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SMSO Changes Policy on Detaining Suspected Undocumented Immigrants

Contact: San Miguel County Sheriff Bill Masters 970-729-2025

April 29, 2014 -- (San Miguel County, Telluride, CO) – The San Miguel County Sheriff's Office announced today it will no longer hold persons suspected of being in the United States illegally solely for federal "detainer" requests.

The 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 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 Bill Masters said, "This appears to be the correct thing to do under the circumstances of this federal decision." The Sheriff has notified ICE of the policy change, which went into effect yesterday.

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 San Miguel County such as DUI, assault or theft, were subject to ICE detention. While the suspect was allowed to post bond for release, he 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 Masters said.

An estimated 30-40 persons per year over the last ten years were detained under the old policy, according to the Sheriff.

Under this new policy, ICE agents will be required to file an arrest warrant, signed by a US Magistrate, with the Sheriff's office before the Sheriff will detain a federal prisoner. Sheriff Masters said, "All persons physically inside San Miguel County, regardless of their nationality, are protected by the 4th Amendment of the Constitution which protects people against unreasonable seizure of their person and that warrants must be based on probable cause and supported by oath or affirmations of detaining officers."

The San Miguel Sheriff's Office, located in Telluride, Colorado and established in 1883, serves 7,800 residents and countless visitors across the 1,288 square miles of San Miguel County. Sheriff Bill Masters has been serving as the county's elected Sheriff since 1980.

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