

BASIC ORDERING AGREEMENTS (BOAS)

What You Need to Know

On April 21, 2017, in an email to members of the Florida Sheriffs Association, Pinellas County Sheriff Bob Gualtieri admitted that he and many other sheriffs had concerns about the constitutionality of immigration detainers. An immigration detainer is a form in which Immigration and Customs Enforcement (ICE) requests that local law enforcement hold someone for an additional 48 additional hours beyond the time the local enforcement agency is authorized to hold the person so that ICE has time to come and pick them up. Several courts have found that acting on these detainers violates the Fourth Amendment of the U.S. Constitution. Sheriff Gualtieri's email was obtained by the SPLC in a public records request and is available in our toolkit.

Wanting to continue serving as a force multiplier for ICE, Sheriff Gualtieri worked with ICE to come up with what they believed would be a way to hold and turn over to ICE, for up to 48 hours of detention. Most immigrants are held for two days, making the total cost of detention for each immigrant \$250.

payment per day just \$25. Copies of all BOAs signed to date between ICE and Florida counties are available in our toolkit.

The Florida Sheriffs Association stated that Basic Ordering Agreements are an “existing procurement tool for acquiring a substantial, but presently unknown, quantity of supplies or services” that allows both parties to negotiate “pricing, issuing, and delivering” for all future orders. **Just as it orders supplies, under BOAs ICE now orders immigrants. BOA counties supply and deliver them.**

The BOA itself is not a contract. It is an understanding of how ICE and the counties will do business. Instead, each individual “order” from ICE asking the county to unlawfully re-arrest a specific person is a contract. We have provided a sample of this “Order for Supplies or Services” in our toolkit.

BOAs do not change the current law with regard to immigration detainers. All they do is create three new pieces of paperwork: the BOA itself, the “Order for Supplies” for the individual immigrant, and Form I-203, which is used to keep track of ICE detainees as they are booked into and out of local jails.

None of these pieces of paper fixes the constitutional violations that occur when a county jails a person beyond the time they are authorized to do so.

ICE intends to expand this pilot program beyond Florida. BOAs will continue to spread unless Florida takes action to stop them.

Advocates in BOA counties are challenging their sheriffs. On June 20, 2018, the Hillsborough County Sheriff's Office stated, in response to a public records request from SPLC, that the county "has not executed a BOA" with ICE. This was a result of the activism of local advocates.

On December 3, 2018, The Southern Poverty Law Center and the ACLU sued Sheriff Ramsay of Monroe County for unlawfully detaining a U.S. citizen pursuant to its BOA with ICE. **This lawsuit is the first challenge to the BOA program.**