# INTERLOCKING SYSTEMS

How Pennsylvania Counties and Local Police Are Assisting ICE to Deport Immigrants

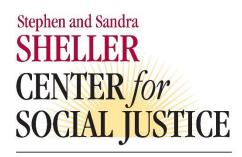


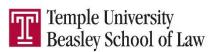


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This report was prepared at the request of Juntos, a community-led Latinx immigrant organization in South Philadelphia fighting for the human rights of workers, parents, youth, and immigrants. Juntos believes that every human being has the right to a quality education and the freedom to live



with dignity regardless of immigration status. Juntos combines leadership development, community organizing, and focused collaborations with other community-based and advocacy organizations to build the power of community members so they may be active agents of change and work against their own oppression.

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## **EXECUTIVE SUMMARY**

Under the Trump Administration, arrests of immigrants by Immigration and Customs Enforcement (ICE) have increased in Pennsylvania.<sup>1</sup> Fear of arrest, detention, and deportation permeates the everyday lives of immigrants and their families, affecting their physical and psychological well-being.<sup>2</sup> The lack of transparency or consistency in ICE practices creates pervasive uncertainty, stress, and anxiety for communities.<sup>3</sup>

Community based organizations across the state have firsthand experience with the impact of ICE enforcement on their communities. They know anecdotally how localities cooperate with ICE in arresting and detaining immigrants. Given the difficulties in challenging ICE directly at the federal level, community based organizations are increasingly looking to advocate for change at the local level.<sup>4</sup> These organizations, however, have expressed a need to more comprehensively understand how localities are cooperating with ICE.

This report, therefore, seeks to shed light by more systematically examining cooperation between ICE and local entities in the era of the Trump administration.<sup>5</sup> We collected information by filing Right to Know (RTK) requests, speaking with local officials, and reviewing the results of Freedom of Information Act (FOIA) requests conducted by other advocacy organizations (see Methodology in the Appendix). By providing an in-depth study of the mechanisms of ICE collaboration with select county jails, county probation, and local law enforcement, we reveal the various ways in which ICE's enforcement system interlocks with local criminal justice systems in Pennsylvania.

We found that counties are consistently collaborating with ICE (Figure 1).<sup>6</sup> County jails and probation departments, for example, regularly share information about immigrants with ICE pursuant to informal agreements or formal written policies. They also actively help ICE to locate and arrest immigrants. Further, counties allow ICE to use their jails and prisons solely for purposes of detaining persons accused of violating civil immigration laws. In Pennsylvania, there are currently seven county jails and one county-run family detention center that have signed federal contracts to detain immigrants for ICE. Despite the significant human cost, counties are profiting from the growing numbers of immigrants in civil detention.

On the other hand, police collaboration appears to be less systematic and mostly ad hoc. The majority of the police departments we examined in Pennsylvania do not have written policies or arrangements governing ICE collaboration. The vacuum has created an opening for individual police officers to act based on their own personal inclinations, and for ICE to solicit greater levels of assistance from individual police and police departments.

Figure 1. Current Known County Cooperation with ICE.						
Counties	ICE Detention Contract	Jail Shares Information	Jail Provides Access to ICE	Jail Provides ICE Time to Pick Up	Probation Works with ICE	Interest in 287(g)
Adams		Х	Х	Х		
Allegheny			Х			
Beaver	Х		Х	Х	Х	
Berks	Х		Х	Х		
Bucks			Х	Х	Х	
Cambria	Х		Х	Х		Х
Chester		Х	Х	Х	Х	Х
Clinton	Х	Х	Х	Х		
Dauphin		Х	Х	Х		
Delaware	Х		Х		Х	
Erie	Х	Х	X	X		Х
Franklin		Х	Х	Х		Х
Lancaster		Х	Х	Х		
Lehigh		Х	Х	Х	Х	
Montgomery			Х	Х	Х	
Northampton		Х	Х	Х		
Northumberland		Х	X	Х		
Pike	Х		Х			
York	X		X	X		Х

Yet localities have the legal right to make deliberate choices about the role, if any, they play in ICE's enforcement scheme. Localities nationwide are enacting policies that, for example, restrict the information shared with ICE, limit ICE's access to local jails, prohibit inquiries into immigration status or place of birth, or more generally prohibit the use of local resources to engage in federal immigration enforcement. Most recently, localities have also started to cancel their lucrative federal contracts to detain immigrants in local jails or prisons. Such cancellations suggest a discomfort with Trump administration policies and "an attempt to disengage from federal policies seen as harmful to immigrant families."8 In Pennsylvania, local communities too are organizing and advocating for more immigrant-friendly policies at the local level. We hope that the information provided in this report will assist local communities and organizations in shaping their positions on these issues.

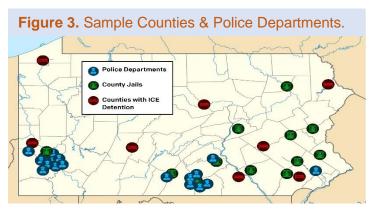
## **BACKGROUND**

While ICE may conduct enforcement activities alone, it also collaborates with localities. Such collaboration can take at least three different forms (Figure 2). First, local law enforcement agencies can sign a formal contract. A 287(g) memorandum of agreement



(MOA), for example, authorizes local officials to carry out ICE enforcement duties, such as inquiring into individuals' immigration status and detaining those suspected of civil immigration violations. Local jails may also enter into a federal contract to lease bed space to detain immigrants for ICE. Second, localities may have written policies outlining their cooperation with ICE after taking an immigrant into custody in their jail. Such policies may outline how they honor an ICE detainer or alternatively require notification and collaboration with ICE prior to the release of an immigrant. Third, there are numerous ways that local jails and police informally support ICE enforcement efforts.

We focused on a sample of counties and local police departments (Figure 3).<sup>10</sup> For counties, we selected counties that have current contracts to detain immigrants for ICE. Further, we largely concentrated on counties that had the largest population of immigrants after Philadelphia.<sup>11</sup> For local police, we selected a sampling of such



departments based on information provided by community based organizations.

We organize this report into three sections. Part I examines how counties both formally and informally share information and collaborate with ICE to target immigrants. In Part II, we focus on how counties profit from detaining immigrants for ICE through federal contracts. Finally, Part III explains the various ad hoc ways in which local police departments are informally collaborating with ICE.

# PENNSYLVANIA COUNTIES SYSTEMATICALLY COLLABORATE WITH ICE

Pennsylvania counties share information and cooperate with ICE both formally and informally. We found that county jails engage in systematic information sharing and cooperation pursuant to both written policy and informal practice. 12 County probation department personnel also helped ICE to arrest immigrants by either providing personal information, such as their home address or place of employment, or taking active steps to ensure the appearance of immigrants at their office. This collaboration with ICE happened even where the county had a "sanctuary" policy against honoring ICE detainers.

## County Jails Informally and Formally Collaborate with ICE

In general, Pennsylvania county jails systematically share information with ICE on a weekly, if not daily basis (Figure 4).<sup>13</sup> For most counties, the sharing of information with

ICE is pursuant to an informal practice. few Α counties such as Chester Franklin. and however. specify this regular sharing of information as part of their policies.<sup>14</sup> When written counties share information about individuals, they may provide a roster of who is being held or specifically provide ICE with

Figure 4. County Jails Sharing Information with ICE.

<b>County Jail</b>	<u>Information</u>
Adams	Daily reports

Chester Access to daily population reports

Clinton Weekly inmate report All booking information Dauphin

Daily housing, booking, release reports Erie

Franklin Jail roster every weekday

Daily admission and release forms Lancaster

Daily lists Lehigh

Commitment summary Northampton Northumberland Weekly inmate report

access to booking or release information.

As part of their procedures for booking individuals, county jails regularly ask for place of birth, citizenship status, or a social security number. 15 Of the 14 counties that provided us with information about their inmate booking procedures, 13 of those counties asked one or more of the above questions. 16 Three counties, Dauphin, Lancaster, and Lehigh, specifically revealed that they share this booking information with ICE.<sup>17</sup> Dauphin County, for example, states that "Any/all information gathered at the intake process is shared with ICE. ICE is able to obtain any/all information entered at the time of processing."18 ICE appears to use place of birth information to target immigrants for enforcement.<sup>19</sup>

Further, county jails also provide ICE with information in response to ICE's formal and informal requests about a specific targeted immigrant. ICE may try to notify localities that it is looking for someone by contacting a local official by email or phone, or providing notification through a Form I-247A (Figure 5).<sup>20</sup> Many county jails outline this cooperation in their written policies. Bucks, Chester, Dauphin, Franklin, Lehigh, and

**Figure 5.** ICE's Formal Request to Local Agencies.

New Form I-247A. Requests the local agency to notify ICE prior to the release of an immigrant or detain an immigrant for 48 hours so that ICE may pick them up.

Montgomery Counties, for example, all have written policies that they will provide notice to ICE "before the subject's pending release." These policies specify whom to contact, whether it is the ICE official who issued the detainer, PHI.DETAINER PICKUP@ice.dhs.gov, or specific officers with whom the county has contact. They may also note a specific time frame for notification and pick up. For example, it may be 4 hours from "satisfying his/her bail requirement" or "48 hours in advance on any and all cases where ICE has issued a detainer." Alternatively, county officials may informally coordinate pick up with ICE when individuals are being released from the jail. It is a support to the provide notice of the provide no

Sometimes collaboration between county jails and ICE is more ad hoc. In Franklin County, for example, officials coordinate with ICE by securing parole orders for immigrants so they can be released from county jail. In one email, an official from Franklin County Jail tells an ICE official: "A vital piece of information that [I] forget to tell you, is that he will need a parole order, but if you know when you are coming [I] can let prerelease know, so they make sure the parole order states the correct effective date." <sup>25</sup> In Dauphin County, officials at the jail will contact ICE when they "receive a hit from fingerprinting" to see if ICE wants to issue a detainer. <sup>26</sup> While only one county, Berks, provided us with records reflecting regular visits from ICE to their jails, ICE's own records note that they have access to almost all county jails in Pennsylvania. <sup>27</sup>

Figure 6. Sample Counties that Do
Not Honor ICE Detainers but Hold
for ICE.

CountiesHold for ICEBucks4 hoursChester4 hoursDauphin2 hoursFranklin2-4 hoursLehighApprox. 4 hoursMontgomery4 hours

Notably many of these counties that systematically collaborate with ICE also have a written policy that prohibits the county jails from honoring an ICE detainer to hold an immigrant for 48 hours.<sup>28</sup> In other words, such "sanctuary" type policies seemingly have no correlation with whether a county jail is actively collaborating with ICE. In 2015, a Sheller Center Study found that there was an emerging trend that counties in Pennsylvania were no longer

honoring ICE detainers, after the Third Circuit decision in *Galarza v. Szalczyk*.<sup>29</sup> The Third Circuit held that ICE detainers were not mandatory and that localities could be found liable

for wrongfully detaining an individual pursuant a detainer.30 The policies of noncooperation that proliferated post-Galarza, however, are being implemented extremely narrowly. The Immigrant Legal Resource Center (ILRC) has mapped ICE's own records about county level cooperation with respect to individuals targeted by ICE.31 In Pennsylvania, for example, ICE's records show that almost all counties accept ICE's formal request for notification of release.<sup>32</sup> Further, ICE notes that counties with a written policy to not honor ICE detainers to hold immigrants for 48 hours often still hold immigrants upon request (Figure 6).33

Lehigh County, where the Galarza case took place, is a good example of how counties can have a policy to not hold immigrants pursuant to an ICE detainer but collaborate in all other respects with ICE. As a result of *Galarza*, Lehigh County prohibited officials from detaining an individual with an ICE detainer in the absence of a judicial warrant.<sup>34</sup> Lehigh County, however, does everything else it can to collaborate with ICE. In a letter from ICE dated after the policy went into effect, ICE confirmed that it "look[ed] forward to the implementation of collaborative efforts." The Lehigh County Jail would not only fax over daily lists but also accept ICE's formal request for notification of release (former Form I-247N). ICE wrote that the county would "make every effort to notify ICE prior to release" including "contact[ing] ICE as soon as they know an individual is to be released."35

Rather, it appears that in many counties, the effect of Galarza was simply to cause the county to avoid legal liability by creating a limited prohibition against the use of ICE detainers. In all other respects, however, most of these counties continue to cooperate fully with ICE.36 In fact, ICE's own notes reveal that many counties that will not hold for the full 48 hours on an ICE detainer are willing to hold for 2-4 hours, until 10 pm, or the "end of the day."37

Further, ICE has contacted county jails as part of the Trump administration's program to expand the 287(g) cooperation, which allows local officials to conduct federal immigration enforcement pursuant to a MOA. A recent FOIA by the American Civil Liberties Union of Pennsylvania revealed that ICE reached out to county jails to see if they were interested in becoming "287(g) partners." 38 ICE lists having received nine positive responses (Armstrong, Butler, Cambria, Chester, Erie, Franklin, Perry, Westmoreland, and York), three non-responses (Adams, Bucks, and Montgomery Counties), and one negative response (Dauphin County).<sup>39</sup> In our information requests, we did not find that any of the county jails, which ICE lists as being interested in a 287(g) agreement, have taken further steps to proceed with such agreements.

