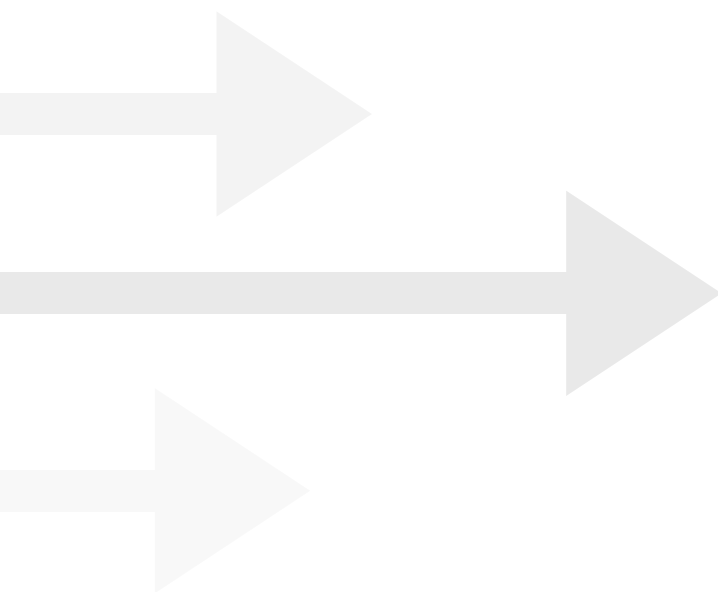




PATHS TO COMPLIANCE

THE EFFORT TO PROTECT IMMIGRANT RIGHTS IN WASHINGTON STATE



Seattle, WA

Subject: (b)(6), (b)(7)(C) bor
E due to a biometric hit for her arrest by th
Jacques Perreault, WA. The Subject was be
On September 29, 2020, the Subject's ICE
to local sanctuary jurisdiction policies.
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1. Due to Washington State sanctuary policies
but notification to the Seattle ICE Office. An
order to locate and apprehend (b)(6). Office
(b)(6) was previously removed from the United
on this information, a detainer was lodged
policies, (b)(6) was released to the
office. An investigation was then opened by
(b)(6) (b)(6) (b)(6)

Records Checked

(b)(7)(E)

UNIVERSITY of WASHINGTON
CENTER FOR HUMAN RIGHTS
HENRY M. JACKSON SCHOOL OF INTERNATIONAL STUDIES

**Paths to Compliance:
The Effort to Protect Immigrant Rights in Washington State**



Text featured on the front cover are excerpts from documents reviewed in this report, obtained by the University of Washington Center for Human Rights through Freedom of Information Act requests.

University of Washington
August 2024

The University of Washington Center for Human Rights is committed to interdisciplinary excellence in the education of undergraduate and graduate students in the field of human rights; promoting human rights as a core area of faculty and graduate research; and engaging productively with local, regional, national, and international organizations and policymakers to advance respect for human rights.

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CONTENTS

- Introduction* 4
- KWW violations and paths to compliance* 5
 - Detention contracts* 5
 - Collecting prohibited information during jail booking* 6
 - Use of detainers and in-custody interviews* 7
 - Information sharing between local law enforcement and ICE/CBP* 8
 - Clark County* 9
 - Grant County* 9
 - Adams County* 10
 - Other jurisdictions* 12
 - Problematic policy manuals* 13
 - Adams County* 13
 - City of Kent* 13
- KWW’s Limitations*..... 15
 - Database interoperability* 15
 - Interagency task forces* 16
 - Department of Corrections transfers* 18
- Conclusions*..... 18

INTRO

In 2019, the Washington state legislature passed a landmark “sanctuary” law aimed at safeguarding immigrant rights, the Keep Washington Working Act (KWW).¹ In doing so, it prohibits many once-routine practices that, in the past, funneled many Washington state residents into contact with federal immigration enforcement.

While many migrant justice organizations worked hard to secure the law’s passage, in achieving victory they also faced an important challenge. The law’s requirements are sweeping, but the provisions for its enforcement – its “teeth” – are quite modest. Unlike the Sanctuary Promise Act subsequently passed in Oregon,² Keep Washington Working does not task any agency with monitoring or responding to violations of the law. And it does not contain a private right of action, which would incentivize efforts to secure compliance by allowing individuals or organizations to recover damages from jurisdictions that violate the law.³ Indeed,

in the early days of the law, some jurisdictions openly indicated their intention to flout its provisions, signaling that implementation challenges were likely ahead.⁴

SINCE 2020 THE UWCHR HAS EXAMINED THE LAW’S IMPLEMENTATION, BOTH IN POLICY AND PRACTICE, ACROSS WASHINGTON

In this context, it is not easy to know whether the law has accomplished the changes it promised for Washington’s communities. For this reason, since 2020 the UWCHR has examined the law’s implementation, both in policy and practice, across Washington.⁵ While real-time monitoring of conditions in communities across the state exceeds our capacity, we conducted this work by sampling areas and practices identified as high priority concerns by partner organizations, including the [Washington Defender Association](#), [Northwest Immigrant](#)

1 Keep Washington Working was part of a suite of legislative efforts to address immigrant rights in our state, including the Courts Open to All Act (2019), implemented in [RCW Chapter 2.28](#) sections 300-340; Keep Washington Working Act (2020), implemented in [RCW 10.93.160](#). The Legislature also passed two significant bills concerning private, for-profit detention facilities, [HB 1090](#) (2021) and [HB 1470](#) (2023), implemented in [RCW Chapter 70.395](#), but these have been hamstrung by legal challenges, and are not addressed in this report.

2 For more information on Oregon’s Sanctuary Promise Act and related laws, see: <https://www.doj.state.or.us/oregon-department-of-justice/civil-rights/sanctuary-promise/>

3 Efforts to address this in the 2021-22 and 2023-24 legislative sessions foundered in committee. During the 2021-2022 session of the Washington State Legislature, the [proposed bill HB 1202](#) would have changed this by establishing a private cause of action for violations of KWW as enacted in RCW 10.93.160, and allowing individuals to sue for damages and awarding of attorney fees; among other provisions relating to accountability for police misconduct. The proposed bill would also have clarified the Washington State Attorney General’s authority to investigate violations of KWW. However, the bill died in committee. During the 2023-2024 session, proposed bill [HB 1445](#) would have clarified the state

Attorney General’s existing authority to look into patterns of KWW violations at a police department or jail, and if needed, bring suit.

