



Deborah Richardson, Executive Director
Timothy R. Macdonald, Legal Director

December 20, 2024

SENT VIA ELECTRONIC MAIL:

Re: Local Officers' Participation in Federal Immigration Enforcement

Dear Sheriffs and County Attorneys:

Amid threats from the incoming administration of draconian anti-immigrant actions across the country—including mass detention and deportations in Colorado—we write to warn against your office's participation in any such efforts. Aiding in federal authorities' threatened tactics would betray our deepest values and risks violating state law and the state constitution, exposing you and your officers to personal liability, and the government agency you serve to substantial potential costs. The ACLU of Colorado is committed to protecting our neighbors' civil rights and civil liberties. We are ready to respond to unlawful and harmful actions directed at Colorado families and communities.

First, as you should know, Colorado statutes and the Colorado Constitution forbid state and local law enforcement from arresting or detaining any person for civil immigration purposes, including at the request of Immigration and Customs Enforcement (ICE). The General Assembly has expressly prohibited county sheriffs and other peace officers from arresting or detaining any individual on the basis of a civil immigration detainer request, including any request for law enforcement agency action, warrant for arrest of alien, order to detain or release alien, or warrant of removal/deportation promulgated by federal immigration enforcement authorities. C.R.S. §§ 24-76.6-101 & 102. As the General Assembly recognized, these requests from ICE are not warrants under Colorado law. *Id.* § 102(b). They are not reviewed, approved, or signed by a judge. *Id.* Arresting or continuing to detain a person on the basis of any such request therefore amounts to an unconstitutional warrantless arrest in violation of at least the protection against unreasonable seizures in article II, section 7 of the Colorado Constitution.

In plain terms, that means that without a warrant signed by a judge, your officers have no authority to arrest or detain anyone for federal civil immigration purposes. You cannot rely on an ICE form to deprive individuals in Colorado of their liberty. Likewise, if someone is eligible for release from your custody, it is illegal to continue to hold that person to facilitate an ICE pick-up. We ask for your public commitment to uphold your oath of office, abide by state law, and refuse to comply with any such ICE requests.

When the Teller County Sheriff sought to arrest and detain people in his jail at ICE's request despite these clear prohibitions, ACLU of Colorado sued to stop the illegal practice and won. The Colorado Court of Appeals specifically rejected each of the sheriff's arguments that any power of his office—or an agreement he had entered with ICE—could justify his unlawful program. *Nash v. Mikesell*, 2024 COA 68, ¶¶ 37–47. We are prepared to take similar action against any Colorado law enforcement entity that fails to follow Colorado law.

In addition, joining with ICE or other federal officers in mass immigration raids or using the power of your office to hold people solely at ICE request will expose you and your officers to personal liability. Under C.R.S. § 13-21-131, any Colorado law enforcement officer who causes the violation of a right protected under the Colorado Constitution is subject to liability for damages and attorneys' fees including potential personal liability up to \$25,000, and their employer – defined to include the elected sheriff – is generally obligated to satisfy the full amount of any uncollectible judgment. *Id.* § (4)(a).

Participating in federal civil immigration enforcement not only puts local and state law enforcement on a collision course with the Colorado Constitution and statutes, but it also instills fear in our communities and undermines public safety. Protecting the jurisdiction you serve relies on establishing and maintaining trust with community members. We call on your office to make clear that your resources will not be used to further federal raids, detention, or other measures that threaten to tear families apart and destabilize our communities.

Just as our former Governor Ralph Carr spoke out against the shameful internment of Japanese Americans in the 1940s,¹ our state must continue its legacy of denouncing the federal government's xenophobic anti-immigrant domestic agenda, which has no place in Colorado. We ask you to join us in committing to protecting all Coloradans' civil liberties and human dignity.

¹ <https://www.coloradojudicial.gov/sites/default/files/2023-08/Who%20was%20Ralph%20Carr.pdf>

We would appreciate your acknowledgment of receipt of this letter and a substantive response within three weeks, by January 10, 2025.

Sincerely,

Timothy R. Macdonald
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Legal Director
ACLU-CO



Annie Kurtz
Senior Staff Attorney
ACLU-CO

cc: Colorado Department of Law