# **County Probation Departments Informally Collaborate with ICE**

ICE is actively collaborating with county probation departments in Pennsylvania. 40 A FOIA response from ILRC covering correspondence from 2016 to 2018 between ICE and various counties in Pennsylvania uncovered the ways in which ICE is systematically **Figure 7.** E-mail Excerpt between Delaware County Probation and ICE.

Probation (5/14/18, 10:42 am): 5/21/18 at 9am. I spoke with her to confirm and also sent a letter.

thanks Any children that you're aware of?

**Probation (5/14/18, 11:29 am):** She has only one kid and she lives with him/her.

ICE (5/14/18, 11:36 am): Ok, hopefully the kid will be in school on her appointment day.

ICE (5/18/18, 3:50 pm): Due to some operational issues on Monday (5/21), we are going to need to set another date to take into custody. I apologize for the late notice but is there any way we can work out something for her next report date, possibly in about a month?

Probation (5/18/18, 3:54 pm):
is going to be hard to keep
making excuses for her to come in
as we have transferred her case to
Philly. Sooner or later she is gonna
figure this out.

ICE (5/18/18, 3:57 pm): Ok, I understand. In that case, and I will still be there on Monday morning.

targeting probation departments for enforcement purposes. Such county probation departments included Beaver, Bucks, Chester, Delaware, Lehigh, and Montgomery Counties.

ICE contacts probation about specific immigrants whom ICE seeks to arrest. County probation departments will readily cooperate by providing information about the immigrant, such as phone numbers, home addresses, places of employment, or information about family members.<sup>41</sup> They also help to coordinate the arrest by telling ICE when the immigrant will be coming in to report for their regular probation meetings.<sup>42</sup>

The probation department's cooperation does not end there (Figure 7).<sup>43</sup> Instead, they may actually help entice immigrants to come in person for appointments or provide material support to ICE, such as access to the holding cell at the courthouse.<sup>44</sup> One probation officer told ICE that they could help because the immigrant "was just sentenced a week ago, so chances are good I can get him in here without suspicion. I can tell him he has to sign supervision papers, etc."<sup>45</sup> Another probation officer told an ICE officer "I can attempt to get him [the immigrant] to report in person if he needs to be taken into custody."<sup>46</sup>

A review of the correspondence reveals, however, that many of the immigrants targeted by these methods were involved in misdemeanor crimes, such as simple assaults and DUIs, and participating in Accelerated Rehabilitative Disposition (ARD). In other

words, these are immigrants who are attempting to comply with the conditions of their probation. Further, since the court usually houses probation departments, immigrants are being arrested while at the local courthouse trying to comply with orders in their case. Courthouse arrests are problematic because they instill fear in immigrant communities

about coming to court. $^{47}$  The result, therefore, is to undermine the right of all individuals to be able to access the courts. $^{48}$ 

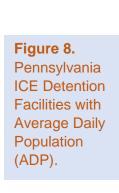
## ICE DETENTION IN PENNSYLVANIA COUNTY JAILS

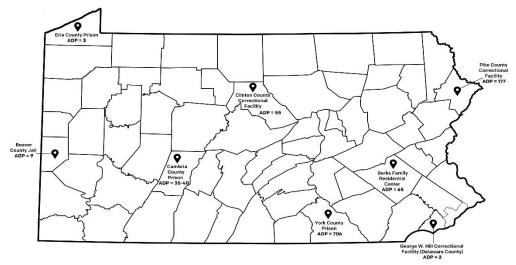
Pennsylvania county jails play a crucial role in the ICE detention infrastructure.<sup>49</sup> When ICE encounters and arrests an immigrant for a violation of civil immigration laws, ICE often places the immigrant in detention.<sup>50</sup> Immigrants who are detained in Pennsylvania jails are technically in civil detention, which means that they have neither been charged with a crime nor are serving time for a criminal conviction. Many immigrants are unable to secure release because they either cannot afford payment of the bond or are categorically excluded from getting bond.<sup>51</sup>

Our findings reveal that counties are profiting from detaining immigrants. ICE detention constitutes a significant income source for county jails. Further, we found that ICE's usage of Pennsylvania county jails to detain immigrants has steadily grown over the past few years. These profits from ICE detention, however, come at the cost of troubling civil and human rights violations.

## Eight Pennsylvania Counties Are Actively Detaining Immigrants for ICE

With no federal detention facility in Pennsylvania, Pennsylvania jails are the primary facilities that detain immigrants for ICE (Figure 8).52 These county jails have federal contracts with either ICE or the US Marshals Service, renting out beds to detain immigrants for ICE on a per diem basis.<sup>53</sup> In Pennsylvania, we focused on seven county jails that hold federal contracts and are actively detaining immigrants for ICE: York, Pike, Clinton, Cambria, Erie, Beaver, and Delaware. With the exception of the privately-run Delaware County's George W. Hill Correctional Facility, these jails are county-run institutions. Berks is the eighth county that detains immigrants for ICE, but does so through a county-run family detention facility in Leesport.<sup>54</sup>





Nearly all of these facilities are located in rural parts of Pennsylvania, hours away from major cities such as Philadelphia, Pittsburgh, and Harrisburg. They are far from legal and social services. Further, once an immigrant enters ICE detention, they can be difficult to locate. Some immigrants may be transferred among two or even three jails during their detention. Such shuffling of individuals is arbitrary and confusing for immigrants, their families, and legal advocates.<sup>55</sup> An American Immigration Council report found that of ICE detainees in fiscal year 2015, 86 percent experienced at least one intercity transfer, 37 percent experienced at least one interstate transfer, and 29 percent experienced at least one transfer across federal judicial circuits.<sup>56</sup> Given ICE's frequent transfer of immigrants, it is difficult to trace, other than anecdotally, where immigrants in Pennsylvania are being sent for detention.

As a regional hub for ICE detention, York County Prison ("York") has 800 beds specifically set aside for ICE.57 York is one of the largest ICE detention centers in the country.<sup>58</sup> In March 2018, for example, York housed 767 ICE detainees.<sup>59</sup> York detains immigrants, on average, for approximately seven weeks,60 although some may be held for many more months or years.<sup>61</sup> The Immigration Court is adjacent to the ICE detention wing at the back of the prison. This Court only hears cases of immigrants in ICE detention, either at York or other Pennsylvania county jails by videoconference.<sup>62</sup>

While York is the main destination for most ICE detainees in Pennsylvania, Pike County Correctional Facility ("Pike") is the second largest ICE detention facility in Pennsylvania, with 220 of its 375 beds set aside for immigrants detained by ICE.<sup>63</sup> Pike's average daily population is 177 ICE detainees.<sup>64</sup> On average, Pike holds immigrants for approximately 100 days.65

Clinton County Correctional Facility ("Clinton") serves as an important overflow site. Immigrants detained at Clinton are generally housed for considerably shorter periods, ranging from one to three weeks.<sup>66</sup> As of 2018, the average length of stay at Clinton was 12 days.<sup>67</sup> Although no ICE officials are based in Clinton County, ICE visits the facility on a weekly basis.<sup>68</sup> Clinton County Commissioner Paul Conklin has said: "the facility's location right off of route 80 makes it easy for ICE officials to house and transfer people with detainers traveling through Pennsylvania."69 Approximately one-third of Clinton's beds (100 of the 320 total beds) are reserved for ICE detainees.<sup>70</sup> The average daily population at Clinton is 55.71

While Cambria County Prison ("Cambria") has not served as a major ICE detention facility in the past, it has increasingly become another important overflow site since 2016. Cambria's average daily ICE detainee population rose from 4 in fiscal year 2016, to 35-40 in August 2018.<sup>72</sup> In September 2018, Cambria's ICE detainee population rose to a high of approximately 73 because it was absorbing the overflow from Clinton. 73 While the average length of stay is 9 days, it may soon increase.74

The remaining county jails detain a smaller number of immigrants for ICE, often destined for longer-term ICE facilities. These facilities are located near opposite corners of the state. Delaware County's George W. Hill Correctional Facility ("Delaware") is located in Southeastern Pennsylvania, about an hour from Philadelphia and a half hour from New Jersey and Delaware. Erie County Prison ("Erie") is located in the northwest corner of the state, near Canada and upstate New York. Beaver County Jail ("Beaver") is located in Southwestern Pennsylvania, 40 minutes away from Pittsburgh to the east and Ohio to the west. Delaware, Erie, and Beaver hold small numbers of immigrants for ICE. Delaware's average daily population, for example, is 2, and immigrants stay in the facility for an average of 1-3 days. 75 Erie holds an average of 3 immigrants per day, for an average stay of 1-7 days.<sup>76</sup> Beaver more recently began holding immigrants for ICE, with an average daily population of 9, for an average stay of 1-7 days.<sup>77</sup>

The Berks County Residential Center ("Berks") is one of three family detention facilities in the country that detains parents and children. Berks has 96 beds available.<sup>78</sup> In 2017, Berks detained a total of 876 immigrants.79 As of October 2018, Berks had detained 902 immigrants in that calendar year.<sup>80</sup> In fiscal year 2017, the average length of stay was 58 days, although some families in the previous year had been held for more than one year.81

## **Counties Profit from Detaining Immigrants**

The detention of immigrants for ICE is big business nationwide.82 Pennsylvania counties are no exception: they receive millions of dollars by detaining immigrants for ICE (Figure 9).83 Through federal contracts, counties are paid on a per diem basis for each ICE

Figure 9. Estimated Revenue for County Jails (2018).			
County Jail	Per Diem/Bed	Avg. Daily Population Revenue	
York	\$98.69	706	\$25,431,426
Pike	\$83.41	177	\$5,388,703
Clinton	\$75.00	55	\$1,505,625
Cambria	\$70.00	38	\$970,900
Delaware	\$80.87	2	\$59,035
Erie	\$75.00	3	\$82,125
Beaver	\$44.00	9	\$144,540

detainee. For example, Pike received over \$5.2 million from ICE in 2017.84 For the following 10 months (January to October 2018), ICE detention generated Pike nearly \$3.5 million in revenue.85 In 2017, Clinton received \$1.4 million from ICE. For the following 9 months (January September 2018), Clinton received over \$1 million in payments from ICE.86 Berks does not appear to receive a

per diem rate, but rather a fixed monthly rate for detaining families regardless of how

many beds are being used.<sup>87</sup> In their contracts with ICE, this amount appears to be \$530,000 per month, although Berks itself reported a much smaller amount of annual revenue from ICE of \$1.3 million in 2018.88

For at least a decade, ICE detainees at York, Pike, and Clinton have constituted one of the largest, if not the largest, sources of jail revenue. Four million dollars (95.9%) of the \$4.1 million that Clinton generates in revenue, for example, comes from the jail's contracts for housing non-county detainees, including immigrants detained for ICE.89 In 2017, Pike received over \$5.2 million from ICE, accounting for 90% of the prison's total revenue for the year. 90 From January to October 2018, ICE detention generated Pike nearly \$3.5 million in revenue, comprising 91% of the prison's total revenue during that time period.91 Warden Craig Lowe of Pike County recently reported that he "[recouped] roughly half of his \$8 million annual budget" by housing ICE detainees. 92

In general, county jail budgets constitute a major portion of general fund expenditures. ranging from roughly 10-25% of the entire county budget (Figure 10).93 These jails can often operate at a deficit, meaning that their revenue does not completely cover their expenses.94 County jails can use their federal contracts for detaining immigrants to offset operating costs and maximize revenue.

