

Sheriffs take important step to disentangle from ICE

BY BECKY STRAUS
CONTRIBUTING WRITER

Big news last week put Oregon at the forefront of a national movement to disentangle local law enforcement agencies from the harmful practices of federal immigration enforcement, throwing a wrench in the ongoing, devastating deportation dragnet.

Sheriff Daniel Staton in Multnomah County joined Sheriff Craig Roberts in Clackamas County and Sheriff Pat Garrett in Washington County to announce that they would suspend the practice of honoring requests from the federal Immigration and Customs Enforcement agency (ICE) to detain people in their jails without probable cause and after their criminal custody has ended. Soon after, the dominos began to fall as a growing list of Oregon counties echoed the announcement. ICE "detainer" policy is currently under review by the Obama administration, which has seen increasing pressure from localities to scrap it.

An "ICE detainer"—or "immigration hold"—has been a controversial tool U.S. Immigration and Customs Enforcement (ICE) routinely uses to apprehend individuals who come in contact with local and state law enforcement agencies. An ICE detainer is a written request that a local jail or other law enforcement agency detain an individual for an additional 48 hours after his or her release date, for the convenience of ICE agents so that they can decide whether to take the individual into federal custody and begin formal deportation proceedings. The detainers generally are



Becky Straus is the legislative director with the ACLU of Oregon. She directs advocacy and lobbying efforts before the Oregon Legislature and is the ACLU's primary lobbyist on City of Portland matters.

not accompanied with a warrant based on probable cause.

Detainers raise serious constitutional concerns by depriving individuals of freedom without due process of law and, in most cases, without probable cause of any criminal act. Moreover, state and local corrections officials frequently violate the 48-hour limitation by continuing to hold individuals beyond the period requested. Detainers have resulted in the illegal imprisonment of countless individuals—including U.S. citizens, lawful permanent residents, and Latinos in particular—without any charges pending, sometimes for days or weeks after they should have otherwise been released from custody.

Immigration detainers undermine public safety and community trust in police. And they often catch victims and witnesses of crime in their net. When members of the community believe that any encounter with local law enforcement may result in contact with federal immigration enforcement, those individuals are less likely to trust law

enforcement, or any government official, enough to report incidents of crime or come forward as a witness. This entanglement is harmful to everyone in our community.

The ACLU has been heavily involved in this issue in Oregon and around the country for several years. At our urging and that of our partners in the ACT Network, a group of organizations collaborating to limit police/ICE collaboration, Multnomah County Sheriff Staton took a positive but small step forward when he implemented a policy in 2013 to limit the instances in which his office would honor an ICE detainer. This more recent decision from Staton and other sheriffs is to suspend this harmful practice altogether unless ICE provides probable cause for the prolonged detention in the form of a judicial warrant.

Sheriff Staton's action demonstrates that he listened to the concerns of the community and responded by setting priorities that are in everyone's best interest.

These new detainer policies dovetail with several recent federal court decisions that have highlighted the serious constitutional problems with ICE detainers. Here in Oregon, a Clackamas County federal judge ruled in the case of *Miranda-Olivares v. Clackamas County* that the county was legally responsible for imprisoning a woman on an ICE detainer in violation of the Fourth Amendment. A new detainer policy in Philadelphia came on the heels of the Third Circuit Federal Appeals Court's decision in the ACLU's case, *Galarza v. Szalczuk*, which

recognized that ICE detainers are merely requests, not orders—and that if states and localities choose to detain people on that basis, they can be liable in court for violating the Constitution. Similarly, in *Morales v. Chadbourne*, another ACLU case, the federal court in Rhode Island held that both state and federal officials bore responsibility for detaining a U.S. citizen on an ICE detainer without an adequate legal basis.

In September of 2012 the ACLU challenged the practice of honoring ICE holds in Multnomah County, arguing to a state court judge that it was in violation of state law. ORS 181.850 prohibits local law enforcement agencies from expending resources on federal immigration enforcement efforts. That case is ongoing and currently is pending in the Oregon Court of Appeals.

The Obama Administration recently hit the dubious milestone of deporting 2 million people in just five years—a record it achieved in no small part by leaning on state and local law enforcement agencies. In particular, ICE has funneled hundreds of thousands of people into the deportation pipeline by issuing immigration "detainers." The ACLU has long argued that imprisonment on an ICE detainer alone—without a warrant or any criminal charges pending—violates the Constitution.

Let us take a moment and celebrate this momentous progress in counties across our state and thank these sheriffs for doing the right thing.

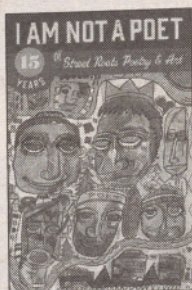
I AM NOT A POET

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YEARS

Write a page, I said. Let it come out of you. Then it will be true.

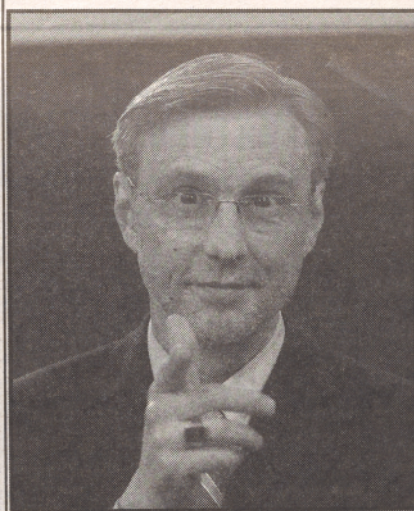
by Debra Knauf

What do they think when they hear that—
this kaleidoscope of young faces before me?
They look at me—middle-aged white women—
and wonder if I'll understand their truths.
Their truths are hard—inner-city, gangs, drugs, poverty,
shootings, and killings on street corners,
escape the champagne wish,
the diamond dream of their families.
I've seen their stories on the news, but I haven't lived them.
I'm no stranger to poverty, but I'm white
—white bread, white wine
—new grapes of wrath vintage.
Poor and white is not poor and black,
poor and Asian, poor and Mexican.
They're right: I won't know their truths.
They don't know mine either.
I could tell them that escape is possible—
but they won't want to hear the rest of that truth.
You can get out but you can't leave behind who you are.
Poverty is a bomb in the brain you'll never diffuse
Diamond studs wink at me from their ears;
their faces remain carefully blank,
and our lives tick away.
I tell them we can meet on the page
But I don't know if I believe it myself.



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