlawful-trump-plan>

⁹ <https://www.nilc.org/wp-content/uploads/2017/09/Untangling-Immigration-Enforcement-Web-2017-09.pdf>

¹⁰ <https://www.americanprogress.org/issues/immigration/reports/2017/03/21/428776/negative-consequences-entangling-local-policing-immigration-enforcement/>