Figure 10. County Jail Budgets.			
County	2018 General Fund Expenses (in millions)	2018 Prison Expenses (in millions)	Prison Expense (% of Total)
York	\$247.7	\$60.6	24.5%
Pike	\$40.0	\$5.5	13.8%
Clinton	\$23.1	\$6.6	28.6%
Cambria	\$56.5	\$11.2	19.8%
Erie	\$105.2	\$18.7	17.7%
Beaver	\$75.1	\$9.6	12.8%

Besides detaining immigrants for ICE, county jails make money from other related contracts. County jails, for example, earn profits from exclusive contracts with telephone companies that provide services inside the jail. Several sample telephone contracts revealed that county jails earned from a range of 38.5% to 69% of the gross revenue from such contracts. 95 Pike has a telephone contract with DSI-ITI, Inc. for which it receives a flat profit of \$3,333.33 per month (a total of \$40,000 per year). 96 The rates in Pike range from \$.21 per minute for local calls to \$1 per minute for an international call, exclusive of other transaction fees.<sup>97</sup> These exorbitant charges are particularly hard on immigrants in detention in remote areas, who unlike prisoners in the criminal context, do not have a right to court-appointed counsel.98 Immigrants who represent themselves, therefore, may not be able to afford the phone calls necessary to gather evidence for their case. 99

Further, counties also make money by transporting immigrants for ICE. In Cambria, for example, prison staff transports immigrants for additional income for a contractual rate of \$34 per hour. 100 On September 13, 2018, the local newspaper reported that "ICE plans to provide a vehicle to the Cambria County Prison soon to assist with the increased transports that have created a shortage of Cambria's vehicles."101

### ICE Detention Is Growing in Pennsylvania

The rise in immigrant detention has fueled demand for additional ICE detention bed space. 102 As a result, the detention of immigrants for ICE in Pennsylvania county jails has generally grown over the past four years both in terms of the number of beds used and the length of time immigrants remain in detention.

York's average daily ICE detainee population rose from 640 in fiscal year 2015 to 738 in 2018.<sup>103</sup> Cambria County Prison's immigrant population has similarly increased over the past few years. In 2016, the prison housed a total of 591 ICE detainees. 104 In 2017, the yearly total for ICE detainee admissions rose to 955, an increase of 62%. 105 Clinton has gone from holding an average daily population of 13 in 2014 to an average daily population of 55 in 2018.<sup>106</sup>

At smaller facilities, ICE has been seeking new and amended contracts to increase bed capacity. Most recently, ICE entered into what appears to be a new contract with Beaver. 107 In Delaware County, ICE amended its contract (August 1, 2018 to July 31, 2019), tripling the number of "ordered" beds from 105 to 357, making the obligated minimum payment by ICE payment to the county prison more than triple as well, from \$8,491.35 to \$28,870.59.108 For the same time period, ICE entered into a new contract with Erie, with 46 "ordered" beds for ICE detainees, making the obligated minimum payment of \$3.450.109

Counties are also making more money from detaining immigrants for longer periods of time. Pike, for example, has been holding ICE detainees for increasingly long periods over the past few years. 110 As of February 13, 2018, the average ICE detainee stay at Pike was over 100 days, nearly double the average stay of 52 days from five years ago in September 2013.<sup>111</sup> Correspondingly counties are making larger profits. From 2015 to 2017, Pike's annual revenue from ICE went from \$3.5 million in 2015 to \$5.2 million in 2017.<sup>112</sup> Clinton's revenue from ICE has dramatically increased over the years, more than quadrupling from \$285,667.30 in 2016 to over \$1.48 million in 2017. The same state of the same state o September 2018, Clinton received over \$1 million in payments from ICE. 114 Delaware County, a short term facility, has seen its overall revenue increase from 2016 to 2018 (e.g., \$2,103 per month in August 2016, compared to \$8,977 per month in August 2018).

Cambria is a prime example of a county prison that has strategically taken advantage of the growth in ICE detention under the Trump administration. In 2016, Cambria County renegotiated the county's federal contract, leading to a 5-year agreement guaranteeing payment of \$70 per day per ICE detainee. 115 The contract reserves 60 of the prison's 450 beds for federal detainees. 116 Following Trump's election in November 2016. Warden Smith reached out to ICE to offer more of the prison's bed space to the agency to boost revenue (Figure 11).117

Figure 11. Statement by Warden Smith, Cambria County Prison.

"With the new presidential administration in place, we expected an increase in ICE arrests, immigration arrests. We reached out to our immigration officials and told them that we would be willing to take on more detainees if they were able to provide them."

Increasing the number of ICE detainees provided an opportunity for bringing in revenue to help with the county prison budget. While Cambria had an average daily population of 4 ICE detainees in fiscal year 2016, a local newspaper on September 13, 2018, reported that the prison was expecting to house approximately 73 ICE detainees by the weekend. 118 In May 2018, Cambria installed video-conferencing technology, so that immigrants can appear remotely for their immigration court hearings held at York. 119 Such technology also allows Cambria to increase its revenue by keeping immigrants on a longer term basis. 120

## ICE Detention Centers Routinely Violate Civil and Human Rights

Pennsylvania counties that detain immigrants for ICE routinely violate the civil and human rights of immigrants. These immigrants are in civil detention for an extended period of time because they are challenging their removal and applying for relief to remain in the US. While in detention, immigrants in Pennsylvania have faced civil rights issues, including accessing adequate medical care.

Across the nation, substandard medical care is endemic in ICE detention facilities. 121 Detainees have even died from treatable diseases such as diabetes, pneumonia, and staph infections.<sup>122</sup> County jails that operate as ICE detention facilities in Pennsylvania similarly suffer from subpar healthcare. The 2012 ICE's Office of Detention Oversight (ODO) inspection at York, for example, found that medical grievances were not addressed within the required five days, and physical exams of ICE detainees were not performed within the required fourteen days after admission. 123 In 2014, the ODO inspection of York found that the facility had involuntarily administered psychotropic medication to an immigrant, and psychotropic medications were given without obtaining proper consent. 124

Similarly, a 2016 Enforcement and Removal Operations (ERO) inspection of Pike found a lack of 24-hour one-on-one monitoring of suicidal detainees. 125 The 2016 ODO

inspection of Pike found that the facility failed to consistently obtain informed consent when administering psychotropic medications. 126 The report also found that staff failed to document all medications administered, did not consistently screen new arrivals for tuberculosis within the required twelve hours, and did not review intake screening forms when prioritizing detainee medical treatment. 127 ICE detainees at Pike also alleged medical neglect, including issues related to dental care, hand fractures, and follow-up after surgery. 128 Another detainee alleged that he had suffered two heart attacks and expressed fear of dying at Pike due to poor medical care. 129

Two ICE detainees committed suicide in ICE custody in Pennsylvania in 2011 and 2013. Investigations into both suicides revealed systemic failures in healthcare and safety at both institutions. In February 2011, 47-year-old Qi Gen Guo committed suicide at Clinton. 130 "An after action review...by [Clinton] found that assigned security staff had not made the required inspection rounds." 131 In addition, "[Guo] had not eaten for several days" and refused his last two meals. 132 Although security staff were ordered to retain an interpreter to find out why Guo was not eating, they did not comply with the directive. 133 Throughout Guo's detention at Clinton, staff sought out other Chinese detainees to interpret between Guo and the staff, including for medical appointments, despite the fact that these detainees spoke the wrong Chinese language (Mandarin vs. Fujianese). 134 Eight months after Guo's death, the facility still received an overall "acceptable" rating in 2011.135

In 2013, 34-year-old Tiombe Kimana Carlos committed suicide at York after two and a half years in ICE custody. 136 Independent experts who examined ICE's own investigation records found that Carlos' suicide was preceded by "woefully inadequate" mental health care. 137 A licensed professional counselor, for example, noted Carlos' mental health history in an evaluation shortly after her admission to York, but staff never created a mental health treatment plan. 138 Carlos' detention record contained eight disciplinary actions and multiple placements in disciplinary segregation, some of which lasted for months. 139 One staff member described one of Carlos' previous suicide attempts as "done for attention."140 Staff used force against Carlos at least four times: three incidents involved the use of pepper spray and one involved the use of a taser. 141 According to Carlos' attorney, there was no end in sight to her detention. 142 Carlos spent at least nine months in isolation, including the two and a half months prior to her suicide. 143

At Berks, one of three family detention facilities in the US, there have been complaints about inadequate medical care for children. One complaint involved a three year old who

was vomiting blood for four days before being taken to the hospital. 144 A six year old with a severe dental condition was also denied care and later sent to the emergency room from complications. 145 resulting Two children recounted how distressed they were to witness a child collapse and stop breathing while staff members ignored the emergency. 146 Experts agree that detention of children in and of itself negatively affects the health of children (Figure

Figure 12. Detention of Children.

Medical professionals who have met with detained families at Berks have stated that detention inherently threatens the mental well-being of children, traumatizing them and creating feelings of hopelessness.

12). 147 While Pennsylvania has revoked Berks' license to operate as a facility for children, Berks can still operate because the issue is currently tied up in litigation between the county and the Pennsylvania Department of Human Services. 148

Finally, immigrants have alleged other civil rights violations against jails in Pennsylvania. In 2017, a female immigrant at York, surnamed Santos, filed a federal civil rights complaint with the Office of Civil Rights and Civil Liberties of the Department of Homeland Security (DHS) along with 26 other alleged victims "for the unbridled sexual abuse/harassment they endured in immigration detention centers across the country." 149 Santos alleges that an immigration official told her "she would be sexually assaulted 'oneon-one' as he escorted her [to York]."150 After she filed a sexual harassment complaint, the prison placed her in solitary confinement in retaliation.<sup>151</sup> While DHS receives numerous complaints of sexual assault, 98% of those complaints are "deemed . . . unsubstantiated or referred back to the agency accused of abuse with no follow-up." 152

In 2015, one mother was subjected to repeated sexual assault by a guard in Berks. 153 Berks' response was to issue a dress code for women and children. 154 An inspection report of York from 2014 also reported that there were eleven allegations of sexual assault, and in one case, York took more than 24 hours to report the allegation to ICE. 155 ICE's corrective action plan in 2016 for Pike required that it remedy its process for routine strip searches during the admissions process. 156 ICE's review of the annual ERO inspection report at Pike also revealed 11 use of force incidents; 3 ICE detainees who went on hunger strike; and 7 sexual assault allegations. 157

Despite the findings and allegations of human rights and civil rights abuses of immigrants detained in Pennsylvania county jails, none of the inspection reports we reviewed gave deficient ratings after 2009. 158 The standards for passing inspection are notoriously low. 159 In March 2018, Tara Tidwell Cullen of the National Immigrant Justice Center noted: "[every] 'authorized' ICE facility has passed every inspection since 2012, even those where...people have died [due to] medical neglect." 160 In 2018, DHS itself, through its own Office of the Inspector General, wrote that ICE's inspections and onsite monitoring

not only failed to "ensure consistent compliance with detention standards" but also did not "promote comprehensive deficiency corrections." <sup>161</sup>

## LOCAL POLICE DEPARTMENTS AND ICE

Collaboration between Pennsylvania's local police departments and ICE is primarily ad hoc. Most agencies have no formal policy whatsoever relating to immigration inquiries during routine police activities or collaboration with ICE. ICE is actively capitalizing on this landscape by courting and promoting cooperation with local law enforcement officials to assist in enforcing civil immigration laws. As a result, a local police department's conduct towards immigrants is often subject to an individual officer's discretion.

The case-by-case nature of informal collaboration in Pennsylvania means that communities are unclear on what they can expect from their local law enforcement. Fear of ICE involvement in local policing exacerbates the already-existing divide between communities and the police. 162 Communities, therefore, become less safe as police are perceived as enforcers of immigration law so that immigrants and their family members are reluctant to report crimes. 163 By contrast, encouraging departments to proactively limit or prohibit their officers from policing immigration or communicating with ICE is one mechanism for creating accountability and safer communities (Figure 14). 164

#### A Lack of Policies Enables Ad Hoc Collaboration

The majority of local police departments we examined lack formal policies relating to immigrants and ICE. Since local cooperation with ICE is essentially unregulated, individual police officers are free to cooperate with ICE. As a result, local communities are left confused about what actions by police toward immigrants are permissible.