4 Lilly Fowler, “Despite Washington state’s new sanctuary law, some local officials still cooperate with ICE and Border Patrol”, December 9, 2019: <https://crosscut.com/2019/12/despite-washington-states-new-sanctuary-law-some-local-officials-still-cooperate-ice-and>

5 UWCHR has also monitored compliance with the 2019 Courts Open to All act, which sought to halt the practice of immigration enforcement at courthouses, as documented in our 2019 research report, [Justice Compromised: Immigration Arrests at Washington State Courthouses](#). This law appears to have been successfully implemented; in large part due to a [2019 lawsuit](#) by the Washington State Attorney General’s Office, ICE and CBP appear to have halted courthouse arrests in the state. Public records suggest that ICE, CBP, and other state and federal agencies have complied with the law’s requirement to sign in when entering court facilities. Public records also document communication and information sharing between county prosecutors and federal immigration authorities in some jurisdictions, but not in ways that directly violate the limited provisions of COTA.

[Rights Project](#), [ACLU of Washington](#), [Columbia Legal Services](#), [OneAmerica](#), and [Washington Immigrant Solidarity Network](#), and using public records requests to document patterns of concern.⁶ We also rely on analysis of quantitative data obtained from ICE through requests and litigation under the federal Freedom of Information Act to track enforcement trends in our state in ways that shed light on shifting practices. (We anticipate publication of a full report on those trends in the weeks ahead.)

Our first report on KWW's impact, "[Protecting Immigrant Rights: Is Washington's Law Working?](#)", was published in August 2021, and identified areas of progress as well as concern. Today, we offer an update on the law five years after its entry into force. While concerns about lack of compliance remain, and we note some of these below, we also highlight some of the behind-the-scenes ways that advocates in civil society and government have acted to ensure the law is effectively securing protections for the rights of migrants in Washington.⁷

KWW VIOLATIONS AND PATHS TO COMPLIANCE

The passage of Keep Washington Working mandated an extensive set of changes to what had been routine practices of many state and local government agencies in Washington. We do not attempt an exhaustive accounting of

the law's original provisions here, but focus on those aspects of the law most central to protecting migrant rights.⁸ Among these, KWW prohibits local and state government agencies from collecting or sharing personal information, including birthplace and immigration or citizenship status, with federal immigration authorities, except in cases where necessary as part of an ongoing criminal investigation or pursuant to a court order or judicial warrant. It also bans the detention of individuals solely on the basis of suspected civil immigration violations, and prohibits contracts between local jails and federal immigration authorities. In the below, we discuss each of these key areas of policy and the extent to which local and state authorities appear to have shifted to bring their practices into compliance with the law.

DETENTION CONTRACTS

In December 2021, KWW's provisions prohibiting local contracts for federal civil immigration detention went into effect. As far as UWCHR is aware, no such contracts remain in place today.

Unfortunately, some counties were slow to implement the requirements of the law. Under public scrutiny, however, they eventually relented. For example:

- Officials in Okanogan County initially expressed an intention to renew the county's detention agreement with U.S. Border Patrol⁹; yet on January 25, 2022, Okanogan County Undersheriff Aaron Culp informed UWCHR that the Sheriff had "opted to not pursue the [agreement] and it was canceled on 12/31/2021."¹⁰

6 UWCHR's 2021 report on KWW focused on 13 priority counties: Adams, Benton, Chelan, Clark, Cowlitz, Franklin, Grant, King, Okanogan, Pierce, Skagit, Spokane, and Yakima. Further research has included additional jurisdictions where community members and partner organizations have reported problematic practices.

7 Primary research for this report was conducted during 2021-2023; due to the broad scope of the policies analyzed here, this report is intended to be illustrative rather than comprehensive. This report was authored by UWCHR with research from Nancyrose Houston, Priya Hendry, Tara Saleh, and Thomas Kaplan.

8 For a more detailed explanation see the text of the law as passed by the Washington State Legislature: <http://law-filesexternal.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5497-S2.SL.pdf>

9 Lilly Ana Fowler, "WA law enforcement continues to violate Keep Washington Working Act by feeding info to ICE", *KNKX Public Radio*, August 11, 2021: <https://www.knkx.org/news/2021-08-11/wa-law-enforcement-continues-to-violate-keep-washington-working-act-by-feeding-info-to-ice>

10 Email correspondence with UWCHR.

- In August 2022, a public records request by UWCHR for “current” detention contracts revealed that Spokane County Corrections maintained a [2016 contract with U.S. Border Patrol](#) permitting the use of Spokane County Jail to detain people charged with federal administrative offenses or those awaiting immigration hearings or deportation proceedings. Records show that at least 36 people were detained for a total of 78 days under this contract from January through July 2022, with the county sending [monthly invoices](#) to U.S. Border Patrol for a total of \$9516 (at the contract rate of \$122 per inmate per day). Additionally, public records obtained by UWCHR document several instances in which Spokane County detained people solely on the basis of detainers or administrative warrants. In September 2022, [NWIRP and the ACLU-WA sent a letter](#) to Spokane County informing it that its contract with U.S. Border Patrol was in violation of KWW. In January 2023, the Spokane Board of County Commissioners voted unanimously to terminate the county’s Memorandum of Agreement with Customs and Border Protection.¹¹

KWW ALSO PROHIBITS JAILS FROM COLLECTING CERTAIN INFORMATION ABOUT INMATES, INCLUDING PLACE OF BIRTH OR IMMIGRATION STATUS. DESPITE THIS, MULTIPLE JAILS NEGLECTED TO UPDATE THEIR BOOKING PRACTICE.

COLLECTING PROHIBITED INFORMATION DURING JAIL BOOKING

KWW also prohibits jails from collecting certain information about inmates, including place of birth or immigration status.¹² Despite this, multiple jails neglected to update their booking practices following the law’s passage. For example:

- Booking forms used by Whatcom County Jail, sought by UWCHR in response to a request by public defenders in the county, included fields for “Born” (place of birth) and “Citizenship,” with 41 examples of collection of this information from between 5/13/22 and 5/17/2022. Following inquiries by local public defenders, a [special order](#) was sent by Chief Wendy Jones to staff on 6/24/22 prohibiting the collection of birthplace or citizenship status. Staff were told to enter “unknown” or “XX” for these fields.
- UWCHR obtained documents revealing that Kent City Jail included place of birth and citizenship fields in its electronic booking system as recently as May 2022 (see [page 3 of this booking system screenshot](#)). In response to a [letter from NWIRP and ACLU-WA](#)¹³ regarding this and other practices violating KWW (see below) Kent City Attorney Tammy White defended the City’s policies as aligned with its duty to inform arrested foreign nationals of their rights under the Vienna Convention on Consular Notification. In August 2023, Assistant

12 See [RCW 10.93.160](#) (4): “State and local law enforcement agencies may not: (a) Inquire into or collect information about an individual’s immigration or citizenship status, or place of birth unless there is a connection between such information and an investigation into a violation of state or local criminal law; or (b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law.”

13 Because records involving potential KWW violations frequently include sensitive personally-identifiable information, we have opted to exclude attached exhibits from this and other KWW compliance violation letters cited in this report.

