

IMMIGRATION ENFORCEMENT IS A FUNCTION OF THE FEDERAL GOVERNMENT



Overview

Immigration enforcement is a national problem and now local sheriffs are being painted as part of the problem. Specifically, it is the federal policies and practices of notifying sheriffs of whom to hold, for how long and under what legal authority that is the crux of the issue at the local level.

Following President Obama's Executive Action on Immigration announcement on November 20, 2014, the Department of Homeland Security (DHS) released a series of memos outlining the shifts in immigration policies, including the discontinuation of Secure Communities.

Priority Enforcement Program (PEP) Replaces Secure Communities

Secure Communities was a program where immigration personnel lodged orders known as "detainers" to hold individuals in local jails until being handed over to federal authorities for enforcement purposes. The goal of Secure Communities was to make it easier to identify and remove convicted criminals. Over time the Secure Communities program became embroiled in legal controversies because some believed the program led to the transfer of individuals to federal custody when the person had been in this country for years, but had been picked up and charged with a minor offense, and had not yet been convicted.

DHS and Immigration and Customs Enforcement (ICE) have shifted their focus and immigration enforcement resources to illegal aliens who are convicted criminals over people who are just here illegally. The [Priority Enforcement Program \(PEP\)](#) replaced Secure Communities and was officially rolled out on January 5, 2015, as DHS' new immigration program.

With some limited exceptions, ICE is replacing detainers with "requests for notification" instead of requesting a transfer to federal custody of a person based merely on a warrant or arrest. For those who have been convicted of a serious crime, and are removable from the country, ICE wants to deport them as soon as possible. However, for PEP to work effectively, local jails must be provided timely information from ICE, and must also be provided a court order to legally hold these serious criminals long enough for ICE to pick them up.

Concerns with PEP

Currently, PEP does not adequately address the Fourth Amendment concerns with holding an individual absent a warrant or judicial order (see attached FSA Infographic).

Multiple courts have held that [Form I-247 \(Immigration Detainer\)](#) does not establish the authority of the Federal government to require their detention unless the Form indicates a warrant has been served or ICE has obtained an order of deportation or removal.

- Form I-247 is recognized as a notice issued to federal, state, or local law enforcement agencies informing them that ICE intends to assume custody of an illegal alien and requesting that an agency maintain custody of an individual
- ICE now uses the Form [I-247N](#) (Request for Voluntary Notification of Release of Suspected Priority Alien) and Form [I-247D](#) (Immigration Detainer- Request for Voluntary Action)

PEP asks sheriffs to accept unlimited liability in the enforcement of a Federal responsibility. In cases where a sheriff's office has been sued for honoring an ICE detainer, neither DHS nor any of its components have stepped forward with any type of support.

In order for PEP to be a successful program, DHS must increase information sharing with state and local law enforcement regarding the release of criminal aliens into their communities. ICE must also be consistent in picking up criminal aliens after a legal request is made to hold an individual.

Florida Sheriffs are NOT Permitting "Sanctuary"

Several news reports have incorrectly labeled certain Florida counties as "sanctuary" counties because the sheriffs in those counties are following the law and are requiring ICE to provide a warrant, or requiring them to obtain an order of deportation or removal in order to hold an illegal alien.

The term "sanctuary county" or "sanctuary city" was coined more than a decade ago because cities like San Francisco were passing local ordinances directing local law enforcement to not cooperate with Federal immigration officials. To date this is not occurring anywhere in Florida.

Conclusion

Florida sheriffs are united in working with the Federal government in enforcing our immigration laws. Sheriffs pledge to serve and protect the citizens of Florida, but at this time they need additional support from the Federal government in order to make the new Priority Enforcement Program effective in removing violent criminals from Florida.