We asked 18 police departments for their written policies relating to ICE cooperation and policing immigration (Appendix, Exhibit C). Eleven departments explicitly told us that no such policies exist in response to our request. 165 Among those who did provide responsive documents of some kind, only four provided formal written policies, 166 and only one of those was specific to immigrants and ICE. 167

Our follow-up phone conversations generally confirmed that formal policies or practices about ICE cooperation simply do not exist. Indeed, several departments simply indicated that they would assist ICE in enforcing its warrants just as they would any other federal, state, or local law enforcement agency serving a warrant in their jurisdiction. 168 This approach, however, ignores the fact that ICE warrants are fundamentally different from warrants issued by the criminal justice system. 169 Unlike a standard arrest warrant in the criminal context, ICE issues its own administrative warrants for civil immigration violations that need not be reviewed by a judicial officer or require probable cause. 170 The conflation of the two different kinds of warrants highlights the subtle but powerful impact of not having formal policies defining an agency's collaboration with ICE. Agencies may default to support to ICE warrants simply because such assistance is considered standard practice.171

Likewise, most departments we examined lacked written policies on policing immigration. Only one agency, Castle Shannon's Police Department, had a policy, which actually authorizes local police to detain a person if they have reasonable suspicion that the person entered the county "in violation of a federal criminal law." 172 While police can only detain for a criminal (not a civil) immigration violation, officers are instructed to ascertain which type of violation it is by contacting ICE directly. 173

Several police departments in Allegheny County produced a letter, from the County's District Attorney Stephen Zappala, Jr., reminding them that "Pennsylvania law enforcement officers are not permitted to independently enforce federal immigration law."174 In the letter sent to the heads of local police departments, he explains that an ICE administrative warrant is not a legal basis for detaining or arresting a person. 175 It also notes that police officers may not legally extend the length of a stop for immigration inquiry purposes alone. 176 The District Attorney, however, has no direct oversight over the many local police departments in the boroughs and townships of Allegheny County. 177 Further, we received no written records from police departments reflecting changed practices or policies recognizing these legal limitations of cooperating with ICE.

Figure 13. Statement by Local Police Official in Western Pennsylvania.

"If we want to ask immigration status, we can. My personal opinion is, if you're breaking the law, you're breaking the law."

The absence of a policy defining a department's approach to cooperation with ICE and policing of immigration, therefore, provides the opportunity for individual officers to act individually based on 13).<sup>178</sup> personal motivations (Figure Such opportunities can lead to instances of racial profiling, discrimination, and harassment. Two departments we spoke to claimed that if ICE were to call them, they would gladly provide any support the ICE agents needed.<sup>180</sup> Another police official described

circumventing its nearby county jail, which has a "sanctuary" policy to refuse ICE detainers, by sending immigrants to another county jail that cooperates with ICE. 181 The lack of formal policies shifts discretion to individual officers who may have personal relationships with ICE.

The Pennsylvania State Police has recently issued a policy where it prohibits its officers from questioning or detaining individuals solely based on their immigration status or acting on an ICE administrative warrant for civil immigration violations. 182 This policy, however, does not prohibit state police from contacting ICE. 183 Yet a small but growing number of police departments nationwide are adopting policies that limit or prohibit police from cooperating with ICE or policing immigration (Figure 14).<sup>184</sup> Albuquerque, New Mexico, for example, has a policy that prohibits municipal resources from being used "to identify individuals' immigration status or apprehend persons on the sole basis of immigration, unless otherwise required by law to do so."185 New Orleans prohibits police officers from agreeing to requests from ICE to "support or assist in immigration enforcement operations." 186 For many years, Philadelphia has had a policy that explicitly instructs its police officers not to inquire into the immigration status of any individual. 187 The rationale behind such policies is that if police willingly participate in enforcing the federal immigration laws, it will hurt their ability to investigate and solve serious crimes in local communities. 188

#### Figure 14. Sample Policies to Minimize Cooperation with ICE.

- Prohibit using police resources to enforce civil immigration law.
- Prohibit police from acting based on an ICE administrative warrant (not signed by a judicial officer).
- Limit joint operations with ICE.
- Prohibit police from inquiring into immigration status.
- Prohibit initiating contact with individuals based on a suspicion about immigration
- Limit the disclosure of immigration or citizenship status except when required by law.

## ICE Capitalizes on an Open Field

Given their lack of policies pertaining to local immigration enforcement or collaboration with ICE, local police departments are prime targets for ICE "advertising." ICE is proactively seeking the assistance of local departments in its enforcement operations. As a result, there are many opportunities for interested departments to collaborate with ICE, both formally and informally.

## ICE Promotes Formal Collaboration with 287(g)

The formal method for ICE to capitalize on local law enforcement is to enlist agencies in the 287(g) program. ICE advertises the program to local jails and police departments with the goal of deputizing local officers as on-the-ground immigration agents.

The federal government cannot legally compel state and local governments to enforce national immigration law. 189 However, interested state and local governments can voluntarily participate in the 287(g) program through an MOA. 190 As part of the MOA, the local department delegates one or more of its officers to receive specialized federal immigration training and become authorized to enforce immigration within the local jurisdiction. 191

In early 2017, ICE reached out to law enforcement agencies across the state to promote the program and gauge interest. 192 As noted in Part I, while some of the focus was aimed at county jails, there was also substantial correspondence with police departments. 193 Earlier this year, several police departments in Pennsylvania expressed enthusiasm for the program and were in contact with ICE to learn more.<sup>194</sup> At least within the sample departments we contacted, there has not been further movement on signing these agreements nor did there appear to be any further advertising since that original email chain.

Figure 15. Statement by ICE Official to SPIN.

"I [have been] ultimately trying to get other law enforcement agencies to give us a call anytime they have an encounter with someone where there is a possible nexus with immigration."

At least one police department expressed a lack of interest in following through on 287(g) based on the program's lack of financial incentive. 195 There are other local/federal contractual programs like 287(g) that involve law enforcement, such as Organized Crime Drug Enforcement Task Forces (OCDETF) with the DOJ and Joint Terrorism Task Forces (JTTF) with the FBI. 196 Like 287(g), these agreements generally involve deputizing a local officer to carry out the duties of a federal agent. The difference, however, is that DOJ and FBI may pay more expenses, such as a local officer's overtime wages or provide a percentage of the proceeds any time its deputized officer works on an investigation that results in a civil asset forfeiture. 197

Moreover, police departments nationwide have begun to appreciate the impracticality and outright disadvantages to participating in 287(g). 198 Local governments that have terminated 287(g) agreements have cited financial difficulties as well as public safety implications. 199

#### **ICE Courts Informal Collaboration**

While 287(g) has ultimately gained little traction in Pennsylvania thus far, ICE has also courted police departments in other ways. Even in the absence of a legal contract, ICE agents advertise themselves to local police as helpful resources and ask those departments to call them whenever necessary. This type of ICE advertising is designed to facilitate cooperation between local police and ICE.

In October 2018, for example, an ICE official emailed the Southwestern Pennsylvania Intelligence Network (SPIN), which is comprised of local law enforcement officers and criminal justice agencies.<sup>200</sup> The ICE official described his email as a "sales pitch" about something other than 287(g).201 The goal of the email was to encourage active cooperation between local police and ICE, and to offer himself as a resource.<sup>202</sup> ICE has been using police chiefs' associations as a venue for this type of advertising.<sup>203</sup>

In particular, the agent describes in detail what that informal collaboration might look like. Local police are asked to forward demographic and identifying information directly to ICE after any encounter with an immigrant (Figure 15).<sup>204</sup> Further, local police are encouraged to call an individual ICE agent directly during the stop itself.<sup>205</sup> By offering language services, ICE explains that it can conduct a field interview directly with the detained individual and obtain relevant information for immigration and deportation purposes.<sup>206</sup> This particular ICE official claims that ICE is increasing "efforts to identify, locate, and arrest those that have not yet wound up in the spot light" and believes "that's where local law enforcement comes in."207

ICE also encourages collaboration between local police and ICE by inserting its administrative warrants in the National Crime Information Center (NCIC) database run by the Federal Bureau of Investigation (FBI).208 When an officer stops an individual, the officer typically enters that person's identifying information into a National Crime Information Center (NCIC) database.<sup>209</sup> They may discover an administrative warrant by ICE based on civil immigration records during the course of a routine stop.<sup>210</sup> The database program typically lists a general 1-800 number for ICE that a local officer viewing an administrative warrant can call for more information.<sup>211</sup> Police officials reported to us that they would assist in detaining an immigrant or contact ICE based on a positive hit in NCIC.212 ICE's Enforcement and Removal Operations Manual instructs officials to enter non-criminal administrative warrants, which need not be reviewed by a judicial officer, into the NCIC database.<sup>213</sup> At least one study, however, found that 42% of NCIC immigration hits were false positives.<sup>214</sup>

ICE's efforts to court informal collaboration result in communication between individual police officers and ICE agents on an ad hoc basis. Our efforts to obtain written records of such communications between police departments and ICE agents turned up very few documents. Only a handful of departments had written records in which they had logged contact with ICE.<sup>215</sup> Otherwise we received no written records of such communications.

Knowing an ICE agent personally facilitates a local officer's ability to communicate with the federal agency (Figure 16).216 When speaking to police departments, we found that some had relationships with ICE. Local officers in one department we spoke to described how the department has the name and contact information of an individual ICE agent.<sup>217</sup> Any time an officer "picks up someone who isn't documented," that officer can place a direct phone call to a known ICE agent.<sup>218</sup> This practice is in contrast with the practice many years ago when

Figure 16. Statement by Local Police Official in Eastern Pennsylvania.

"It comes down to keeping good records, developing good relationships... then instead of calling the office and getting a receptionist who doesn't really care, better just to call the [ICE] agent directly."

officers in this same department would only call ICE's general information line.<sup>219</sup> Another police official explained that he used to have the name and number of an agent at ICE back when he was on active duty, but since moving into management no longer had this up-to-date information.<sup>220</sup>

A police chief we talked to explained that there was no formal protocol for collaborating with ICE and that officers would simply exercise their best judgment on whom to contact, depending on the circumstances.<sup>221</sup> His example, although more than 10 years old from his days on patrol, involved calling ICE because he could not communicate with an individual due to a language barrier.<sup>222</sup> While he could not remember the details of what happened, he explained that this scenario might be one in which his department's officers might consider contacting ICE.<sup>223</sup>

Since such interagency communication with ICE is informal, it is often untraceable and largely protected from public accountability. Given the lack of policies about policing immigration, the result is an open field for ICE to build relationships and encourage collaboration with local police.

## CONCLUSION

This report outlines how county jails, probation departments, and police departments interlock with ICE's enforcement system in Pennsylvania. This cooperation with the local criminal justice system funnels immigrants into ICE detention for deportation from the United States.

County jails and probation departments regularly and systematically collaborate with ICE by providing information or actively helping to locate immigrants. Counties also make profits from federal contracts for detaining immigrants. These immigrants are being held for civil immigration violations during the administrative processing of their case. While they are in detention for non-punitive purposes, they can be subject to troubling conditions while in ICE detention. Although no police department has arranged for formal collaboration with ICE, individual police officers in many townships and boroughs may take it upon themselves to question individuals regarding their immigration status and call ICE to detain these individuals. ICE officials too have actively sought to forge and strengthen relationships with local police in order to funnel more immigrants into ICE detention.

Local communities, however, are recognizing that they can organize and advocate for changes at the local level. By providing more systematic information about how cooperation occurs between ICE and local criminal justice systems in Pennsylvania, the hope is that community based organizations can advocate for reform going forward.

### APPENDIX - METHODOLOGY

### **Geographic Narrowing**

Pennsylvania is home to 67 counties and hundreds of municipalities classified as cities, townships, and boroughs. We selected a small sample of counties and borough and township police departments based on a few factors. First, we investigated counties that were actively detaining immigrants for ICE. Second, we focused on counties with the highest number of immigrants. Finally, we selected police departments based on our conversations with community based organizations.

#### **Right to Know Requests**

We sent out a total of 39 RTK requests to 19 local police departments and 20 county jails. A full list of RTK recipients can be found in Exhibit A. In our requests to jails, we asked for documents in the two jail-related categories listed above: ICE detention, and ICE information-sharing (see Exhibit B for a sample RTK request to a local jail). In our requests to police departments, we asked for policies relating to immigration and ICE cooperation (see Exhibit C for our standardized RTK request to police departments).

### **Statements by Officials**

We made follow-up phone calls to 10 police departments. In these calls, we spoke to police chiefs, lieutenants, and sergeants. These calls were intended to supplement the responses received to our RTK requests. In particular, we attempted to obtain information from officials about their department's written and informal policies and practices. Further, we relied on public statements made by officials in various press articles.

