



2014 Gunnison County Sheriff's Policy pertaining to Detaining Suspected Undocumented Immigrants

April 30, 2014

Gunnison County Sheriff Richard D. Besecker announced today he will no longer hold persons suspected of being in the United States illegally solely for federal "detainer" requests. This policy change is based on a recent federal court decision where a federal judge ruled that states and localities are not required to imprison people based on federal detainer requests and those agencies may share liability in wrongful immigration detentions. In the Pennsylvania case of *Galarza v. Szalczyk* a county jail was found liable for damages for holding an American citizen on what is called an "Immigration and Customs Enforcement" or "ICE" detainer, which in this case was issued erroneously.

Sheriff Rick Besecker declares, "This appears to be the correct response when considering the circumstances that influenced this federal decision." The Sheriff has notified ICE of the policy change, which went into effect on this date.

In the past, persons who were thought to be citizens of another country and who were arrested by local law enforcement officers for state crimes committed in Gunnison County, such as DUI, assault or theft, were subject to ICE detention. While the suspect may post bond for release, the suspect could still be detained for up to 48 hours if ICE agents authorized the hold. ICE agents could then arrest and take custody of the suspect.

"Court cases based on the 10th Amendment and cited in the *Galarza* decision clearly prohibit the federal government from commandeering local Sheriffs to enforce federal regulations," Sheriff Besecker cites.

From this point on, ICE agents will be required to file an arrest warrant signed by a US Magistrate. Such will be required by the Sheriff's Office before the Sheriff will detain a federal prisoner. All persons being held in jail within Gunnison County, regardless of their nationality, are protected by the 4th Amendment of the Constitution of the United State of America. This Amendment protects people against unreasonable seizure of their person and that arrest warrants must be based on probable cause, and supported by oath or affirmations of the detaining officer is required."

Sheriff Richard D. Besecker

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