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change.

"We do have computers and the ability to do potentially what we call custody monitoring," says Brosh. "We're working on it right now."

In the meantime, Brosh says the sheriff's office will continue to work with the ACT Network to review individual hold requests.

"It is a huge improvement with the sheriff's office," says Guzman about the ACT Network's current discussions with the sheriff, adding, "There's still a lot of work to do with the sheriff's office. But there is a lot more hope."

Guzman and other ACT Network members say getting to this point took time and it was only after repeated phone calls, emails, and sit-ins that the sheriff responded to their requests for more input into the ICE detentions.

Brosh declined to comment on this.

As this story goes to print, the ACT Network is again pushing the sheriff to release another ICE hold, this time for the case of 19-year-old Emmanuel Perez.

On Oct. 4, a group of about 30 activists, along with Perez's friends and family members gathered in the lobby of the Multnomah County building. Holding signs reading "Free My Best Friend" and "Free My Son," they sang songs and chanted for Perez's release. Perez's father, Alder Perez, spoke with Street Roots with the aid of Marco Mejia from Portland Jobs with Justice, who acted as an interpreter.

"We are here in the hopes that he (Emmanuel Perez) is liberated," said Alder Perez. "We came to see the sheriff to ask him to comply with his policy because the charge that he's got is a minor charge."

Emmanuel Perez has been held in custody since late September. While he does have a minor charge, it's unlikely to earn him sympathy from the sheriff.

Perez is charged with violating a restraining order against his girlfriend by sending her a text message, his father says. This is a class A *statutory* misdemeanor, not a person misdemeanor. This would normally mean no ICE hold, but the sheriff's office has decided to get tough on Perez.

"It doesn't technically fall under the policy that was established on April 15," says Brosh. "But the sheriff's office realized in reviewing its policy and moving forward, the violation of a restraining order is an inherently person-affected violation. Restraining orders are granted because of threats of violence or violence against persons."

Brosh says the sheriff's office has changed its stance on restraining order violations, and will amend its policy soon. On the sheriff's ICE policy as a whole, he says, "Our policy represents a balance between scarce resources and public safety."

ACT Network activists say they'll continue to petition for Perez's release.

Mejia says the ACT Network's ultimate goal is get the sheriff to stop cooperating with ICE altogether. He says not only does it hurt the lives of immigrants, it hurts the lives of every Portlander. If people think that they or their loved ones will be deported if they call the police, then they won't call the police.

"The point for us is how do we build trust with the police and the local community and not just immigrants, 'cause we are a mixed community," says Mejia. "Law enforcement is about making a community safer, not more dangerous. And I think this makes the community more dangerous. That's why our goal is to end this cooperation."

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Fourth Amendment is preventing police abuses in the first place. So it's crucial that whatever purpose the DEA thinks it needs this for, that it goes to a judge and prove that it has probable cause to believe that the person it is investigating has broken the law and get a warrant. That's what the Constitution requires and that's the only way the judiciary can provide an independent check on police practices and make sure investigations are narrow and limited and protect people's rights.

**J.T.:** *We've been hearing a lot in the news about NSA spying programs. Do you see any link between what the NSA is attempting to do and what the DEA is doing?*

**N.W.:** I think that the way they are similar is that as more and more information and records become digital it becomes very attractive for the government and very easy for the government to get access to astounding quantities of our very private information. So in the case of the NSA, the justification is counter-terrorism or national security. In the case of the DEA program, the justification is trying to prosecute people who are misusing or mis-prescribing prescription drugs, but the fact remains that it is absolutely crucial that for whenever the government is investigating suspected wrongdoing it abides by the Constitution. And so the fact that these records are more easily accessible now that they are in centralized databases shouldn't excuse the government from having to obey the Fourth Amendment.

**J.T.:** *So this case was in Oregon because the state has strong laws protecting privacy. Could this case have implications for other states or are there similar cases in other states?*

**N.W.:** Oregon is one of 49 states that has a prescription drug monitoring program. States vary in how protective of privacy they are in setting up these programs. And Oregon is one of the

most protective. The claim we're bringing against the DEA applies equally in every state that has one of these drug monitoring databases and the principal is the same: regardless of whether the state requires a warrant or not, the Fourth Amendment of the Constitution does require a warrant across the board.