11 Spokane Board of County Commissioners, 01/24/2023, Resolution 2023-0053: “In the matter of terminating a Memorandum of Agreement between the United States Department of Homeland Security, Customs and Border Protection, United States Border Patrol – Spokane Sector and Spokane County.” <https://spokanecowa.portal.civicclerk.com/event/794/files>

Attorney General Mitchell Riese [wrote a letter to the City of Kent](#) noting the City's collection of place of birth and citizenship information and clarifying the requirements of KWW: "There is no conflict between KWW's prohibition on the inquiry into, and collection of, immigration or citizenship status, and the Vienna Convention. That is because nothing in the Vienna Convention requires that law enforcement agencies affirmatively inquire as to the nationality, or immigration status, of an arrestee, and KWW specifically prohibits such an inquiry." The City of Kent reviewed its policies and in December 2023, submitted an [updated policy](#) to the Office of the Attorney General explicitly codifying various provisions of KWW, including informing all detained people in writing of their rights to consular notification and the right to refuse to disclose information about their nationality, citizenship, or immigration status; prohibiting inquiries about immigration or citizenship status or place of birth; and instructing jail staff to input "Unknown" or "XX" values in database fields for immigration or citizenship status.

USE OF DETAINERS AND IN-CUSTODY INTERVIEWS

Detainers, also known as "immigration holds," were historically used by ICE/CBP to request that local jails keep individuals in custody beyond their release date or time to facilitate their apprehension by ICE/CBP. This resulted in direct hand-offs of individuals from local jails to ICE/CBP custody, raising constitutional concerns, since local and state governments lack the authority to deprive individuals of liberty without a judicial finding of probable cause. As numerous court cases – in Washington and beyond – resulted in strong rebukes against such practices,¹⁴ many counties began to

suspend the practices of holding individuals in custody based on ICE/CBP detainers even prior to the passage of KWW.

KWW is unequivocal in its prohibition of this practice, and UWCHR review of ICE data about apprehension sites suggests that for the most part, city and county jails in Washington state no longer engage in these direct hand-offs to ICE. Confirming this, however, is difficult, as the most detailed documentation of ICE detainer practices is contained in DHS I-213 "Record of Deportable/Inadmissible Alien" forms, which are not public.¹⁵

There are, however, exceptions, as the case of [Rios v. Pierce County](#) illustrates. In November 2019, U.S. citizen Carlos Rios was arrested on misdemeanor charges and illegally re-detained by Pierce County Jail in response to an ICE hold request. Mr. Rios was then released to employees of GEO Group and held for a week in the Northwest Detention Center,¹⁶ in clear violation of KWW and his rights as a U.S. citizen. While KWW's limited "teeth" meant that Rios could not bring suit under KWW itself, the [complaint](#) in his case makes clear that the violation of KWW led directly to his unlawful detention, which resulted in a settlement award to Rios for damages.¹⁷

gal Services. For example, Yakima County agreed to pay damages and cease honoring detainers in February 2019. And Okanogan County officials, after also being sued over their use of detainers, told a reporter they began revising their own policies in response to Yakima's experience: see <https://crosscut.com/2019/12/despite-washington-states-new-sanctuary-law-some-local-officials-still-cooperate-ice-and>

¹⁵ UWCHR has obtained two collections of I-213s through FOIA litigation, but the most recent of these date only to late 2021. In other cases, e-mail records obtained via the state Public Records Act show that local jurisdictions have continued to receive detainer requests from ICE, but unless officials reply affirmatively to these requests, they rarely generate official documentation that establishes whether a detainer request was honored.

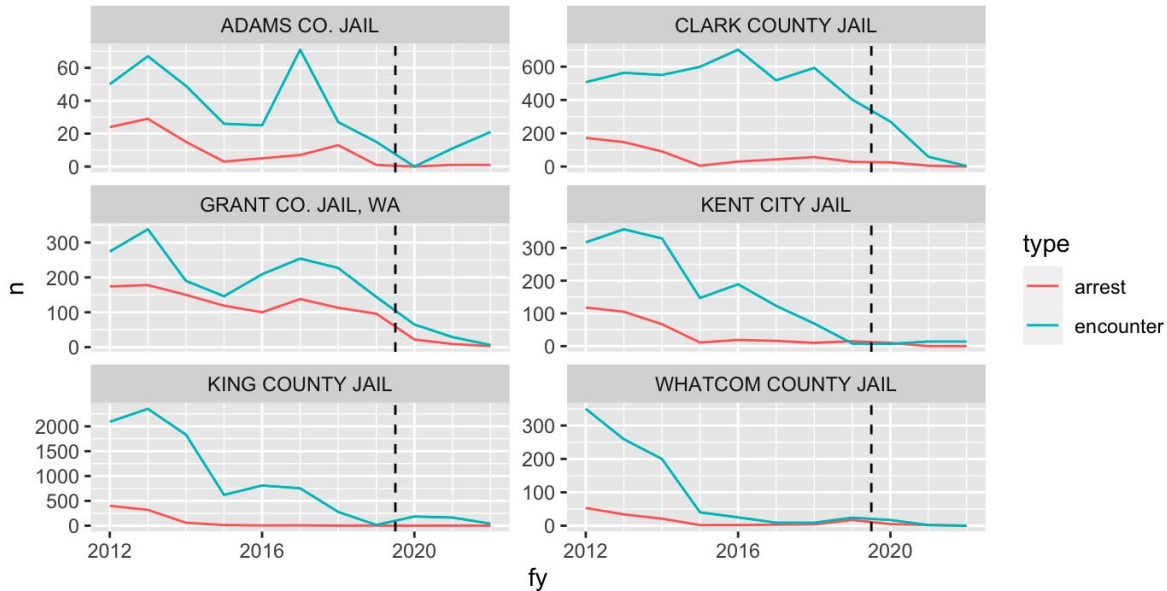
¹⁶ In this report, for ease of reference, we refer to the facility as the Northwest Detention Center, or NWDC. In September 2019, ICE renamed the facility "Northwest ICE Processing Center."

¹⁷ ACLU-WA, "Statement of NWIRP and ACLU-WA on the Settlement of Rios v. Pierce County", April 19, 2022: <https://www.aclu-wa.org/news/statement-nwirp-and-aclu-wa-settlement-rios-v-pierce-county>

¹⁴ Such questions were underscored in litigation brought by the Northwest Immigrant Rights Project and Columbia Le-

ICE encounters and arrests, FY2012-22

Selected 'landmark' & 'apprehension_landmark' values



Source: ICE ERO LESA
Figure: UW Center for Human Rights

The above charts illustrate the declining number of ICE encounters and arrests associated with selected local city and county jails in Washington state over recent years. While rates of arrests at these "landmarks" were already in decline prior to the passage of KWW in May 2019 (represented by the black dashed line), implementation of the law appears to be associated with further reductions of both encounters and arrests to near zero by U.S. Fiscal Year 2022 in each of these jurisdictions.