## **Data Obtained by Other Advocacy Organizations**

We relied on FOIA results generously shared with us by three advocacy organizations. In particular, we relied throughout the report on information obtained by ILRC obtained from their lawsuit against DHS.224 Further, we used American Civil Liberties Union of Pennsylvania's FOIA information about 287(g) cooperation.<sup>225</sup> Finally, we used the publicly available nationwide data on ICE detention obtained by the National Immigration Justice Center.<sup>226</sup>

#### **Exhibit A**

### **Police Departments**

Dormont Bendersville **Brentwood** Castle Shannon Chambersburg Biglerville Fox Chapel Gettysburg Green Tree Hanover Harrisburg Monroeville Moon Mount Lebanon Mount Oliver Ross Township **Upper Darby** West Mifflin

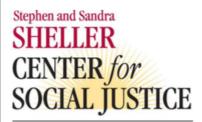
#### **County Jails**

Adams County Prison Allegheny County Jail **Bucks County Jail** Chester County Prison Dauphin County Prison Franklin County Jail Lackawanna County Prison Lancaster County Prison Lehigh County Jail Montgomery County Correctional Facility Northampton County Prison Northumberland County Jail

#### Counties with ICE Detention

Beaver County Jail Berks Family Residential Center Cambria County Prison Clinton County Correctional Facility George W. Hill (Delaware County) Erie County Prison Pike County Correctional Facility York County Prison

#### **Exhibit B**





1719 North Broad Street Philadelphia, PA 19122 (T):215.204.8800 (F): 215.204.4881 www2.law.temple.edu/csj

October 1, 2018

#### BY ELECTRONIC MAIL

jmeyers@clintoncountypa.com

Jann Meyers, Chief Clerk Attn: Right to Know Request Commissioners Office 232 E. Main Street Lock Haven, PA 17745

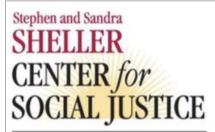
> Right to Know Request - ICE and Post-Custody Policies in Clinton County Correctional Facility

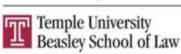
To Whom It May Concern:

#### A. Clinton County Correctional Facility & Detainees for US Immigration and Customs Enforcement (ICE)

- Any current or most recent Intergovernmental Service Agreement (IGSA), contracts, agreements, or memoranda of understanding between ICE and Clinton County or Clinton County Correctional Facility;
- 2. Any current or most recent Intergovernmental Agreement (IGA), contracts, agreements, or memoranda of understanding between ICE and Clinton County or Clinton County Correctional Facility;
- 3. Any records regarding ICE detainees in Clinton County Correctional Facility, created or updated from 2015 to the present, tallying or reporting monthly or annually (we are requesting documents that summarize, aggregate, or compile such data):
  - The number of detainees held;
  - The number of grievances filed;
  - The categories or subject matter of grievances filed; and
  - The outcomes or resolutions of grievances filed.
- 4. Any and all ICE Enforcement and Removal Operations Inspection Reports of Clinton County Correctional Facility from 2013 to the present, as well as any and all U.S. DHS

1





1719 North Broad Street Philadelphia, PA 19122 (T):215.204.8800 (F): 215.204.4881 www2.law.temple.edu/csj

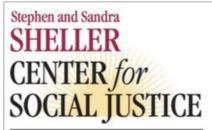
> Office of Detention Oversight Compliance Inspection Reports of Clinton County Correctional Facility from 2015 to the present.

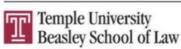
- 5. Current contracts, agreements, or memoranda of understanding pertaining to healthcare, commissary services, telecommunications services, and interpretation/translation services provided to ICE detainees at Clinton County Jail.
- 6. Current contracts, agreements, or memoranda of understanding pertaining to the transportation of ICE detainees to and from Clinton County Correctional Facility.
- 7. The most recent annual budget for Clinton County Correctional Facility that indicates both funding sources and operating expenses.
- 8. Any documents that contain budgetary information from 2015 to present about:
  - The payments made by or amounts received from ICE or USMS to Clinton County/Clinton County Correctional Facility for ICE detainees; and
  - The costs incurred by Clinton County/Clinton County Correctional Facility for ICE detainees.
- Clinton County Correctional Facility Detainees or Inmates Held on Criminal Charges B.

Any record, reports, policies, agreements, correspondence, forms, or documents from 2015 to present reflecting:

- 1. Questions asked of individuals entering or in Clinton County Correctional Facility on criminal charges about their immigration status, national origin, or country of birth.
- 2. Sharing of information with ICE about individuals in Clinton County Correctional Facility on criminal charges (e.g., names, date of birth, immigration status, country of birth).
- 3. Sharing of access with ICE to incident reports, booking records, or databases with information about individuals in Clinton County Correctional Facility on criminal charges.

2





1719 North Broad Street Philadelphia, PA 19122 (T):215.204.8800 (F): 215.204.4881 www2.law.temple.edu/csj

- 4. Presence of ICE officials in Clinton County Correctional Facility (including formal or informal agreements to interview individuals in the Correctional Facility's custody on criminal charges).
- 5. Number or times ICE officials visit Clinton County Correctional Facility to talk to individuals in the Correctional Facility's custody on criminal charges.
- 6. Transferring individuals from the custody of Clinton County Correctional Facility to ICE custody.

Our preferred form for the requested records is digital copies (such as Word files or PDFs), sent as email attachments or via fax. If you are unable to provide electronic copies, the Center requests that you waive duplication costs under Section 1307(f)(2) of the Right to Know Law because the Center is at a nonprofit educational institution conducting research that promotes the public interest.

Please call us at (215) 204-8800 or email TempleShellerCenter2018@gmail.com if you have any questions or concerns. Thank you for your assistance.

Sincerely,

Amy Chin-Arroyo Solena Laigle Arik Davidson

#### **Exhibit C**

# Right to Know Request Sheller Center for Social Justice, Temple University Beasley School of Law

- 1. Any department policy, directive, order, training materials, or other document regarding the:
  - a. requesting, recording, investigating, or reporting of any individual's immigration status, national origin, or place of birth;
  - b. contacting, stopping, detaining, arresting, or interrogating an individual to verify their identification or driver's license; or
  - c. the use and acceptance of foreign identification.
- 2. Any policy, directive, order, training materials, or other document that relates to your department's contact or referral/sharing information with US Immigration and Customs Enforcement (ICE) about an individual's immigration status, national origin, or place of birth. This request includes any documents that reflect providing ICE access to the department's databases.
- 3. Any documents that reflect communication between your department and ICE from 2015 to the present. This request includes communications related to:
  - a. sharing information (e.g., incident reports, booking or database information);
  - b. collaborating by assisting in roving patrols, the apprehension of suspects, or the creation or implementation of vehicle checkpoints;
  - c. the 287(g) program;
  - d. providing back-up for ICE enforcement activities; or
  - e. providing office space for ICE representatives to use.

## REFERENCES

<sup>1</sup> ICE arrests in Pennsylvania increased by 34% in fiscal year 2017 from 2016. Kristin Bialik, ICE arrests Went Up in 2017, With Biggest Increases in Florida, Northern Texas, Oklahoma, Pew Research Center (Feb. 8, 2018), http://www.pewresearch.org/fact-tank/2018/02/08/ice-arrests-went-up-in-2017-withbiggest-increases-in-florida-northern-texas-oklahoma/.

- <sup>4</sup> IMMIGRANT LEGAL RESOURCE CENTER (ILRC). THE RISE OF SANCTUARY 17-20 (2018): see also Justin Jouvenal, County by County, ICE Faces Growing Backlash, WASH, POST (Oct. 1, 2018); Jordan Graham. Orange County Forum on Sheriffs' Cooperation with ICE Leaves Activists Frustrated, Public Officials Silent, ORANGE COUNTY REGISTER (Dec. 4, 2018); Corev W. McDonald, Hudson County Advocates Cheer New 'Trust Directive,' NJ.COM (Nov. 29, 2018); Bobby Allyn, Philadelphia Is Ending a Major Contract with ICE, NPR (Jul. 26, 2018).
- <sup>5</sup> In 2018. Pro Publica did a series of investigative articles on ICE enforcement in Pennsylvania that delved into local cooperation with ICE. See, e.g., Deborah Sontag and Dale Russakof, For Cops Who Want to Help ICE Crack Down on Illegal Immigration, Pennsylvania Is a Free-For-All, PROPUBLICA (Apr. 12, 2018).
- <sup>6</sup> Figure 1 is based on currently known information. Part I outlines this information in more detail and notes the various sources for the information. Apart from the first column, the absence of an "x" does not necessarily indicate that the county is not engaging in this form of collaboration. It simply means that we were not able to obtain information about this kind of collaboration in that county.
- <sup>7</sup> Simon Romero, All Over U.S., Local Officials Cancel Deals to Detain Immigrants, N.Y. TIMES (Jun. 28, 2018).
- 9 Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, https://www.ice.gov/287g (last visited Dec. 14, 2018). <sup>10</sup> Appendix, Ex. A.
- <sup>11</sup> U.S. Immigrant Population by State and County, MIGRATION POLICY INSTITUTE, https://www.migrationpolicy.org/programs/data-hub/charts/us-immigrant-population-state-and-county (last visited Jan. 2, 2019) (select Pennsylvania and "(Total)" under Country/Region of Origin from the drop down menu). We included the top ten counties apart from Philadelphia.
- <sup>12</sup> ILRC, THE RISE OF SANCTUARY, *supra* note 4, at 6 (discussing county-ICE collaboration nationwide). <sup>13</sup> Figure 4 is comprised from information from Right to Know (RTK) Responses from Chester (Nov. 9, 2018); Clinton (Feb. 4, 2019); Dauphin (Nov. 2, 2018); Erie (Nov. 2, 2018); Franklin (Oct. 8, 2018); Lancaster (Nov. 9, 2018); Lehigh (Nov. 7, 2018); Northampton (Nov. 14, 2018); and Northumberland (Oct. 30, 2018). The one exception is Adams County, which is based on a phone conversation with the Records Dep't at Adams County Adult Correctional Facility (Oct. 6, 2014). Counties that denied having information responsive to our request included Allegheny, Berks, Bucks, Cambria, Delaware, Lackawanna, and Montgomery Counties.
- <sup>14</sup> Chester County Prison's Policies and Procedures, Immigration and Customs Enforcement (ICE) Detainers (Oct. 3, 2014); Franklin County Jail, Immigration and Customs Enforcement (ICE) Detainers, Policy No. 200.35.
- <sup>15</sup> The state rules governing county jails, in fact, require that they ask for this information as part of their admission procedures. 37 Pa. Code § 95.222(1)(v).
- <sup>16</sup> See, e.g., RTK Responses from Allegheny (Nov. 8, 2018); Adams (Nov. 7, 2018); Cambria (Nov. 8, 2018); Chester (Nov. 9, 2018); Clinton (Nov. 1, 2018); Delaware (Nov. 29, 2018); Dauphin (Nov. 2, 2018); Erie (Nov. 2, 2018); Franklin (Oct. 8, 2018); Lancaster (Nov. 9, 2018); Lehigh (Nov. 7, 2018); Montgomery (Oct. 5, 2018); and Northampton (Nov. 14, 2018).
- <sup>17</sup> RTK Responses from Dauphin (Nov. 2, 2018); Lehigh (Nov. 7, 2018); and Lancaster (Nov. 9, 2018).

<sup>&</sup>lt;sup>2</sup> See, e.g., Amanda Holpuch, 'I Live in Fear': Under Trump, Life for America's Immigrants Can Change in a Flash, GUARDIAN (Oct. 18, 2018), https://www.theguardian.com/us-news/2018/oct/18/immigration-icedeportation-undocumented-trump.

<sup>&</sup>lt;sup>3</sup> See id.

<sup>18</sup> RTK Response from Dauphin (Nov. 2, 2018).

