



February 20, 2019

Suffolk Sheriff Errol Toulon
Suffolk County Sheriff Office
100 Center Drive
Riverhead, NY 11901

Dear Sheriff Toulon:

We write on behalf of Make the Road New York's (MRNY) 23,000 members across New York State, of whom more than 1,500 reside on Long Island. On a letter dated February 15th, 2019, Representatives Peter King and Lee Zeldin called on Long Island counties to ignore a recent decision by New York State Supreme Court that local law enforcement do *not* have the authority to make civil arrests based on Immigration and Customs Enforcement (ICE) detainer requests. This request is extremely troubling and has caused turmoil in our communities.

First, it is deeply concerning that two sitting members of Congress called on local officials to ignore a decision by the Appellate Division of New York State Supreme Court, which puts clear limits on localities' interactions with ICE. The governmental separation of power sets parameters on what a governmental branch can and cannot do. Simply put, elected officials calling on counties to hold immigrants on detainers in defiance of a state court ruling and New York law constitutes a blunt disregard of the U.S. Constitution, thereby undermining the rule of law of this country.

Second, urging local law enforcement agencies to collaborate with ICE by means of holding immigrants on detainers for a period past their criminal sentence; informing ICE of an immigrant's presence in criminal custody; and, entering into 287(g) agreements is greatly problematic for several reasons.

First, federal courts have repeatedly found that honoring detainers violates the Fourth Amendment.¹ Holding people in jails when they would otherwise be free to go violates their basic constitutional rights. Suffolk County could, therefore, be held liable for unlawful arrests and detention of immigrants; indeed, many county jails have already been sued for erroneous immigration detainers.²

¹ See, e.g., Morales v. Chadbourne, 793 F.3d 208, 215-16. (1st Cir. 2015); Miranda-Olivares v. Clackamas County, No. 3:12-cv-02317-ST, 2014 WL 1414305, at *9 (D. Or., Apr. 11, 2014) ("There is no genuine dispute of material fact that the County maintains a custom or practice in violation of the Fourth Amendment to detain individuals over whom the County no longer has legal authority based only on an ICE detainer which provides no probable cause for detention.").

² See Morales; Galarza v. Szalczynk, 745 F.3d 634, 645 (3d Cir. 2014); Miranda-Olivares; Villars v. Kubiowski, No. 12-cv-4586 *10-



Second, engaging local law enforcement in immigration enforcement makes communities less safe. Local law enforcement's main responsibility is to protect our communities; to do so, they rely on the trust and cooperation of the community. But when local law enforcement participates in immigration enforcement, it creates a gap between the police and the communities they serve. If collaboration between local law enforcement agencies and ICE continues, immigrants, their friends and their families would be deterred from reporting crimes, cooperating with investigations or contacting the police during emergencies. This is why many law enforcement officials have strongly supported measures to draw a bright line between their work and immigration enforcement.³

Furthermore, when local officers are deputized to act as ICE agents, research shows racial profiling is encouraged, as they tend to stop persons suspected to be undocumented solely based on the color of their skin.⁴ It is also well-documented that programs facilitating cooperation between ICE and local law enforcement operate at local taxpayers' expense. Essentially, local law enforcement agencies are required to spend time and money to do the federal government's job.⁵

Finally, it is worth noting that immigrants are an essential part of our economy and culture. Many live, work, and pay taxes in New York, and add value to the U.S. economy through their participation in the workforce. Yet, sadly, immigrants are besieged with hateful political rhetoric across the country, while ICE continues to tear families apart. The reckless proposals from Reps. King and Zeldin double down on this politics of intolerance, which must be given no further place on Long Island.

Instead of seeking further entanglement with ICE, we ask that you work *with* the immigrant community to ensure that all residents of Suffolk be and feel safe and equal before local law enforcement. I would welcome the opportunity to meet with you to speak about how out-of-control immigration enforcement programs damage our communities, and how we can work together to enhance the security and well-being of all County residents.

Sincerely,



Javier H. Valdés
Co-Executive Director
Make the Road New York

12 (N.D. Ill. filed May 5, 2014); *Uroza v. Salt Lake City*, No. 2: 11 CV713DAK, (D. Utah Feb. 21, 2013).

³ See, e.g., "Restoring Community: A National Community Advisory Report on ICE's Failed 'Secure Communities' Program." August, 2011.

⁴ See Letter from Thomas E. Perez, Asst. U.S. Attorney General, to Bill Montgomery, Maricopa County Attorney, Re: United States' Investigation of the Maricopa County Sheriff's Office, December 15, 2011, http://www.justice.gov/crt/about/spl/documents/mcso_findletter_12-15-11.pdf explaining investigation results that deputies of Sheriff Joe Arpaio routinely conducted "sweeps" in Latino neighborhoods, and that Latino drivers in certain parts of Maricopa County were up to nine times more likely to be stopped than non-Latino drivers.

⁵ "The State Criminal Alien Assistance Program (SCAAP)," *National Conference of State Legislatures*, April 13, 2013, <http://www.ncsl.org/research/immigration/state-criminal-alien-assistance-program.aspx>.