Relatedly, KWW prohibits jails from providing ICE/CBP officers access to non-public areas of their facilities in order to encounter or interview inmates in custody, unless officers present a court order or signed authorization by the inmate in question. Again, UWCHR review of ICE data about the locations of arrests and encounters suggests that such practices have declined significantly, though the decline predates the passage of KWW and may suggest an evolution in ICE/CBP's own practices more than the construction of a true "firewall" between Washington jails and immigration authorities.

INFORMATION SHARING BETWEEN LOCAL LAW ENFORCEMENT AND ICE/CBP

In response to growing constitutional concerns about jails' frequent practice of holding individuals beyond their release date to facilitate their apprehension by federal immigration authorities, ICE/CBP began to change the content of their detainer requests. While earlier versions of the detainer form asked state and local jurisdictions to hold inmates, later versions asked them instead to *notify* ICE/CBP prior to an inmate's scheduled release.

KWW bans the sharing of *non-public* information with federal immigration authorities for purposes of civil immigration enforcement.¹⁸ While some jail booking and release information is [routinely made public](#) by local and county jails, information such as inmate date of birth is not.¹⁹ Advocates argue that per KWW, even information which may be publicly available, such as release dates, should not be proactively shared with federal immigration authorities. However, records show that some local and county jails have continued to regularly share information with ICE and CBP. We detail several examples below.

CLARK COUNTY

UWCHR's [initial report on KWW compliance](#) and [local investigative reporting by OPB](#) documented widespread violations by Clark County Jail staff, including individuals flagged by jail staff for ICE solely on the basis of perceived nationality. Following the revelation of these practices, Assistant Attorney General Emily C. Nelson [wrote to the Clark County Sheriff's Office](#)²⁰ in November, 2021 raising concerns that, "since the effective date of the KWW (May 21, 2019), staff in your office contacted ICE deportation officers at least 311 times to share non-publicly-available information pertaining to approximately 954 individuals in custody at the Clark County Jail." The Assistant Attorney General's letter also noted, "the information we received indicates that some of your staff

18 See [RCW 10.93.160](#) (5): "State and local law enforcement agencies may not provide nonpublicly available personal information about an individual, including individuals subject to community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal immigration authorities in a non-criminal matter, except as required by state or federal law."

19 Other non-public information, such as inmate language or interpretation needs, could facilitate profiling by federal immigration agencies.

20 On January 1, 2023, authority for the Clark County Jail was separated from the Clark County Sheriff's Office and transferred to the county's newly established Jail Services Department: see Troy Brynson, "Pay issues and finger-pointing: When the Clark County Jail left its sheriff", *Oregon Public Broadcasting*, January 26, 2023: <https://www.opb.org/article/2023/01/26/pay-issues-before-clark-county-jail-separated-from-sheriffs-department/>

proactively contacted ICE to flag individuals in custody for potential civil immigration enforcement, based solely on their nationality or place of birth", and "It appears that when your staff receives civil immigration warrants or immigration hold requests from ICE, your staff members notify ICE agents of the exact day and time that the subject of the warrant or hold will be released from County Jail, to ensure that deportation officers are present to execute those warrants", among other concerns.

This letter led to a series of productive exchanges with the Clark County Sheriff's Office, which submitted revised policies for review by the Attorney General's Office. The CCSO also issued a January 2022 directive prohibiting the collection of birthplace or citizenship information by jail staff and clarifying other aspects of compliance with KWW. After a process of review and feedback, the new policies were submitted to and published [on the Attorney General's Office's website](#) in April, 2022.

GRANT COUNTY

In Grant County, [prior UWCHR research](#) and records obtained by the Attorney General's Office surfaced numerous practices that appeared to violate requirements of KWW, including the sharing of information about individuals sought by federal immigration authorities without the presentation of a judicial warrant from 2019 to 2021; and receipt of ICE detainers which appear to have resulted in civil immigration arrests at Grant County Jail, up to at least January of 2022.²¹

21 For example, on January 14, 2022, ICE Deportation Officer Jaimie Waite forwarded an I-247 detainer request to an official at Grant County Jail; the only content of the email was the phrase "Thank you"; the attached I-247 form was not included in Grant County's public records response to UWCHR. Separately, ICE Enforcement and Removal Operations Law Enforcement Systems and Analysis Division (LESA) data obtained by UWCHR via FOIA request report an arrest of a Mexican male at "Grant Co. Jail, WA" on January 21, 2022 via ICE's Criminal Alien Program, which is responsible for targeting and apprehending people at local jails. Given the lack

On February 27, 2023, Assistant Attorney General Emily Nelson [wrote to Grant County](#), “The records we reviewed indicate that since the effective date of KWW (May 21, 2019), staff for the Grant County Prosecutor’s Office contacted federal immigration officials over 400 times to share non publicly available information pertaining to individuals in custody at the Grant County Jail. None of this information appears to have been provided in connection with an ongoing criminal matter. Rather, staff for the Prosecutor’s Office appear to have proactively provided this information from ‘in custody’ lists and ‘inmate event schedules’ maintained by the Jail, which included inmate dates of birth, FBI numbers, home addresses, drivers’ license numbers, and anticipated jail release dates.²² Although these communications originated from the Prosecutor’s Office, they routinely included staff from the Grant County Sheriff’s Office. Further, our review identified repeated instances in which Sheriff’s Office staff provided the anticipated release dates of jail inmates to federal immigration authorities, again without any apparent connection to a criminal matter.” The letter also points to KWW violations in the Grant County Sheriff’s Office [Policy 428.5 \(Information Sharing\)](#), which refers to 8 USC § 1373, a provision of federal law which prohibits local or state restrictions on maintaining citizenship information or sharing it with federal agencies. Other sections of Grant County Sheriff’s Office explicitly implement

of detail in records provided by both Grant County and ICE, it is impossible to determine whether these events are linked; or whether this or any of the 66 other ICE apprehensions reported by ICE as having taken place at Grant County Jail from the date of passage of KWW on May 21, 2019 through November of 2022 involved violations of KWW.