- <sup>19</sup> See, e.g., Letter from Jeffrey Lynch, Deputy Field Director, ICE, to Sheriff Joe Pelle, Boulder County Sheriff (Apr. 3, 2012) (explaining that the jail's "Foreign Born Inmate Report" has been a valuable resource in locating immigrants).
- <sup>20</sup> ICE used to use three forms for making requests with local law enforcement agencies: Forms I-247D (Immigration Detainer), I-247N (Request for Voluntary Notification of Release), and I-247X (Request for Voluntary Transfer). ICE replaced these forms and consolidated them into the new Form I-247A, effective April 2, 2017. Among other changes, this form combines the notification of release and detainer into one form. ICE Guidance for Completing Form I-247A, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, https://www.ice.gov/sites/default/files/documents/Document/2017/I-247A-Guidance.PDF (last visited Jan.
- <sup>21</sup> Bucks County Memo from Lt. Kratz to Records Office re ICE Detainers (Apr. 15, 2014); Chester County Prison's Policies and Procedures, Immigration and Customs Enforcement (ICE) Detainers (Oct. 3, 2014); Dauphin County Prison, ICE/DHS Priority Enforcement Program, Local Policy Chapter 6.5 (Jan. 27, 2016); Franklin County Jail, Immigration and Customs Enforcement (ICE) Detainers, Policy No. 200.35; Lehigh County, Pennsylvania, Res. 2014-36 (May 14, 2014); RTK Response from Montgomery (Oct. 5, 2018); County of Erie, Department of Corrections, Memo from Deputy Warden Holden to A/R Staff/Records re Immigration Holds vs. Detainers (Oct. 1, 2014). <sup>22</sup> Id.
- <sup>23</sup> RTK Response from Montgomery (Oct. 5, 2018).
- <sup>24</sup> RTK Response from Bucks (Nov. 30, 2018).
- <sup>25</sup> RTK Response from Franklin (Oct. 8, 2018).
- <sup>26</sup> RTK Response from Dauphin (Nov. 2, 2018).
- <sup>27</sup> Other counties explained either that ICE did not consistently use their sign in book or that it was too voluminous to produce. See, e.g., RTK Response from Erie (Nov. 2, 2018) ("ICE officials appearing at the prison, may, or may not, sign a booking log or an oversized visitor book and their identification as ICE employees may, or may not, be apparent from documents"); RTK Response from Northampton (Nov. 14, 2018) ("We expected to have a sign in book, but were advised that ICE had not used the same and production would not disclose the information requested"). Philadelphia County prohibits ICE access to its jails. Memo re: Motion for Preliminary Injunction at 36-37, Philadelphia v. Sessions, No. 2:17-cv-03894-MMB (E.D. Pa. Nov. 15, 2017) (Doc. 74).
- <sup>28</sup> Counties that refuse to honor ICE detainers and hold immigrants for 48 hours include: Allegheny, Bucks, Chester, Dauphin, Delaware, Franklin, Lehigh, Montgomery and Pike, We have conflicting information for Erie County.
- <sup>29</sup> SHELLER CENTER FOR SOCIAL JUSTICE, A CHANGING LANDSCAPE: PENNSYLVANIA COUNTIES REEVALUATE POLICIES ON IMMIGRATION DETAINERS 2 (2015).
- <sup>30</sup> Galarza v. Szalczyk, 745 F.3d 634, 635 (3d Cir. 2014).
- 31 ILRC, National Map of Local Entanglement with ICE, https://www.ilrc.org/local-enforcement-map (last visited Jan. 16, 2019) (noting results of FOIA information for each county by clicking on the county within the map).
- 32 Id. ICE's records tracked whether counties would accept the former Form I-247N, which was a notification of release form.
- <sup>33</sup> *Id.*; see also RTK Response from Montgomery (Oct. 5, 2018).
- <sup>34</sup> Lehigh County, Pennsylvania, Res. 2014-36 (May 14, 2014).
- <sup>35</sup> Letter from Thomas Decker, Field Office Director, DHS/ICE Enforcement & Removal Office, Phila., Pa. to Edward Sweeney, Director of Corrections, Lehigh County Department of Corrections (Nov. 4, 2015).
- <sup>36</sup> The data obtained by ILRC shows ICE's work to otherwise convince counties to hold immigrants even if they do not honor ICE detainers. ILRC, National Map, supra note 31. 37 Id.
- 38 American Civil Liberties Union (ACLU) of Pa., Open Records Request, Re: Local Law Enforcement Interest in Immigration Enforcement, available at https://www.aclupa.org/our-work/legal/legaldocket/openrecords-request-re-local-law-enforcement-interest-immigration-enforcement (last visited Jan. 19, 2018); ILRC, ILRC v. DHS (Jul. 24, 2018), available at https://www.ilrc.org/immigrant-legal-resource-center-vdepartment-homeland-security (last visited Jan. 19, 2019). <sup>39</sup> *ld*.

- <sup>40</sup> In September 2018, Philadelphia County's Probation and Parole Department has agreed to stop sharing information with ICE by limiting or prohibiting contact and requests for information about immigration status. Conversation with Nadia Hewka, Senior Attorney, Community Legal Services (Jan. 4,
- <sup>41</sup> ILRC, DHS' Response to ILRC's Freedom of Information Act Request (2018).
- <sup>42</sup> Id. When targeting individuals, ICE sometimes prepares and sends over to probation departments a Form I-200, a warrant of arrest signed by an ICE official, not by a judicial officer.
- <sup>43</sup> *Id*.
- <sup>44</sup> *Id*.
- <sup>45</sup> *Id*.
- <sup>46</sup> *Id*.
- <sup>47</sup> SHELLER CENTER FOR SOCIAL JUSTICE, OBSTRUCTING JUSTICE: THE CHILLING EFFECT OF ICE'S ARREST OF IMMIGRANTS AT PENNSYLVANIA COURTHOUSES 12 (2019).
- <sup>48</sup> *Id.*; ACLU, FREEZING OUT JUSTICE: HOW IMMIGRANT ARRESTS AT COURTHOUSES ARE UNDERMINING THE JUSTICE SYSTEM 2 (2018).
- <sup>49</sup> See Laurel Wamsley, As It Makes More Arrests, ICE Looks for More Detention Centers, NPR (Oct, 26, 2017) ("The ICE website lists dozens of detention facilities around the country, but many of them are county jails").
- <sup>50</sup> Denise Gilman, To Loose the Bonds: The Deceptive Promise of Pretrial Immigration Detention, 92 IND. L.J. 157, 159-60 (2016).
- <sup>51</sup> *Id.* at 165-66, 201.
- <sup>52</sup> Figure 8 is comprised of the following information. York: DHS, ICE, Office of Detention Oversight Compliance Inspection, York County Prison (Aug. 2017). Pike: DHS, ICE, Detention Review Summary Form for Facilities Used Over 72 Hours, Pike County Correctional Facility (Feb. 2018). Clinton: Lauren Lee, Are ICE Detainees Held in Central PA?, CENTRE DAILY (Jul. 15, 2018),
- https://www.centredailv.com/latest-news/article214203454.html. Cambria: Jocelyn Brumbaugh, Cambria County Prison Prepares for Federal Inspection, (Aug. 9, 2018) THE TRIBUNE-DEMOCRAT,
- https://www.tribdem.com/news/cambria-county-prison-prepares-for-federal-inspection/article 38c9a01e-9b87-11e8-9d30-1f7f1d7b888d.html. Delaware: National Immigrant Justice Center (NIJC), ICE Detention Facilities as of November 2017 (Nov. 2017),
- https://www.immigrantjustice.org/ice-detention-facilities-november-2017 (last visited Jan. 23, 2019) (download Excel data file). Erie: Id. Beaver: Id. Beaver's ADP may be in flux as it has recently started to house immigrants. The 2018 monthly intake numbers range from 18-47 immigrants. RTK Response from Beaver (Nov. 7, 2018). Berks: NIJC, ICE Detention Facilities as of November 2017 (Nov. 2017). Moshannon Valley Correctional Center, a private prison for federal inmates in criminal custody near Philipsburg, Centre County, Pennsylvania, also houses ICE detainees.
- <sup>53</sup> Many more county jails have federal contracts to hold federal detainees, which could allow ICE to detain immigrants in their facilities. NIJC, supra note 52. We focus here, however, on those facilities that are actively being used in Pennsylvania.
- <sup>54</sup> In Morgantown, Pennsylvania, there is also a juvenile detention center, Abraxas Academy, which is not an Office of Refugee Resettlement Shelter. Rather, ICE contracts with juvenile jails to hold children under 18 separate from adults, including their family members. Tara Tidwell Cullen, ICE Released its Most Comprehensive Immigration Detention Data Yet. It's Alarming. (Mar. 13, 2018), NIJC,
- https://immigrantjustice.org/staff/blog/ice-released-its-most-comprehensive-immigration-detention-datayet (last visited Jan. 19, 2019).
- <sup>55</sup> Conversation with Alexa Siegel, Staff Attorney, Pa. Immigrant Resource Center (Sept. 24, 2018): Conversation with Erika Almiron, Executive Director, Juntos (Sept. 17, 2018).
- <sup>56</sup> Emily Ryo & Ian Peacock, The Landscape of Immigration Detention in the United States, American Immigration Council (Dec. 5, 2018), https://americanimmigrationcouncil.org/research/landscapeimmigration-detention-united-states (last visited Jan. 19, 2019). <sup>57</sup> NIJC, supra note 52.
- <sup>58</sup> Tanvi Misra, Where Cities Help Detain Immigrants, CITYLAB (Jul. 10, 2018) https://www.citylab.com/equity/2018/07/where-cities-help-detain-immigrants-mapped/563531/ (last visited Jan. 23, 2019).

- <sup>59</sup> David Weissman, Hanover Immigrant's Run-In with ICE Highlights Lack of Accountability, YORK DISPATCH (Apr. 19, 2018), https://www.yorkdispatch.com/story/news/local/2018/04/19/hanoverimmigrants-run-ice-highlights-lack-accountability/525080002/.
- 60 DHS, ICE, Office of Detention Oversight Compliance Inspection, York County Prison (Mar. 2014).
- 61 See, e.g., Mike Argento, Legal Immigrant Freed after Being Detained 2 Years in York County Prison, YORK DAILY RECORD (Aug. 29, 2018), http://www.witf.org/news/2018/08/legal-immigrant-freed-after-beingdetained-2-years-in-york-county-prison.php.
- 62 Rick Lee, York's Immigration Court Can Be Black Hole of Information, YORK DAILY RECORD (Apr., 4, 2017), https://www.ydr.com/story/news/2017/04/04/yorks-immigration-court-can-black-holeinformation/99421356/.
- 63 DHS, ICE, Office of Detention Oversight Compliance Inspection, Pike County Correctional Facility (Sept. 2013).
- 64 DHS, ICE, Detention Review Summary Form for Facilities Used Over 72 Hours, Pike County Correctional Facility (Feb. 2018).
- 65 Nakamoto Group, Inc., Annual Inspection of the Pike County Correctional Facility by Office of Enforcement and Removal Operations (Feb. 2018).
- 66 DHS, ICE, Office of Detention Oversight Compliance Inspection, Clinton County Correctional Facility (Jun. 2012) (noting an average stay of 27 days); DHS, ICE, Office of Detention Oversight Compliance Inspection, Clinton County Correctional Facility (Jul. 2014) (noting an average stay of 7 days). 67 Lee, L., supra note 52.
- 68 Id.
- 69 Id.
- <sup>70</sup> DHS, ICE, Office of Detention Oversight Compliance Inspection, Clinton County Correctional Facility (Jul. 2014).
- <sup>71</sup> Lee, L., supra note 52.
- <sup>72</sup> NIJC, supra note 52; Brumbaugh, Cambria County, supra note 52.
- <sup>73</sup> Jocelyn Brumbaugh, Pa. Prison Prepares to Take Additional ICE Detainees, (Sept. 13, 2018), THE TRIBUNE-DEMOCRAT, https://www.correctionsone.com/overcrowding/articles/480385187-Pa-prisonprepares-to-take-additional-ICE-detainees/.
- <sup>74</sup> NIJC, supra note 52; see infra note 119.
- <sup>75</sup> NIJC, *supra* note 52; RTK Response from Delaware (Nov. 29, 2018).
- <sup>76</sup> NIJC, supra note 52; RTK Response from Erie (Nov. 2, 2018).
- <sup>77</sup> NIJC, *supra* note 52; RTK Response from Beaver (Nov. 7, 2018). *See supra* note 52.
- <sup>78</sup> Report of the DHS Advisory Committee on Family Residential Centers 3 (Sept. 30, 2016), available at https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf.
- <sup>79</sup> RTK Response from Berks (Nov. 27, 2018),
- 80 Id.
- 81 NIJC, supra note 52; Report on DHS Advisory Committee, supra note 78, at 4.
- 82 See, e.g., Matt Katz, Under Trump, Democratic New Jersey Counties Cash in on Detaining Immigrants, WNYC NEws (Jul. 11, 2018); https://www.wnyc.org/story/under-trump-liberal-new-jersey-counties-cash-indetaining-immigrants/; Clyde Haberman, For Private Prisons, Detaining Immigrants Is Big Business, N.Y. TIMES (Oct. 1, 2018).
- 83 Estimated revenue is calculated by multiplying the Average Daily Population (ADP) by the Per Diem Rate for 365 days. See Figure 8 for ADP figures. Per diem rates are from the following. York: ICE/Detention Compliance & Removals, Amendment of Solicitation/Modification of Contract with County of York (Dec. 2016). Pike: DHS, ICE, Detention Review Summary Form for Facilities Used Over 72 Hours, Pike County Correctional Facility (Feb. 2018). Clinton: Lee, L., supra note 52. Cambria: USMS, Detention Services Intergovernmental Agreement (May 2016): **Delaware:** RTK Response from Delaware (Nov. 29, 2018). Erie: RTK Response from Erie (Nov. 2, 2018). Beaver: DHS, ICE, Operational Review Self-Assessment for ICE Intergovernmental Services Agreement with Beaver County Jail (Jun. 27, 2017). As Beaver more recently began to detain immigrants, this estimated figure may not be as accurate. From January to September 2018, ICE paid Beaver a total of \$65,780, an average of \$7,308 per month. RTK Response from Beaver (Nov. 7, 2018).
- 84 RTK Response from Pike (Oct. 23, 2018).
- 85 Id.

