



## METROPOLITAN COUNCIL

Member of Council

March 24, 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,

This letter is in response to your letter from earlier today (but dated March 21, 2017). I have several follow-up questions.

First, regarding the internal billing error referred to on page 2 of the letter, when was this billing error discovered? How was it discovered?

Second, the letter says that DCSO does not know whether a federal prisoner is a citizen or a non-citizen. However, the letter includes example documents that state the sample prisoner's citizenship status. This seems inconsistent – it seems like the letter is suggesting that DCSO knows at the time a person is booked into the DCSO facility if the person is a non-citizen ICE detainee. Help me understand the statement that DCSO does not know whether a federal prisoner is a citizen or non-citizen. Would DCSO and Metro Legal agree that DCSO at least knows whether ICE is alleging the prisoner is a non-citizen?

Third, in my initial letter, I raised the point that the USMS Contract has a check-the-box section describing the type of prisoners subject to local detention under the USMS Contract. And the box for "Aliens" is not checked. The only boxes checked are unsentenced "Adult Male" and "Adult Female" prisoners. This suggests that the USMS Contract does not provide a basis to hold "Aliens." This issue is not addressed in the letter. Please explain.

Fourth, I have questions about whether the USMS Contract can be read to apply to civil, non-criminal detentions. Clearly, we would agree that the non-citizen described in the attachments to the letter was not charged with any criminal offense. For example, the ICE warrant attached to the letter is a civil administrative document and not a criminal warrant. Also, the language of the USMS Contract is geared toward criminal activity – for example, the only categories of prisoners listed on the cover page are "Sentenced" and "Unsentenced." There does not appear to be any basis in the USMS Contract to hold civil detainees.

Fifth, I do not agree with the interpretation provided of the sample Form I-862. That document does not anywhere say, "The prisoner is charged with a violation of..." And, the provision cited in the sample form simply describes what classes of aliens are ineligible for a visa or for admission to the United States. That sample form does not allege any civil or criminal violation of any law by the prisoner – it instead states the basis under which the person is ineligible to be admitted to the United States, or receive a visa. So even assuming that it were accurate that the USMS Contract allows the detention of Aliens who are not charged with any federal crime, the sample form provided is inadequate because it does not state a federal code section allegedly violated by the detainee.

Gentlemen, I apologize for the directness of these questions. However, I believe Metro and DCSO will need to answer them publicly – and probably soon. There are already significant ICE raids being conducted around the country. It is probably only a matter of time before it happens in Nashville. And that means it is only a matter of time before a large group of detainees from one of these raids will be booked into a DCSO facility.

From what I have read in the letter today, in order to say Metro/DCSO is on firm legal footing, Metro/DCSO would have to argue: (1) the "Aliens" box in the USMS Contract doesn't mean anything – ignore that; (2) even though the forms presented to us by ICE suggest a civil immigration detention and no federal crime at all, Metro doesn't really know about the person's citizenship status – so don't hold us accountable for that; and (3) even though the U.S. Code section in the paperwork we get from ICE only describes the basis for denying admission to the United States, because the form says "charge," that's all we need to know.

Setting aside the legal arguments, we are talking about Metro/DCSO participating in the detention of non-citizens who are not charged with a crime. This undercuts Metro's policy to not ask about citizenship status. We cannot expect Nashville's immigrant population to trust Metro's police department when Metro's jails are acting as ICE agents and participating in the deportation process even when no crime has been committed. I think the USMS Contract clearly does not authorize the detention of non-citizens. However, even if it were a close call on how to read the contract, I would suggest that we (Metro/DCSO) should err on the side of supporting Metro's policies to create a safe and trusting community for all.

Let's discuss this further.

Very truly yours,



Metro Council, At-Large Member

cc: Mike Jameson  
Director, Metropolitan Council