22 In an email to UWCHR in response to a draft of this report, Grant County Prosecuting Attorney Kevin McCrae noted that jail “in custody” lists and “inmate event schedules” themselves do not include the specific forms of non-public information cited in the Assistant Attorney General’s letter. This clarification is well-taken; however, other Grant County records cited by the Assistant Attorney General in further correspondence with Grant County, as well as additional records obtained by UWCHR, include examples of proactive sharing of each of these categories of non-public information with federal immigration officials by Grant County officials from 2019 to 2021.

provisions of KWW, including its prohibition on the collection of immigration or citizenship status and place of birth.²³

In a series of replies, Grant County Prosecuting Attorney Kevin McCrae requested that the Attorney General’s Office provide records substantiating its concerns. When records were provided, Prosecuting Attorney McCrae disputed that the county’s actions violated KWW, but wrote on April 4, 2023 that the county had already modified some practices, stating, “we are no longer sending the in custody lists” and that Grant County Jail staff “do not act” on ICE detainees. The records obtained by UWCHR show that the Attorney General’s Office and Grant County officials planned future meetings to discuss compliance with KWW, but do not confirm whether these meetings took place, or what the results of these meetings might have been.²⁴

ADAMS COUNTY

In Adams County, UWCHR research surfaced several clear illustrations of similar information-sharing. As late as April 2023, for example, Adams County Jail²⁵ employees sent near-daily emails including as an attachment a “New in Custody” list to recipients including ICE and

23 In an email to UWCHR, Grant County Prosecuting Attorney Kevin McCrae noted that the text of KWW itself cites 8 USC § 1373, writing, “The policy is simply statement that the County will follow verbatim a statute that the KWW expressly quotes and affirms.” A [June, 2019 memo prepared for the Washington State Attorney General’s Office Keep Washington Working Workgroup](#), obtained by UWCHR via public records request, delves into the complexities of the interaction between state and federal law in this case.

24 In an email to UWCHR in response to a draft of this report, Grant County Prosecuting Attorney Kevin McCrae asserted that his office’s discussion with the Attorney General’s Office had concluded, and that the topic of the discussion was the Grant County Sheriff’s Office policy manual.

25 Adams County Jail has been closed since May 2022 due to maintenance and staffing concerns; since then, people arrested in Adams County have reportedly been sent to jails in Benton and Franklin Counties. See Gabriele Davis, “Adams Co. working to address jail closure, maintenance needs”, *Columbia Basin Herald*, September 25, 2023: <https://columbiabasinherald.com/news/2023/sep/25/adams-co-working-address-jail-closure-maintenance/>

CBP agents. The list includes fields for “name”, “date of birth”, “charge”, “interpreter (Spanish/yes/no)”, “hold (yes/no)”, and “other” (which may include information such as “posted bail” or “Spanish-speaking.”)^{26, 27}

Records reviewed by UWCHR also suggest that employees of the Adams County Sheriff’s office engaged in proactive information-sharing, including facilitation of detainers, with ICE and CBP. On at least two occasions during February 2021 and January 2022, Adams County Sheriff employees sent detailed information about the arrests of multiple individuals, including dates of birth and other non-public information, to CBP agents;²⁸ on at least one further occasion, similarly private information was sent to ICE.²⁹ While these emails include little context

regarding the motivation of this information-sharing the tenor of the communications suggest, at minimum, that cooperation was fluid and ongoing.³⁰

For example, in one of the records received by UWCHR, dated February 2022, Adams County Sheriff Sgt. Solano agreed to actively participate in ICE enforcement activities. In response to a request by ICE Deportation Officer Christina Caballero, Adams County Sgt. Solano agreed to allow ICE officers to accompany county sheriffs conducting an address verification for a registered sex offender “so we may bring him into custody”.

In light of these concerns, advocates reached out to express concerns to Adams County directly. On September 23, 2022 the ACLU-WA and NWIRP sent a letter to Adams County urging compliance with the law; they did not receive a response.

Subsequently, the Attorney General’s office contacted Adams County, [writing in a November 28, 2022 letter](#), “The records we reviewed indicate that since the effective date of KWW (May 21, 2019), staff in your Office contacted federal immigration officials at least 212 times to share non publicly available information pertaining to hundreds of individuals in custody at the Adams County Jail. The nonpublic information shared included dates of birth, FBI numbers, home addresses, drivers’ license numbers, and anticipated jail release dates. None of this information appears to have been provided in connection with an ongoing criminal matter. In fact, the majority of the time, Adams

26 Other records reveal both sides’ interest in these email bulletins. On August 11, 2022, ICE Deportation Officer Kevin Wilks wrote in response to a New in Custody list, “Due to staffing levels I have been assigned Adams County Jail for coverage by this office [ICE Spokane sub-office]. Could you please remove DO Jason McIntosh and add me to this email thread.” On August 12, 2022, Adams County Jail Commander Nick Williams forwarded this message to several colleagues, commenting, “FYI FOR EMAILING.”

27 For example, at 7:25 am on September 23, 2022, Adams County Jail Corporal Evan Armstrong sent the “New In Custody” document to Deportation Officer Kevin Wilks, sharing the name, date of birth, charges, and Spanish interpretation status of a new inmate. At 9:03 am that same day, Spokane Border Patrol officer Tracy Sullivan emailed Adams County a detainer for an individual by the same name. The records made available to UWCHR are insufficient to determine whether the detainer was lodged in response to the notification, and also insufficient to determine whether the jail held the man in response to the detainer, though the available communications certainly suggest such a transaction. Adams County declined to provide a copy of the actual detainer, claiming to no longer have the document. When a UWCHR researcher sought copies of records which would show whether Adams County was honoring detainers, a county jail employee responded: “We do not have the copy in the jail jacket. We only keep it till they leave, then the packet is sent out to [Border Patrol] or ICE depending on who picks them up.” This indicates unlawful information sharing between Adams County and immigration authorities.

28 On February 8, 2021, Adams County Corrections Officer Aimee Knight emailed two probable cause statements for individuals booked on possible stolen vehicle and assault charges to CBP Agents Jason Petersen and Seth Oppelt, alongside contacts at the Adams County Prosecutor’s Office and Adams County Superior Court. On January 12, 2022, Adams County Sheriff Detective Corporal Cale Yount emailed a probable cause statement for an individual booked on a rape charge to CBP Agent Jonathan Hill.

29 On another occasion on January 31, 2022, Adams County Sheriff Detective Corporal Cale Yount emailed a database

printout noting the termination of an individual’s no-contact order, with non-public information including date of birth, social security number, and home address, to an ICE email address for Agent Michael Steinberg.

30 For example, in his message to ICE, Adams County Detective Yount wrote, “If anything else is needed, let me know.” UWCHR also received multiple records of ICE requesting help from Adams County in locating and arresting people; as the responses of Adams County officials were not provided, it cannot be determined whether the county violated the law.

County Sheriff's Office staff appear to have proactively provided this information from your 'new in custody' lists to federal immigration officials, in plain violation of KWW. See RCW 10.93.160(5). Additionally, it appears that Adams County Sheriff's Office has continued to receive civil immigration warrants and serve them on individuals in your custody in violation of KWW." The Assistant Attorney General's letter also notes that the county's Policies 428.4 (Immigration Violations – Enforcement) and 428.6 (Information Sharing) include passages violating KWW.