**J.T.:** *So this could have broad implications for 49 other states?*

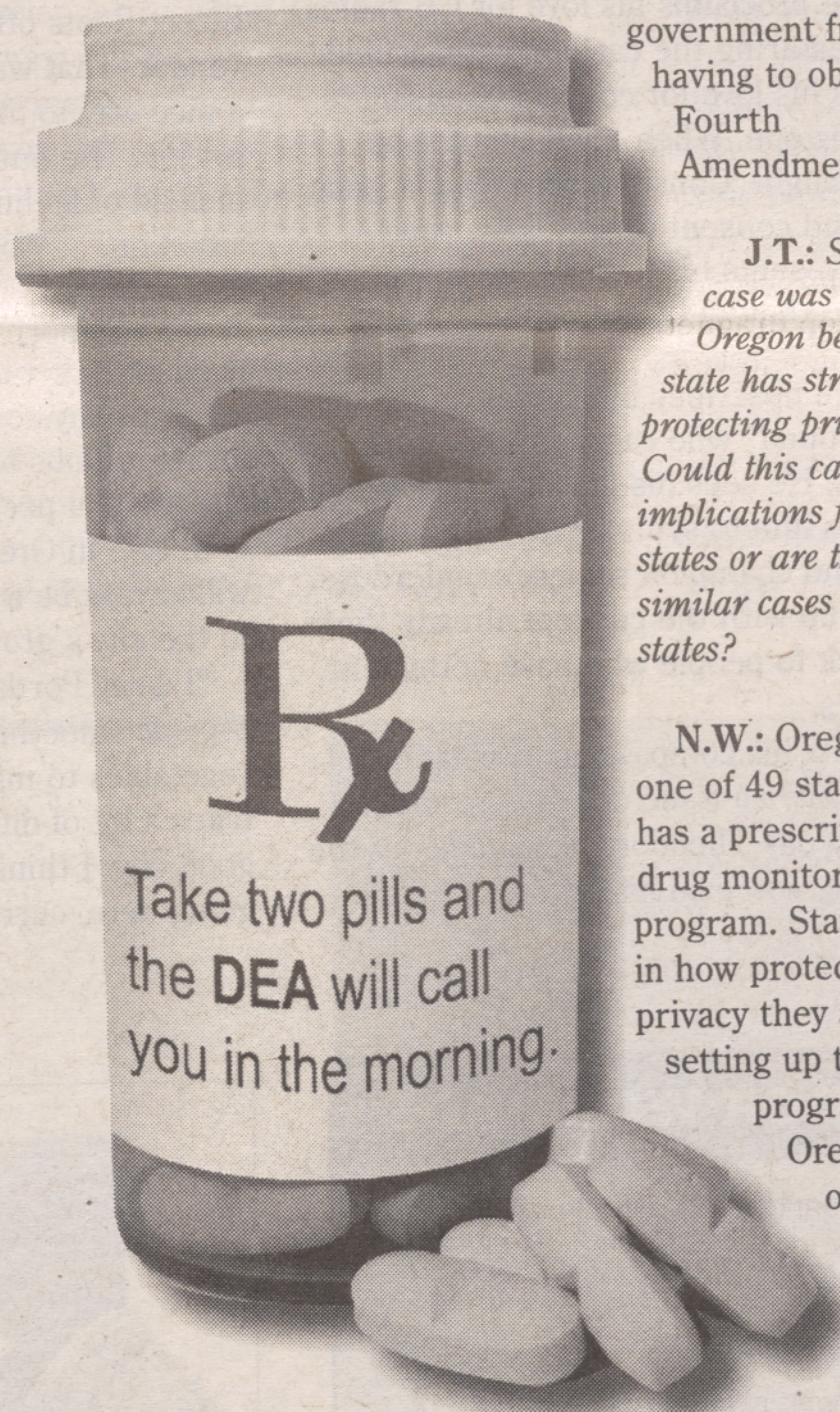
**N.W.:** Yeah, we're bringing this lawsuit in the Federal District Court in Oregon. We have no idea whether it will end up on appeal to the Ninth Circuit. If it does, that covers a number of states in the western U.S., not around the country. If the court recognizes that our position is right, that will set a powerful precedent that other states and other courts can look to when dealing this issue.

**J.T.:** *Did you bring this suit in Oregon because it has privacy laws?*

**N.W.:** The most direct reason is that Oregon's law does requires a warrant, and the state of Oregon sued the DEA before we got involved, stating that, no, the state of Oregon can't just turn over these records without a court order because it violates state law. And once we saw that suit, we decided that it was important for us to get involved to represent individual patients and doctors who have prescription records in this state database and are concerned about their privacy rights being violated. So we intervened on behalf of individuals in Oregon and the court permitted us to intervene. So now we're parties to the case and we are moving ahead with the substantive issues.

**J.T.:** *If I understand correctly, the ACLU is uneasy about the state creating the database in the first place.*

**N.W.:** That's right. The database is certainly motivated by understandable concerns and the primary purpose of it is to create a public health tool to help doctors see what prescriptions their patients are getting and take action to prevent drug overdoses or drug abuse. However, whenever the government establishes a massive database that accumulates very private information about people, there are very serious privacy concerns. It's important that there are safeguards to protect the information. That access of the database is limited, and it's important to make sure that every bit of information that goes in is necessary. So the ACLU continues to have concerns that the database is too broad or the privacy protections aren't stringent enough.



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