



September 30, 2022

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Sent via email and USPS first class mail

RE: Spokane County Sheriff's Office's Violations of the Keep Washington Working Act

Mr. Haskell, Sheriff Knezovich, Mr. Sparber, and Mr. McClain:

We write to address the Spokane County Sheriff's Office's apparent violations of the Keep Washington Working Act ("the Act" or "KWW"), and to request that the County take action to avoid future violations. Continued violation of the Act is likely to expose the Sheriff's Office to civil liability, and we strongly urge you to take corrective action.

Our offices previously wrote the Sheriff's Office in 2019 to inform you that KWW required the Sheriff to take specific actions to update the Sheriff's Office's policies to conform with the Act. In addition, on December 15, 2021, we wrote the Sheriff's Office a follow-up letter to address another time-sensitive action that KWW required the Sheriff to take with respect to the Sheriff's Office's contract with the U.S. Customs and Border Protection (CBP). Moreover, on August 22,

2022, the ACLU-WA also sent you a letter about a specific violation of KWW concerning the sharing of personal location information, and using CBP as interpreters. As we explained in those letters, KWW incorporates the following restrictions on and mandates for local law-enforcement agencies, among others:

- A prohibition on “[i]nquir[ing] into or collect[ing] information about an individual’s immigration or citizenship status,” unless that information is relevant to an investigation of state or local criminal law. RCW 10.93.160(4)(a).
- A prohibition on sharing “nonpublicly available personal information” with federal immigration authorities. RCW 10.93.160(5).
- A prohibition on granting federal immigration authorities access to interview individuals in your custody, unless the Sheriff’s Office first provides any individual to be interviewed with an oral explanation in their native language and obtains written consent. RCW 10.93.160(6)(b).
- A prohibition on detaining individuals in your custody “based solely on a civil immigration warrant, or an immigration hold request.” RCW 10.93.160(8). State law defines such documents and requests to include Immigration and Customs Enforcement (“ICE”) or CBP detainer requests (Form I-247) and ICE or CBP administrative warrants (Form I-200). *See* RCW 43.17.420(1), (5).
- A prohibition on accepting language services (e.g., interpretation, translation, or language classes) from CBP or ICE. RCW 10.93.160(13).
- A requirement that local law enforcement agencies suspend any “immigration detention agreement” by December 31, 2021, at the very latest. RCW 10.93.160(12)(b). The law defines “immigration detention agreement” as “any contract, agreement, intergovernmental service agreement, or memorandum of understanding that permits a state or local law enforcement agency to house or detain individuals for federal civil immigration violations.” RCW 43.17.420(6).

Public records indicate that the Sheriff’s Office has not complied with several of these requirements. In response to a public records request from the University of Washington Center for Human Rights seeking “current” contracts with ICE or CBP, the Sheriff’s Office provided a copy of a 2016 agreement with the U.S. Border Patrol (“USBP contract”). That agreement permits the Border Patrol to detain in the county jail “individuals charged with Federal . . . administrative offenses . . . who have been detained by the United States Border Patrol (USBP) while awaiting . . . an immigration hearing.” *See* Ex. A. It also permits the Border Patrol to detain at the Spokane County Jail “individuals who have been lawfully arrested with an arrest warrant and are awaiting a hearing on their immigration status or deportation proceedings.” *Id.* A contract with such provisions violates KWW, which, as noted, prohibits “any contract” that simply “permits a state or local law enforcement agency to house or detain individuals for federal civil immigration violations.” RCW 43.17.420(6).

Moreover, additional records from the Sheriff’s Office indicate not only that the Spokane County Jail has continued to maintain its unlawful contract with USBP, but that the Sheriff’s Office has detained people pursuant to the contract. First, the Sheriff’s Office regularly sends invoices to the address listed in the USBP contract for billing. *See* Ex. B. This fact alone indicates that the Sheriff’s Office is detaining individuals at the request of CBP for civil immigration purposes, in clear violation of KWW. Second, on at least several occasions since January 2022—the date by

which the USBP contract should have been terminated—the Sheriff’s Office appears to have detained individuals at the request of Border Patrol officers based solely on detainers or administrative warrants issued by a Border Patrol agent. *See* Ex. C. KWW explicitly forbids this practice. RCW 10.93.160(8).

Absent action to remedy these violations, our offices are prepared to pursue litigation to ensure the Sheriff’s Office’s compliance with state law. Please note that the Sheriff’s Office’s actions may render the County liable for damages and attorneys’ fees under 42 U.S.C. § 1983, which provides a cause of action for civil rights violations. *See, e.g., Rios v. Pierce County*, 22-cv-05021 (W.D. Wash.) (settlement agreeing to dismiss case for \$17,500, after County violated KWW by holding an individual for two hours beyond release while jail waited for immigration officials to take custody of plaintiff); *Mendoza Garcia v. Okanogan County*, 19-cv-0340 (E.D. Wash.) (settlement agreeing to dismiss case for \$50,000, after jail continued to detain plaintiff based solely on administrative immigration detainer); *Ahumada-Meza v. City of Marysville*, 19-cv-01165 (W.D. Wash.) (settlement agreeing to dismiss case for \$85,000, after jail continued to detain plaintiff based solely on administrative immigration detainer); *Olivera Silva v. Campbell*, 17-cv-03215 (E.D. Wash.) (plaintiff accepted offer of judgment of \$10,000 in damages and court awarded \$141,986.70 in attorneys’ fees, after jail continued to detain plaintiff based solely on administrative immigration detainer).

We appreciate that the County recently took steps to respond to the concerns raised in the ACLU’s August 22nd letter, and its continued engagement to resolve the KWW issues that letter and others have highlighted. To that end, we request a response to this letter by October 31, 2022. Specifically, we ask that you detail any corrective action that the County has taken to remedy these violations and to avoid any future violations.

Sincerely,

s/ Matt Adams

s/ Aaron Korthuis

s/ Glenda Aldana Madrid

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