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July 10, 2025

Attorney General Yost
c/o Opinions
30 East Broad Street, 26th Floor
Columbus, OH 43215

Dear Attorney General Yost,

In 2007 your office issued two separate opinions in response to questions posed by my predecessor. 2007 Op. Att'y Gen. No. 2007-018 and 2007 Op. Att'y Gen. No. 2007-029 determined, in part, that a county sheriff does not have the authority pursuant to R.C. 311.07(A) or R.C. 311.08(A) to enforce federal immigration law as it pertains to aliens who are civilly, not criminally, alleged to be in violation of federal immigration law.

As pertains to my question posed below, you specifically opined that, "R.C. 341.21(A) does not authorize a board of county commissioners to direct the county sheriff to receive into his custody aliens who are being detained by the United States Immigration and Customs Enforcement Office for deportation purposes when the aliens have not been charged with, or convicted of, a crime by the United States. 2007 Op. Att'y Gen. No. 2007-018, at 2-174. This conclusion was drawn from the fact that R.C. 341.21(A) limited such authority to those aliens "charged with or convicted of a crime by the United States."

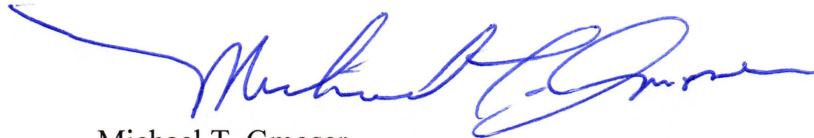
Furthermore you determined that, "[u]nder Ohio law, a county sheriff may not enter into a written agreement with the United States Immigration and Customs Enforcement Office or the United States Department of Homeland Security under 8 U.S.C. § 1357(g) whereby deputy sheriffs are empowered to perform a function of an immigration officer in relation to the enforcement of the civil provisions of federal immigration law." 2007 Op. Att'y Gen. No. 2007-029, at 2-300. This prohibition included "the investigation, apprehension, or detention of aliens." Id. at 2-301. (emphasis added). Your decision here was primarily based on a sheriff's statutory authority as a peace officer under R.C. 311.07(A) not including a violation of a civil provision of federal immigration law.

Understanding your opinions, I respectfully ask for clarification on one specific issue. R.C. 341.12 appears to provide, or at least recognize, that a county sheriff has at least some authority to hold a person in a county jail that is "in the custody upon civil process." A sheriff's authority to hold an individual in a jail for a civil offense would also appear to be supported by City of Akron v. Mingo, 169 Ohio St. 511 (1959) and Chapter 2331 of the Revised Code both of which you cite in 2007 Op. Att'y Gen.No. 2007-029, at 2-306. Moreover, aliens may be detained by the federal government for civil immigration offenses pursuant to 8 U.S.C. § 1226(a).

In light of the above, I am respectfully requesting an opinion on the following question:

1. Does a county sheriff, or a county board of commissioners on behalf of a sheriff, have statutory authority to enter into an agreement with federal immigration authorities which would allow for the incarceration, and possible transportation of aliens detained, at a county jail for civil violations of federal immigration law beyond a 48 hour hold?

Your assistance in this matter is greatly appreciated.



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