On December 5, 2022, the Adams County Prosecuting Attorney's Office replied with a letter instructing the Attorney General's Office to direct any further correspondence to its office; the records obtained by UWCHR do not include any additional discussion of the November 2022 letter. However, in September 2023, the Attorney General's Office again contacted Adams County to raise concerns about the county's response to a public records request submitted by the AGO regarding communications between Adams County Sheriff's Office employees and officials with ICE or CBP³¹, suggesting that the AGO had continued to research and monitor the county's compliance with KWW. The UWCHR is unaware of the current status of these conversations or the degree to which they have prompted any changes in Adams County's practices.

31 On September 20, 2023, [Assistant Attorney General Emily C. Nelson wrote to Adams County](#) disputing the results of a public records request submitted by the AGO for communication between Adams County employees and ICE or CBP from January 1, 2022, through April 10, 2023. According to the Assistant Attorney General's letter, the county improperly withheld records responsive to the request, noting, "the Sheriff's Office in many cases *proactively shared* the same records [...] in un-redacted form to ICE and CBP, without any concern for the privacy of the individuals whose information was contained in the records produced to those agencies."

OTHER JURISDICTIONS

Unfortunately, multiple other law enforcement agencies continued to engage in similar practices long after the law's entry into force. For example:

- Records from Klickitat County show that in January and February 2022, the county's Jail Records Clerk sent out a daily jail housing list, containing inmate booking number, name, and date of birth, alongside a "register" document containing additional information and codes. This information was sent to at least 2 ICE officers, in violation of Keep Washington Working. In February 2022, a Klickitat County Sheriff's Office employee also shared police reports with an ICE Deportation Officer upon request.
- In January 2022, a Quincy Police Department Captain emailed ICE Deportation Officer Jaimie Waite flagging a local resident for ICE by name and date of birth, describing the individual as having been arrested numerous times, but asserting that he "no longer fears the court system...Quincy PD would like [this individual] held responsible for his violent tendencies and if possible removed from our community for public safety reasons".
- On multiple occasions during January 2022, a sergeant from the Kent Police Department shared non-public information with an ICE Deportation Officer, both proactively and in response to requests for information. The materials shared included the names and addresses of subjects as well as jail booking and DOL photos. Notably, the booking and DOL photos were redacted in records released to UWCHR, indicating awareness that these are not public records, despite having already been shared with ICE. In correspondence with NWIRP and the ACLU-WA during 2023 and with UWCHR in 2024 response to a draft of this report, Kent City Attorney Tammy White asserted that these instances of information-sharing do not

constitute violations of KWW because they were “concerning a criminal matter, which is specifically exempted from the KWWA.”³²

PROBLEMATIC POLICY MANUALS

Per Keep Washington Working, local law enforcement agencies are required to adopt written policies conforming to [guidelines published by the Attorney General's Office](#) or submit their own alternative policies to the Attorney General's Office to demonstrate compliance. To date, however, [relatively few jurisdictions have submitted policies](#), and UWCHR research has found that practices prohibited by KWW continue to be recommended in policy manuals used by law enforcement agencies to train personnel.

ADAMS COUNTY

For example, the [Adams County Sheriff's Deputies' Manual](#) included an “Immigration Violations” chapter suggesting that deputies are permitted to carry out immigration status checks in consultation with ICE or CBP, and to detain people based on “reasonable suspicion that the individual entered into the United States in violation of a federal criminal law”; per [guidelines issued by the Washington State Attorney General's Office](#), local law enforcement agencies “should not engage in law enforcement activities solely for the purpose of enforcing federal immigration laws”. [The Adams County Sheriff's Office Custody Manual](#) also includes language contradicting KWW, such as instructing bookings officers to collect inmate place of birth, to notify federal agencies when

32 Email correspondence from Tammy White (City of Kent) to Enoka Herat (ACLU-WA), January 13, 2023. White also asserted that the sharing of jail records with ICE is permitted under state law: “under RCW 70.48.100(2), jail records that would otherwise be confidential may be released to other ‘criminal justice agencies’, as that term is defined in RCW 43.43.705 (i.e. ‘public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication, or rehabilitation of criminal offenders.’)”

foreign nationals are committed to the jail, and referring to the detention of people solely for civil immigration purposes.

Adams County purchased the manuals from the for-profit company Lexipol, which purportedly provides its clients updated policy guidance in light of the latest laws and court rulings; its chapter on “Temporary Custody of Adults” does cite KWW provisions in Washington State law regarding optional consular notification upon the arrest of foreign nationals, and requiring nondiscrimination on the basis of immigration status, yet if included alongside the suggestion of illegal practices, the guidance is contradictory at best. In its [contracts](#) with local jurisdictions, Lexipol claims to be indemnified if their policies expose a jurisdiction to liability – but the local jurisdictions may well face the financial burdens of litigation if its policy violates the law and results in harm.³³

CITY OF KENT

Similarly, the [“Foreign National Admissions”](#) and [“Immigration Detainers and Warrants”](#) sections of the policy manual for the City of Kent Corrections Facility included instructions to engage in practices that violate KWW, such as notifying federal agents when foreign nationals are committed to the jail, establishing procedures for noting detainer requests in inmate files, and referring to the detention of people solely for civil immigration purposes. While the jail’s Corrections Management System [included fields for restricted information](#) including place of birth and citizenship, [training materials](#) indicated that personnel may be instructed not to collect place of birth information.

33 See ACLU-WA, “Faulty Lexipol policies expose police departments to costly lawsuits, ACLU-WA and NWIRP warn in letter to law enforcement agencies statewide”, January 23, 2018: <https://www.aclu.org/press-releases/faulty-lexipol-policies-expose-police-departments-costly-lawsuits-aclu-wa-and-nwirp>

In August 2023, the Attorney General's office [initiated correspondence with the City of Kent about KWW](#), issuing several policy recommendations regarding compliance with KWW and the Vienna Convention. The City of Kent later submitted updated, KWW-compliant policies to the Attorney General Office's [KWW policies website](#).

Additionally, in December 2023 the City of Kent Corrections Facility [updated its policies](#) to codify provisions of KWW, including explicit prohibitions on involvement in civil immigration enforcement, improved procedures for data entry, and mandated immigration training for corrections officers.



