



## METROPOLITAN COUNCIL

Member of Council

March 2, 2017

Sheriff Daron Hall  
Davidson County Sheriff's Office  
506 2nd Avenue North  
Nashville, TN 37201

Jon Cooper, Legal Director  
Metropolitan Department of Law  
Metro Historic Courthouse, Suite 108  
Nashville, TN 37219

Re: Regional detention for ICE

Dear Sheriff Hall and Legal Director Cooper,

I understand that DSCO houses persons detained regionally by federal immigration authorities in exchange for a fee. I want to make sure I understand the legal authority for holding these persons. For convenience, I will use the term "ICE" to refer to all federal immigration authorities regardless of the agency with which they are affiliated.

Also, in this letter, I will refer to two agreements between Metro and the federal government; both agreements use the term "aliens." Although I don't personally use that term and I do not know exactly how it is defined, I assume it refers to persons who are not citizens of the United States. For convenience, I will use the terms "aliens" and "non-citizens" interchangeably – I intend both to have the same meaning as how "aliens" is used in the two agreements with the federal government.

In this letter, I will describe the legal landscape as I understand it. If any of what I describe is incomplete or inaccurate, please let me know. I readily acknowledge that I am not an expert in this area and, therefore, I welcome any corrections about my understanding of the law. After that, I will ask some of the questions I have.

### **Legal landscape as I understand it**

I understand that pursuant to Tennessee Code Annotated 12-9-104 and -108, all inter-governmental agreements between Metro (including DCSO) and the federal government must be approved by a resolution of the Metro Council.

I understand that, in 2007, Metro entered an agreement with the federal government to hold ICE detainees and get reimbursed for that (the "ICE Contract"). The ICE Contract was approved by Resolution RS2007-2123. The ICE Contract was amended, as approved by the Council with Resolution RS2008-579. I understand that the ICE Contract was further amended in 2016 with the document attached as Exhibit A, which has not been approved by the Council. In

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summary, I understand that the ICE Contract, as amended, has expired and there is no current approval by the Metro Council to operate under the ICE Contract.

I understand that there is a separate 1996 agreement between Metro and the United States Marshals Service (the "USMS Contract"). The USMS Contract was approved by the Council with Ordinance O96-567, and is still in effect. I am attaching the ordinance and USMS Contract as Exhibit B. On the face of the USMS Contract, under "Prisoner Type To Be Included", the box for "Aliens" is not checked. In Article I of the agreement, it states that the purpose of the contract is to allow Davidson County to detain persons charged with or convicted of violations of federal law, or who are material witnesses.

Please let me know if any of this information is incorrect.

### Questions

For these questions, I am asking about the period from January 1, 2016, through the present:

1. Has DCSO detained non-citizens for ICE in exchange for any compensation? If so, please identify whether these non-citizens have been detained under the authority granted in the ICE Contract, or the USMS Contract, or some other authority. If there is a different answer for different periods of time, identify the authority for each period.
2. If there have been any detentions of non-citizens for which DCSO or Metro has been reimbursed under the ICE Contract, identify whether the ICE Contract was valid and enforceable at the time of the detention. Please explain.
3. If there have been any detentions of non-citizens for which DCSO or Metro has been reimbursed under the USMS Contract, identify:
  - a. all of the terms in the USMS Contract which authorize detaining non-citizens;
  - b. whether every such detained non-citizen has been charged with or convicted of a violation of federal criminal law; and
  - c. whether any such detained non-citizen has been held as a material witness.

Thank you both for your service to Nashville. I look forward to hearing from you about these issues.

Very truly yours,



Metro Council, At-Large Member

### Attachments

cc: Mike Jameson  
Director, Metropolitan Council