<sup>86</sup> RTK Response from Clinton (Nov. 1, 2018).

- <sup>87</sup> ICE Detent Mngt/Detent Contracts-DC, Amendment of Solicitation/Modification of Contract (Feb. 2012) (noting "[t]his is a fixed rate agreement, not a cost reimbursable agreement, with respect to the detainee day rate"). See also Chico Harlan, Inside the Administration's \$1 Billion Deal to Detain Central American Asylum Seekers, WASH. POST (Aug. 14, 2016) (explaining how the family detention facilities in Texas are paid a fixed monthly rate).
- 88 Compare ICE Detent Mngt/Detent Contracts-DC, Amendment of Solicitation/Modification of Contract with County of Berks (Feb. 2012) with Anthony Orozco, David Mekeel, Karen Shuey, What You Need to Know about the Residential Center Holding Immigrant Families in Berks County, READING EAGLE (Jun. 23, 2018), https://www.readingeagle.com/news/article/berks-detention-center-again-in-spotlight.
- 89 RTK Response from Clinton (Nov. 1, 2018); Phone Conversation with Clinton County Official (Nov. 19, 2018).
- 90 RTK Response from Pike (Oct. 23, 2018).
- <sup>91</sup> *Id.*
- 92 Stephen Sacco, Federal Inmates Pay Off for Pike County, POCONO RECORD (Jun. 23, 2008) https://www.poconorecord.com/article/20080623/News/80623015.
- 93 Figure 10 is comprised of the following information. York: County of York, Summary All Funds (2019) Budget). Pike: County of Pike, Pike County Board of Commissioners (2018 Budget). Clinton: Clinton County Pa. (2018 Final Budget); RTK from Clinton (Nov. 1, 2018) (Budget Worksheet for 2019). Cambria: Cambria County, Revenue vs. Expenses - Actuals
- https://cambriacountypa.opengov.com/transparency#/17851/guery=6580A442CEA5FCB1D354CD1D5F3 E2E7B&embed=n (select Revenue vs. Expenses - Actuals) (last visited Jan. 27, 2019); RTK from Cambria (Nov. 8, 2018) (Expenditure Status Report). Erie: Erie County, PA, Open Budget (General Fund), http://budget.eriecountypa.gov/#!/year/2018/operating/0/fund\_description (Prison Operations), http://budget.eriecountypa.gov/#!/year/2018/operating/0/fund\_description/GENERAL+FUND/0/department description (last visited Jan. 27, 2019). Beaver: Board of County Commissioners, 2018 Commissioners' Adopted Budget.
- 94 Although Clinton County set aside 28.7% of its general fund (\$6.6 million) for the county jail in 2018, the jail ended the year with a \$2.4 million deficit. RTK from Clinton (Nov. 1, 2018) (Budget Worksheet for 2019). See also Lindsey Kennett, Cambria County Prison Housing Illegal Immigrants (Mar. 7, 2017), WTAJ, https://www.wearecentralpa.com/news/cambria-county-prison-housing-illegalimmigrants/668277064.
- 95 RTK Responses from Beaver (Nov. 7, 2018); Cambria (Nov. 8, 2018); Berks (Nov. 27, 2018); Erie (Nov. 2, 2018); and York (Nov. 7, 2018).
- <sup>96</sup> Letter from Gary R. Orben, Chief Clerk, Pike County Commissioners, to Thomas J. Gibney, Acct. Exec., Global Tel Link Corp. (Jun. 29, 2016) (attaching vending agreement between Pike County and DSI-ITI).
- <sup>97</sup> *Id*.
- 98 Leticia Miranda, Dialing with Dollars: How County Jails Profit from ICE Detainees, NATION (May 15,
- 99 Id.
- <sup>100</sup> USMS, Detention Services Intergovernmental Agreement for Cambria County Prison (May 2016).
- <sup>101</sup> Brumbaugh, *Pa. Prison*, *supra* note 73.
- 102 Geneva Sands, This Year Saw the Most People in Immigration Since 2001, CNN (Nov. 12, 2018), https://www.cnn.com/2018/11/12/politics/ice-detention/index.html.
- 103 Compare NIJC, supra note 52 with RTK Response from York (Nov. 7, 2018).
- <sup>104</sup> RTK Response from Cambria (Nov. 8, 2018) (noting total 2016 ICE admissions). <sup>105</sup> *Id*.
- 106 Compare DHS, ICE, Office of Detention Oversight Compliance Inspection, Clinton County Correctional Facility (Jul. 2014) with Lee, L., supra note 52.
- 107 Beaver appears to have more recently entered into a contract with ICE, DHS, ICE, Operational Review Self-Assessment for ICE Intergovernmental Services Agreement with Beaver County Jail (Jun. 27, 2017) (noting initial review of the facility); Beaver County Jail Policy & Procedures No. 3.06.1 re Federal Inmates

- (ICE Detainees) (Aug. 2018) ("The Beaver County will house ICE detainees due to a contractual agreement with ICE and the county").
- <sup>108</sup> ICE Detention Compliance Removals, Amendment of Solicitation/Modification of Contract, Delaware County Pa. (May 10, 2018).
- 109 ICE Detention Compliance Removals, Amendment of Solicitation/Modification of Contract, Erie County Inc. (May 8, 2018). Erie held ICE detainees pursuant to a more general federal contract for detaining federal inmates. See, e.g., USMS, Intergovernmental Services Agreement, Housing Federal Prisoners, Erie County (Dec. 13, 2001).
- <sup>110</sup> NIJC, supra note 52.
- 111 Compare Nakamoto Group, Inc., Annual Inspection of the Pike County Correctional Facility by Office of Enforcement and Removal Operations (Feb. 2018) with DHS, ICE, Office of Detention Oversight Compliance Inspection, Pike County Correctional Facility (Sept. 2013).
- <sup>112</sup> RTK Response from Pike (Oct. 23, 2018).
- <sup>113</sup> RTK Response from Clinton (Nov. 1, 2018).
- <sup>115</sup> USMS, Detention Services Intergovernmental Agreement with Cambria County Prison (May 2016); Kecia Bal Johnstown, JAIL TIME: Facing Rising Costs and Demands for Cells, Lockups Find Creative Ways to Meet Budgets, CUMBERLAND TIMES-NEWS (Jun. 18, 2016), https://www.timesnews.com/news/local news/jail-time-facing-rising-costs-and-demands-for-cells-lockups/article 42a35bd1-78d3-560b-b2bb-b34163febcfd.html.
- <sup>116</sup> USMS, Detention Services Intergovernmental Agreement for Cambria County Prison (May 2016).
- <sup>117</sup> Kennett, *supra* note 94.
- <sup>118</sup> NIJC, supra note 52; Brumbaugh, Pa. Prison, supra note 73.
- <sup>119</sup> Brumbaugh, *Pa. Prison*, *supra* note 73.
- <sup>120</sup> *Id.*
- 121 HUMAN RIGHTS WATCH, SYSTEMIC INDIFFERENCE: DANGEROUS AND SUBSTANDARD MEDICAL CARE US IMMIGRATION DETENTION (2017).
- 122 Nazish Dholakia, Witness: A Needless Death in US Immigration Detention (May, 8, 2017), https://www.hrw.org/news/2017/05/08/witness-needless-death-us-immigration-detention.
- <sup>123</sup> DHS, ICE, Office of Detention Oversight, Compliance Inspection, York County Prison (Apr. 2012).
- 124 DHS, ICE, Office of Detention Oversight, Compliance Inspection, York County Prison (Mar. 2014).
- 125 Nakamoto Group, Inc., Annual Inspection of the Pike County Correctional Facility by Office of Enforcement and Removal Operations (Jan. 2016).
- <sup>126</sup> DHS, ICE, Office of Detention Oversight, Close Out Report from Compliance Inspection, Pike County Correctional Facility (Mar. 2016).
- <sup>127</sup> *Id*.
- 128 DHS, ICE, Office of Detention Oversight Compliance Inspection, Pike County Correctional Facility (Mar. 2016).
- <sup>129</sup> *Id*.
- <sup>130</sup> DHS, ICE, Office of Detention Oversight Compliance Inspection, Clinton County Correctional Facility (Oct. 2011).
- <sup>131</sup> *Id.*
- <sup>132</sup> *Id.*
- <sup>133</sup> *Id*.
- <sup>134</sup> DHS, ICE Office of Professional Responsibility, Report of Investigation, Case No. 201105188 (Jun. 16.
- <sup>135</sup> DHS, ICE, Office of Detention Oversight Compliance Inspection, Clinton County Correctional Facility (Oct. 2011) (noting, however, that Clinton was "deficient" in access to medical care and "deficient" in suicide prevention and intervention).
- <sup>136</sup> DHS, Detainee Death Review of Tiombe Kimana CARLOS, Joint Integrity Case Management System (JICMS) Case No. 201400713.
- 137 Dholakia, supra note 122.
- <sup>139</sup> DHS, Detainee Death Review of CARLOS, *supra* note 136.
- <sup>140</sup> Dholakia. *supra* note 122.

- <sup>141</sup> DHS. Detainee Death Review of CARLOS. *supra* note 136.
- <sup>142</sup> Dholakia, supra note 122.
- <sup>143</sup> DHS, Detainee Death Review of CARLOS, *supra* note 136.
- 144 Ed Pilkington, Child immigrant detainees: 'There's an Overwhelming Sadness among Them,' GUARDIAN (May 12, 2015), https://www.theguardian.com/us-news/2015/may/12/immigration-detentioncenters-children.
- 145 HUMAN RIGHTS FIRST, LONG-TERM DETENTION OF MOTHERS AND CHILDREN IN PENNSYLVANIA 4 (Aug. 2016).
- <sup>146</sup> *Id.* at 5.
- 147 Exhibit 97, Decl. of Alan Shapiro, MD, ¶¶ 15-17 to Pls.' Resp. Order to Show Cause, Flores v. Johnson, Case No. 2:85-cv-04544-DMG-AGR (C.D. Cal. Aug. 14, 2015), ECF No. 187-7 (detailing the harm to the health and well-being of children after visiting Berks). Worldwide health professionals agree that children suffer psychologically from detention. See, e.g., Sandra G. Hassink, President of the American Academy of Pediatrics, to Hon. Jeh Johnson, Secretary, US DHS (Jul. 24, 2015), available at https://www.aap.org/en-us/advocacy-and-policy/federal-
- advocacy/Documents/AAP%20Letter%20to%20Secretary%20Johnson%20Family%20Detention%20Final .pdf; Human Rights First, Family Detention in Berks County, Pennsylvania 6-7 (Aug. 2015).
- <sup>148</sup> Peter Hall, *Immigrant Family Detention Center Puts Berks County in Eye of the Political Storm*, MORNING CALL (Jul. 7, 2018), https://www.mcall.com/news/local/mc-nws-berks-immigration-familydetention-center-20180703-story.html.
- 149 Safia Samee Ali, Sexual Assaults in Immigration Detention Centers Rarely Get Investigated, Group Charges, NBC News (Apr. 12, 2017), https://www.nbcnews.com/news/us-news/sexual-assaultsimmigration-detention-centers-don-t-get-investigated-says-n745616. <sup>150</sup> *Id*.
- <sup>151</sup> *Id*.
- 152 *ld*
- <sup>153</sup> Complaint, E.D. v. Sharkey, Case No. 5:16-cv-02750 (filed E.D. Pa. Jun. 8, 2016), ECF No. 3.
- <sup>154</sup> Maurice Chammah, Long Shorts and Baggy Shirts, MARSHALL PROJECT (Apr. 17, 2015), https://www.themarshallproject.org/2015/04/17/long-shorts-and-baggy-shirts.
- <sup>155</sup> DHS, ICE, Office of Detention Oversight Compliance Inspection, York County Prison (Mar. 2014).
- <sup>156</sup> DHS, ICE, ERO, Uniform Corrective Action Plan for Pike County Correctional Facility (Jan. 2016).
- <sup>157</sup> DHS, ICE, Detention Review Summary Form for Facilities Used Over 72 Hours, Pike County Correctional Facility (Feb. 2018).
- 158 The last deficient rating we found was for Cambria in 2009. York received two deficient ratings in 2007 and 2008, but received an acceptable rating beginning in 2009.
- 159 See DHS, Office of Inspector General (OIG), ICE's Inspections and Monitoring of Detention FACILITIES DO NOT LEAD TO SUSTAINED COMPLIANCE OR SYSTEMIC IMPROVEMENTS (2018).
- <sup>160</sup> Tidwell Cullen, *supra* note 54.
- <sup>161</sup> DHS, OIG, ICE's INSPECTIONS, supra note 159.
- 162 Patria de Lancer Julnes & Jennifer C. Gibbs, Does Cooperating with ICE Harm Local Police? What the Research Says, HOMELAND SECURITY NEWS WIRE (Apr. 26, 2017).
- 164 NATIONAL IMMIGRATION LAW CENTER (NILC), UNTANGLING THE IMMIGRATION ENFORCEMENT WEB: BASIC INFORMATION FOR ADVOCATES ABOUT DATABASES AND INFORMATION-SHARING AMONG FEDERAL, STATE, AND LOCAL AGENCIES 9 (2017).
- <sup>165</sup> RTK Responses from Biglerville (Oct. 2, 2018, Oct. 24, 2018); Brentwood (Nov. 7, 2018); Dormont (Oct. 4, 2018, Nov. 8, 2018); Fox Chapel (Oct. 2, 2018); Gettysburg (Oct. 12, 2018); Monroeville (Oct. 4, 2018); Mount Lebanon (Oct. 4, 2018); Upper Darby (Oct. 23, 2018); West Mifflin (Nov. 5, 2018). Phone conversations with Sqt. in Central Pa. (Nov. 2, 2018, 9:15 am) and Chief in Western Pa. (Oct. 9, 2018, 12:00 pm).
- 166 Castle Shannon, Pa., Police Dep't Policy Manual, Policy § 414; Hanover Borough, Pa., Police Dep't Policy Manual, Arrests (Oct. 8, 2012); Harrisburg, Pa., Bureau of Police, General Orders; Moon Township, Pa., Police Dep't Code of Ethics, Mission Statement.