At/Near ----- Seattle, WA	
Record of Deportable/Excludable Alien: On September 28, 2020, the Subject; (b)(6); (b)(7)(C) born (b)(6); (b)(7)(C) came to the attention of ICE due to a biometric hit for her arrest by the Federal Way Police Department for Assault 4th degree Domestic Violence. The Subject was booked into the Kent City Jail and held pending criminal charges. Immigration database checks based on the Subject's name and date of birth indicated that she is a citizen of Trinidad and Tobago, who is unlawfully present in the United States, having overstayed her visitor visa in 2005. ICE lodged a I-247 Immigration Detainer on the Subject with the Kent City Jail so that DHS could assume custody of her prior to her release.	
ENCOUNTER: On September 29, 2020, the Subject's ICE detainer was not honored at the Kent City Jail due to local sanctuary jurisdiction policies. ICE followed up with Federal Way PD and was informed that the Subject was being released, and that the detainer would not be honored. ICE responded to the Federal Way police station and observed the Subject departing the station on foot. At that time an ICE officer conducted an investigative detention of the	
Signature (b)(6); (b)(7)(C)	Title SDDO

An excerpt from an ICE I-213 form obtained by UWCHR via FOIA illustrates how an ICE biometric “hit” on a Washington state resident in September 2020 led to her arrest on civil immigration charges upon release from the Kent City jail.

KWW'S LIMITATIONS

Most of the practices described above constitute clear violations of Keep Washington Working, making it relatively straightforward for advocates to point out failures to comply as violations of Washington state law. Yet as UWCHR researchers examined the details of local/state collaboration with immigration enforcement in our state, we also documented many practices not explicitly forbidden under the law, but which may arguably violate its intention by facilitating collaboration with federal agencies for purposes of civil immigration enforcement in certain circumstances.

DATABASE INTEROPERABILITY

The most salient of these is the fact that local and federal law enforcement databases are interoperable, meaning that every time a person is booked into jail in Washington state, their fingerprints are automatically shared with the FBI and automatically run against federal databases, including databases ICE uses to track

individuals.³⁴ When this process generates a “hit,” meaning the individual’s fingerprints or other personal data match those of a person DHS has encountered previously, ICE’s Law Enforcement Support Center (LESC) is automatically notified; according to federal court testimony, LESG then queries at least ten other databases and may issue a recommendation of action on the case to ICE deportation officers.³⁵ KWW does nothing to restrict or alter this process, which continues to drive arrests like the one documented above, in which a woman who had overstayed her visa was arrested in Federal Way, thanks to a combination of a biometric “hit” generating ICE interest, and subsequent local police sharing information about her release. She was apprehended immediately after leaving the Federal Way police station on foot.

34 For more on these databases, see the findings of fact in the federal court case, *Gonzalez v. ICE*, Case 2:12-cv-09012-AB-FFM, Document 548, Filed 09/27/19: https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2019-09/gonzalez-v-ice_20190927_decision.pdf. This process is described in more detail in a 2020 audit of ICE’s Criminal Alien Program: DHS Office of Inspector General, “U.S. Immigration and Customs Enforcement’s Criminal Alien Program Faces Challenges”, OIG-20-13, February 18, 2020: <https://www.oig.dhs.gov/sites/default/files/assets/2020-02/OIG-20-13-Feb20.pdf>

35 *Gonzalez v. ICE*, op. cit.

At/Near

Everett, WA

Record of Deportable/Excludable Alien:
On 08/12/2020, Seattle ICE Deportation Officers (DO), as part of (b)(7)(E) apprehended (b)(6); (b)(7)(C) in Everett, Washington. (b)(6); came to the attention of ICE on 06/26/2020 when they received a Secure Communities IAR indicating that (b)(6); was booked into the Snohomish County Jail. The IAR additionally indicated that (b)(6); was previously removed from the United States. A check of available law enforcement databases revealed that (b)(6); was booked into Snohomish County Jail on a charge of Assault 4 Domestic Violence. A check of Immigration databases revealed that (b)(6); was previously removed from the United States and had no records of a legal entry. Based on this information, a detainer was lodged with the jail. Due to Washington State sanctuary policies, (b)(6); was released to the street without notification to the Seattle ICE Office. An investigation was then opened by DO (b)(6); in order to locate and apprehend (b)(6);. Officer (b)(6); found that (b)(6); owned a Red Ford F150 (F150) with license plate number (b)(6); and resided at (b)(6); (b)(7)(C) in Everett, Washington.

On 08/12/2020, ICE CAP Deportation Officers were at the address mentioned above attempting to apprehend (b)(6);. At approximately 7:00 am, a male matching the description of (b)(6); exited the residence, entered the F150 then drove away from the residence. The officers followed the F150 as it continued to a residence located on the (b)(6); (b)(7)(C) (b)(6);. The officers watched the male as he appeared to be loading and cleaning out a white food truck. The officers then followed the male as he drove away in the food truck then pulled into a parking lot located at (b)(6); (b)(7)(C). The officers approached the male in the truck, identified themselves as Immigration Officers and after verifying that he was (b)(6); placed him under arrest without incident. (b)(6); was then transported to the Tukwila ICE office for processing.

(b)(6); was interviewed by DO (b)(6); and it revealed the following:

Signature (b)(6); (b)(7)(C)	Title SDDO
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Excerpt from an ICE I-213 form obtained by UWCHR via FOIA illustrates how alerts generated under the Secure Communities program and other databases can be used by ICE to encounter and subsequently apprehend Washington state residents following their release from local jails, despite compliance with KWW's prohibition on honoring ICE detainer requests.

Another example is the arrest documented above, which took place in Everett in August 2020. When a man who had been previously deported was booked into Snohomish County Jail, ICE was notified because his arrest generated a Secure Communities "Immigrant Alien Response (IAR)" alert. In compliance with KWW, the jail released him without notifying ICE, but ICE was able to track him down using his license plate and address information, which is also available on other private databases to which it has access:³⁶

As these examples illustrate, biometric information collected by local and state law enforcement is now automatically shared with ICE, whether or not local or state law

enforcement officers take active steps to facilitate it. KWW does not impede this process.

INTERAGENCY TASK FORCES

Another issue is the ongoing operation of interagency "task forces" convened between local and state law enforcement and federal agencies including ICE and CBP, for the purpose of facilitating communication and collaboration on serious threats to public safety, such as drug and human trafficking. Inasmuch as these include local law enforcement working alongside federal immigration agents, without safeguards in place to ensure that collaboration does not extend to civil immigration enforcement, such task forces may undermine the protective firewalls KWW sought to erect.

