



April 24, 2012

The Honorable Jeff Sessions
United States Senate
Washington, DC 20510

Dear Senator Sessions:

Thank you for your recent letters regarding policies enacted by local law enforcement jurisdictions that undermine enforcement of federal immigration laws. Specifically, you expressed concern with the Ordinance passed by the Cook County Board of Commissioners on September 7, 2011, entitled "Policy for Responding to ICE [U.S. Immigration and Customs Enforcement] Detainers" (the Ordinance). The Ordinance directs the Sheriff of Cook County to disregard immigration detainers, bars ICE officials from County facilities when enforcing immigration laws, and prohibits County personnel from responding to ICE inquiries. The Department of Homeland Security (DHS) shares your concern that this ordinance undermines public safety and hinders ICE's ability to enforce the Nation's immigration laws and appreciates the opportunity to describe the actions it has taken to resolve this issue.

ICE initially engaged Cook County officials at the local level, explaining that jurisdictions that ignore ICE detainers risk exposing their communities to public safety risks from suspected sex offenders, weapons violators, drunk drivers, and other violent criminals. Because of the gravity of these concerns, ICE requested that the Cook County Board of Commissioners amend the Ordinance to avoid any legal conflict with federal law and to restore sensible cooperation between Cook County and ICE, especially when it comes to identifying and removing criminal aliens incarcerated in Cook County jails.

Subsequently, as you know, ICE Director John Morton sent letters to Toni Preckwinkle, Cook County Board President, on January 4, 2012 and February 13, 2012, expressing ICE's concern and indicating ICE's commitment to work with the County to mitigate costs associated with ICE detainers. In his second letter, among other proposals, Director Morton offered to reimburse the county for expenses incurred as a result of holding individuals on ICE detainers. Ms. Preckwinkle has not meaningfully responded to Director Morton's offer.

Since the Ordinance was enacted on September 7, 2011, ICE has lodged detainers against more than 432 removable aliens in Cook County's custody who have been charged with or convicted of a crime, including serious and violent offenses. Cook County has not honored any of these 432 detainers. This has prevented ICE from considering removal proceedings against all but 38 of these individuals whom ICE had to locate independently and arrest following their release into the community. The potential gravity of Cook County's actions is highlighted in very real terms in a recent *Chicago Tribune* article concerning the case of Saul Chavez, an alien who was charged with killing a pedestrian while driving intoxicated. Mr. Chavez fled Cook County after being released on bond, despite an ICE detainer that had been lodged.

In addition to undermining local public safety, the Ordinance may also violate federal law. The *Immigration and Nationality Act* provides that a “local government entity may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [ICE] information regarding the citizenship or immigration status, lawful or unlawful, of any individual.” See 8 U.S.C. § 1373(a). This provision is designed to ensure that ICE’s ability to enforce immigration law in our communities is not unduly obstructed by state or local laws or policies. The Ordinance nevertheless prohibits County personnel from responding to ICE inquiries or communicating with ICE regarding an individual’s incarceration status or release date.

In addition to engaging Cook County officials directly, ICE has noted that the Ordinance inhibits ICE’s ability to validate Cook County’s annual request for State Criminal Alien Assistance Program (SCAAP) funding. Under the auspices of SCAAP, the Federal Government, through DOJ, reimbursed Cook County nearly \$3.4 million in 2010 and nearly \$4.4 million in 2009 for the cost of detaining criminal aliens in Cook County detention facilities. In administering SCAAP, DOJ requires DHS to verify the immigration status of inmates for whom state and local agencies seek reimbursement. Without access to the Cook County jails, ICE’s ability to accurately verify the immigration status of criminal aliens detained by Cook County becomes more difficult and may result in a denial of reimbursement to the State for costs of incarcerating criminal aliens under SCAAP. Moreover, it is fundamentally inconsistent for Cook County to request federal reimbursement for the cost of detaining aliens who commit or are charged with crimes while at the same time thwarting ICE’s efforts to remove those very same aliens from the United States.

Additionally, in your January 30 letter, you asked DHS to advise you on whether DHS and ICE will take steps to activate Secure Communities in Cook County earlier than previously planned. As you may be aware, Secure Communities is currently active in 26 jurisdictions in Illinois and ICE is currently executing activations scheduled for Fiscal Year (FY) 2012 with nationwide activation, including all remaining Illinois jurisdictions, to be completed in FY 2013.

DHS and ICE are committed to ensuring the safety of American communities and will continue to consider all options, both financial and legal, to encourage Cook County officials to honor ICE detainers. The Senators who co-signed your letters will receive separate, identical responses.

Thank you again for your letters. Should you wish to discuss this further, please do not hesitate to contact me at (202) 447-5890.

Respectfully,



Nelson Peacock
Assistant Secretary for Legislative Affairs

cc: The Honorable Ronald Weich
Assistant Attorney General for Legislative Affairs