- <sup>167</sup> Castle Shannon, Pa., Police Dep't Policy Manual, Policy § 414. Mana Aliabadi, Justice at Work, shared this same policy with us from her RTK Response from Castle Shannon (Apr. 2, 2018). <sup>168</sup> Phone Conversation with Lt. in Central Pa. (Nov. 6, 2:30 pm); Chief in Western Pa. (Oct. 19, 2018, 10:00 am); Chief in Western Pa. (Oct. 19, 2018, 12:00 pm); Chief in Western Pa. (Nov. 30, 2018, 12:00 pm); and Capt. in Eastern Pa. (Nov. 2, 2018).
- 169 8 C.F.R. § 287.5(c)(1); Fiscal Year 2017 ICE Enforcement & Removal Operations Report, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, https://www.ice.gov/removal-statistics/2017 (last visited Dec. 29, 2018).
- 170 8 C.F.R. § 287.5(e).
- <sup>171</sup> Phone conversation with Chief in Western Pa. (Oct. 19, 2018, 10:00 am); Chief in Western Pa. (Oct. 19, 2018, 12:00 pm); Capt. in Eastern Pa. (Nov. 2, 2018); and Chief in Western Pa. (Oct. 30, 2018, 12:00 pm).
- 172 Castle Shannon, Pa., Police Dep't Policy Manual, Policy § 414.4
- <sup>173</sup> *Id.* § 414.4.1-2.
- <sup>174</sup> Letter from District Attorney Stephen A. Zappala Jr., County of Allegheny, Pa., to Hon. Kenneth Truver, Chief of Police-Castle Shannon, President-Allegheny County Chiefs of Police Ass'n (Jul. 17, 2017). This letter circulated to the Chiefs and Superintendents in Allegheny County stating that it is in reference to "a person who is 'flagged' by Immigration and Customs Enforcement (ICE) . . . [an] issue raised by the ACLU at a recent meeting with the District Attorney." RTK Responses Green Tree (Oct. 26, 2018); Moon (Oct. 2, 2018). See also Russakoff & Sontag, supra note 5. <sup>175</sup> *Id*.
- <sup>176</sup> *Id*.
- 177 There are over 100 municipalities in Allegheny County, Mike Bucsko & Ed Blazina, In Allegheny County, Towns Increased from 7 Townships to 130 Municipalities, PITTSBURGH POST-GAZETTE (Aug. 8, 2004); 8 Pa. C.S.A. § 1121 (outlining council power over police); 8 Pa. C.S.A. § 1123.1 (outlining mayor's power over police).
- <sup>178</sup> Phone Conversation with Chief in Western Pa. (Oct. 19, 2018, 12:00 pm).
- <sup>179</sup> Oregon passed a law 30 years ago that prevented the apprehension of individuals solely based on their unlawful presence in the US. Or. Rev. Stat. § 181A.820. This measure, which was recently kept intact after a ballot reform measure intended to repeal it, was originally enacted to address racial profiling concerns. Oregon Measure 105, Repeal Sanctuary State Law Initiative (2018), BALLOTPEDIA, https://ballotpedia.org/Oregon Measure 105, Repeal Sanctuary State Law Initiative (2018) (last visited Jan. 20, 2019).
- 180 Phone Conversation with Chief in Western Pa. (Oct. 19, 2018, 10:00 am); Chief in Western Pa. (Oct. 19, 2018, 12:00 pm). We heard mixed responses from police officials about how consistently ICE actually contacts them when ICE is carrying out enforcement activities. At least six departments told us that they would not necessarily know if ICE agents were in their area at any given time. See, e.g., Phone Conversations with Sgt. in Central Pa. (Nov. 2, 2018, 9:15 am); Chief in Western Pa. (Nov. 6, 2018, 11:30 am); Chief in Western Pa. (Oct. 19, 2018, 10:00 am); Chief in Western Pa. (Oct. 30, 2018, 12:00 pm), Capt. in Eastern Pa. (Nov. 2, 2018, Upper Darby); Chief in Western Pa. (Nov. 6, 2018, 2:30 pm), while at least one stated that they have been contacted in the past. Phone Conversation with Lt. in Central Pa. (Nov. 6, 2:30 pm).
- <sup>181</sup> Phone Conversation with Police Chief in Western Pa. (Oct. 19, 2018, 12:00 pm).
- <sup>182</sup> Pennsylvania State Police, Arrest/Detention or Death of Foreign Nationals, AR 7-14 (Jan. 30, 2019). <sup>183</sup> *Id.*
- <sup>184</sup> ILRC, THE RISE OF SANCTUARY, *supra* note 4, at 8.
- <sup>185</sup> Albuquerque City Council Res. 9-2001, § 3-1-11 (Jan. 11, 2001), available at http://libquides.law.du.edu/ld.php?content\_id=34436075 (last visited Jan. 20, 2019).
- <sup>186</sup> New Orleans Police Dep't Operations Manual, Ch. 41.6.1.7 (Sept. 25, 2016),
- http://libguides.law.du.edu/ld.php?content id=34434807 (last visited Jan. 20, 2019).
- <sup>187</sup> City of Philadelphia, City of Philadelphia Action Guide: Immigration Policies (Jan. 8, 2018),
- https://www.phila.gov/2018-01-08-immigration-policies/ (last visited Jan. 20, 2018).
- 189 See Printz v. United States, 521 U.S. 898, 925 (1997); City of Chicago v. Sessions, 321 F. Supp. 3d 855, 872 (N.D. III. 2018).

- 190 Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, https://www.ice.gov/287g (last visited Dec. 14, 2018). <sup>191</sup> *Id*.
- 192 ACLU of Pa., Open Records Request, supra note 38; ILRC, ILRC v. DHS, supra note 38. Two departments sent us copies of the initial email correspondence they had with ICE about 287(g). RTK Responses from Castle Shannon (Oct. 23, 2018) and Ross (Nov. 7, 2018).
- 193 See, e.g., RTK Responses from Castle Shannon (Oct. 23, 2018) and Ross (Nov. 7, 2018). <sup>194</sup> *Id.*
- <sup>195</sup> Phone Conversation with Chief in Western Pa. (Nov. 30, 2018, 12:00 pm).
- 196 Organized Crime Drug Enforcement Task Forces, DEP'T OF JUSTICE,

https://www.justice.gov/criminal/organized-crime-drug-enforcement-task-forces (last visited Dec.14, 2018). Joint Terrorism Task Forces, FED. BUREAU OF INVESTIGATION,

https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces (last visited Dec. 14, 2018).

197 See, e.g., Joint Terrorism Task Force, Standard Memorandum of Understanding between the Federal Bureau of Investigation and the Houston Police Dep't XIV (Nov. 9, 2007), available at https://www.brennancenter.org/sites/default/files/analysis/FN%20374%20%28Federal%20Bureau%20of %20Investigation%2C%20Standard%20Memorandum%20of%20Understanding%29.pdf (last visited Jan. 21, 2019); U.S. Dep't of Justice Asset Forfeiture Program, FY 2019 Performance Budget, CONGRESSIONAL JUSTIFICATION 1-3 (explaining that participating programs, like OCDETF, include payment for overtime and a cut of forfeiture proceeds), available at

https://www.justice.gov/jmd/page/file/1034336/download (last visited Jan. 21, 2019); see also Phone Conversation with Chief in Western Pa. (Oct. 30, 2018, 12:00 pm) (explaining that immigration enforcement does not result in compensation the way that cooperation with federal agencies on drug trafficking or terrorism investigations).

198 Anneliese Hermann, 287(g) Agreements Harm Individuals, Families, and Communities, but They Aren't Always Permanent, CENTER FOR AMERICAN PROGRESS (Apr. 4, 2018),

https://www.americanprogress.org/issues/immigration/news/2018/04/04/448845/287g-agreements-harmindividuals-families-communities-arent-always-permanent/. <sup>199</sup> *Id*.

- <sup>200</sup> Email from SPIN-INFO to SPIN (Oct. 15, 2018) (forwarding email from ICE stating "[a] local ICE agent wanted us to know of his availability for investigations, stops, etc.").
- <sup>201</sup> *Id*.
- <sup>202</sup> *Id*.
- <sup>203</sup> Id. (stating that he has spoken at several of these meetings, to encourage police agencies to call him more often). Similar emails relating to 287(g) also identified these associations' gatherings as convenient opportunities for ICE to give local department heads more information about the program. See, e.g., RTK Responses from Castle Shannon (Oct. 23, 2018) and Ross (Nov. 7, 2018).
- <sup>204</sup> Email from SPIN-INFO to SPIN (Oct. 15, 2018).
- <sup>205</sup> *Id*.
- <sup>206</sup> *Id.*
- <sup>207</sup> Id.
- <sup>208</sup> NILC, *supra* note 164, at 7.
- <sup>209</sup> National Crime Information Center (NCIC), Fed. Bureau of Investigation, https://www.fbi.gov/services/cjis/ncic (last visited Jan. 20, 2019); NILC, supra note 164, at 7-8; Phone Conversation with Chief in Western Pa. (Oct. 9, 2018, 1:00 pm).
- <sup>211</sup> Phone Conversation with Chief in Western Pa. (Oct. 30, 2018, 12:00 pm).
- <sup>212</sup> Phone Conversation with Capt. in Eastern Pa. (Nov. 2, 2018); Chief in Western Pa. (Oct. 19, 2018, 12:00 pm).
- <sup>213</sup> ILRC, ILRC v. DHS, *supra* note 31 (Memorandum from Matthew T. Albence, Exec. Assoc. Dir. U.S. ICE, to Field Office Directors & Deputy Field Office Directors, Guidance for E-mailing Scanned Documents to Law Enforcement Support Center for Entry into the Nat'l Crime Information Center (Mar. 14, 2017) and U.S. DHS, ENFORCEMENT & REMOVAL OPERATIONS: FUGITIVE OPERATIONS HANDBOOK 10 (reviewed Jul. 23, 2014) (detailing entry into NCIC of administrative warrants)).

<sup>214</sup> NILC, *supra* note 164, at 7-8.

- <sup>215</sup> RTK Responses from Chambersburg (Oct. 12, 2018); Ross (Nov. 7, 2018); and Moon (Oct. 2, 2018).
- <sup>216</sup> Phone Conversation with Capt. in Eastern Pa. (Nov. 2, 2018).
- <sup>217</sup> Phone Conversation with Chief in Western Pa. (Oct. 19, 2018, 12:00).
- <sup>218</sup> *Id.*
- <sup>219</sup> *Id.*
- <sup>220</sup> Phone Conversation with Chief in Western Pa. (Nov. 6, 2018, 2:30 pm).
- <sup>221</sup> *Id.*
- <sup>222</sup> Id.
- <sup>223</sup> Id.
- <sup>224</sup> ILRC, DHS' Response, *supra* note 41; *see also* ILRC, National Map, *supra* note 31; ILRC v. DHS, supra note 38.
- <sup>225</sup> ACLU of Pa., Open Records Request, *supra* note 38.
- <sup>226</sup> NIJC, supra note 52.



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# **JUNTOS**

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