In some cases individual task force officers appear, at least digitally, to simultaneously occupy roles within both agencies; UWCHR

³⁶ For more on the dangers of vehicle-related information-sharing via private databases, see UWCHR's report [Who's Watching Washington? Dangers of ALPRs to Immigrant and Reproductive Rights in Washington State.](#)

research revealed at least three cases of officers who use both local and ICE email addresses, and in some cases email documents back and forth between the two accounts.³⁷ Such practices raise obvious questions as to how reasonable it is to expect individuals tasked with information-sharing in one facet of their work to lawfully limit it in another.³⁸

While not configured as a task force, Whatcom County's What-Comm 911 dispatch service raises related concerns. Operated by the City of Bellingham via an interlocal agreement with Whatcom County, the service provides emergency dispatch for all cities in Whatcom County. Given the county's location on the northern U.S. border, What-Comm dispatch is regularly in contact with CBP dispatchers, raising fears that such contact could result in violations of KWW by sharing non-public information or by involving local law enforcement in civil immigration enforcement activities. Since early 2020, the City of Bellingham has reported such [instances of contact with federal agencies by city departments](#), including What-Comm, to the city's [Immigration Advisory Board](#)³⁹; these

37 For example, in Grant County, during the month of January 2022, Homeland Security Investigations Special Agent Amy Lambert, a member of the Interagency Narcotics Enforcement Team who maintains both Grant County and ICE email addresses, repeatedly shared documents between these two email accounts; the content of these documents is not known because Grant County did not include email attachments in its response to UWCHR's public records request. U.S. Border Patrol Agent Justin Loudermilk from the Narcotics Task Force has both a CBP and an Okanagan County email address; Benton County Sheriff Deputy Scott Runge from the Southeast Regional ICAC Task Force has both an ICE and a Benton County email address.

38 On this point, [model policies](#) created by the Washington Attorney General's office and adopted by agencies such as the [Washington State Patrol](#) include the following language: "[Law Enforcement Agency] shall not be a party to any agreement, joint operation, task force, or other multi-jurisdictional activity with any person engaged, or intending to engage, in immigration enforcement, including federal immigration authorities, without legally binding assurances, in writing and pre-approved by [Law Enforcement Agency Sheriff or Chief of Police], that no [Law Enforcement Agency] resources, including any individuals' personal information ascertained by [Law Enforcement Agency] or its personnel, shall be used to support or assist with civil immigration enforcement in any way."

39 In January, 2024, the Bellingham City Council voted

reports do not include information on the outcomes of contacts.

In May 2022, the ACLU-WA, Columbia Legal Services, and NWIRP wrote a [joint letter to the City of Bellingham and Whatcom County](#) highlighting several reported contacts in which non-public information may have been shared with CBP by What-Comm dispatch; and at least two cases in which dispatchers apparently facilitated the use of CBP for language interpretation, a practice expressly prohibited by KWW. In July 2022 Bellingham issued [updated training materials](#) clarifying What-Comm dispatchers' responsibilities not to share or collect prohibited information per KWW, and prohibiting the use of CBP resources for language interpretation. Additionally, in October 2022 the City of Bellingham modified its interlocal agreement to strike "outdated language" directing What-Comm dispatchers to direct emergency calls for the city of Sumas, WA to Border Patrol.⁴⁰ In April 2023, officials from the Attorney General's Office contacted the City of Bellingham to discuss What-Comm's compliance with KWW; in response City officials shared the updated training materials and modified interlocal agreement referenced above.

UWCHR is unaware of other efforts to more clearly delineate responsibilities between local government agencies involved in inter-agency task forces with ICE and CBP.

to suspend future meetings of the Immigration Advisory Board pending an evaluation process: Johanna Bejarano, "Bellingham's Immigration Advisory Board being evaluated", *Northwest Public Broadcasting*, February 9, 2024: <https://www.nwpb.org/2024/02/09/bellinghams-immigration-advisory-board-being-evaluated/>

40 Third Modification To What-Comm Communications Center Interlocal Agreement City Contract # 2019- 0510 -- County Contract # 201908010, executed November 17, 2022: <https://whatcom.legistar.com/View.ashx?M=F&ID=11530989&GUID=C7C19A7A-B76F-4902-8A7E-B06E225C059F>

DEPARTMENT OF CORRECTIONS TRANSFERS

Lastly, in another important limitation, KWW exempted the Washington State Department of Corrections from many of the bill's requirements, including the prohibition on notifying ICE when a person in its custody is ready for release. As a result, many migrants pass directly from DOC to ICE custody, in what advocates have argued amounts to double punishment; under this system, migrants are punished once in the criminal justice system, and then secondarily in civil detention upon completing their sentence – effectively serving two terms for a single crime. In 2023, members of the state legislature introduced HB 5270 to close this gap, but the bill failed to pass out of committee.⁴¹

An important counter-example here is Oregon's Sanctuary Promise Act, passed in 2021, which includes the state's Department of Corrections in its prohibition on information sharing.⁴² Likely as a direct result, UWCHR research found the transfer of individuals from Oregon prisons to ICE custody dropped to zero following the passage of the law.

CONCLUSIONS

Five years after KWW's passage, the ways in which local and state law enforcement interact with federal immigration enforcement agencies across our state are significantly different. This is reflected in ICE's own data about the ways in which individuals are encountered and apprehended in Washington state, as well as in public records documenting the conversations and collaborations between state and local officials and ICE/CBP employees.

The same period has also seen important shifts in federal immigration enforcement policies and practices, so changes in the ways local, state, and federal officials interact around immigrant rights issues cannot be attributed exclusively to the impact of KWW. But UWCHR research tracking both on-the-ground enforcement practices and behind-the-scenes discussions about those actions strongly suggest that the law's requirements have reshaped the terrain on which immigration enforcement takes place in our state. While it is clear that problems continue, including outright defiance of the law in some jurisdictions, it is also apparent that many state and local governments have undertaken important efforts to overhaul their practices and implement protections for immigrants.

While the greatest public fanfare surrounds the passage of new laws, their actual effectiveness always relies on institutions' commitment to implementation and enforcement over time. This is particularly true with laws like KWW that lack built-in tools for monitoring, enforcement or accountability. Yet since 2020, UWCHR has documented a sustained effort, carried forward in large part by public defenders, immigrant rights organizations, and grassroots groups in directly-affected communities, to lend the law "teeth" through advocacy. This has led to some important policy changes particularly in Clark, Spokane, and Whatcom counties. Significantly, the Wing Luke Civil Rights Division of the Washington State Attorney General's Office has also carried out its own investigations to encourage compliance with the law, engaging with Clark, Adams, and Grant counties, and the cities of Bellingham and Kent. These efforts have led to newly revised, KWW-compliant policies in Clark County, Bellingham, and Kent. Per records released to UWCHR, efforts in Adams and Grant counties remain inconclusive. These multifaceted efforts to ensure compliance are certainly laudable, helping make real the protections promoted by Keep Washington

41 See the bill history for SB 5270 – 2023-24: <https://app.leg.wa.gov/billsummary?BillNumber=5270&Year=2023&Initiative=false>

42 81st Oregon Legislative Assembly, 2021 Regular session, House Bill 3265: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3265/Enrolled>

Working. On the other hand, it is important to remember that the law's limitations continue to allow ICE and CBP to access information compiled by local and state law enforcement and use that information to conduct civil immigration enforcement. Depending on future changes in federal policy and priorities, it is likely we will see continued changes to the ways local governments interact with federal agencies around immigration enforcement. Continued monitoring of on-the-ground practices will remain essential to ensure true compliance with the civil rights protections promised in our federal and state laws.



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