



OPPOSE SCR 1602– A Resolution Encouraging Kansas State Government Cooperation with ICE

Written Testimony-National Police Accountability Project, Lauren Bonds, Executive Director

Kansas House Committee on State and Federal Affairs – Thursday, February 13, 2025

Dear Members of the House Committee on State and Federal Affairs,

On behalf of the National Police Accountability Project (“NPAP”), we write to urge you to oppose SCR 1602, a resolution that vilifies immigrants, will likely lead to civil rights violations, and exposes the government to costly lawsuits.

NPAP is a national nonprofit organization dedicated to holding law enforcement and corrections officers accountable to constitutional and professional standards. While we work to get justice for victims of police misconduct in the courts, we also advocate in the legislatures for reforms that will prevent police abuse from happening in the first place. When state law enforcement agencies engage in immigration-related tasks, they are unnecessarily exposing people to the possibility of violence, wrongful arrest, and illegal detention. Accordingly, NPAP strongly opposes SCR 1602.

Fully cooperating with federal immigration enforcement and supporting efforts to deport immigrants—as SCR 1602 urges—would entail the Kansas Highway Patrol (“KHP”) arresting and detaining individuals suspected of being immigrants. Investigatory stops often escalate to violence because police are “trained to presume danger” in virtually any encounter.”¹ When KHP involves itself in immigration enforcement, it would grow the number of police interactions that have a known propensity to turn violent. Cooperation with the current presidential administration’s immigration agenda expands state law enforcement’s reach, and therefore, the potential for harm.

¹ David Kirkpatrick, Steve Eder, Kim Barker, and Julie Tate, *Why Many Police Traffic Stops Turn Deadly*, The N.Y. Times, Oct. 31, 2021.



However, communities are not the only ones harmed by ICE cooperation. Requiring KHP to carry out immigration tasks would put stress on already overburdened law enforcement agencies and create significant risks of legal liability for state and local law enforcement agencies. If this resolution is followed, it would divert limited staff resources away from core traffic interdiction responsibilities. Carrying out immigration enforcement tasks for the federal government could also expose local governments to liability when they improperly detain or hold individuals absent reasonable suspicion.²

Under the Fourth Amendment, detention without a warrant must be based on probable cause of a *crime* not immigration violations.³ Local law enforcement agents have been successfully sued for investigating immigration status.⁴ The Equal Protection Clause of the Fourteenth Amendment prohibits arrests and detentions where the probable cause is based on a person's race or ethnicity.⁵ Because an officer's probable cause about a person's immigration status is highly prone to racial prejudices, state and local governments expose themselves to liability when they authorize their employees to investigate an individual's immigration status either through 287(g) agreements or other directives.⁶

SCR 1602, if followed, would also ential the state entering into intergovernmental service agreements ("IGSAs") with ICE to detain people while they go through removal proceedings.⁷ Local governments can be sued for the conditions of confinement of people detained pursuant to IGSAs. People incarcerated for civil immigration purposes are entitled to greater protections in carceral settings

² See, e.g., *Galarza v. Szalczyk*, 745 F.3d 634 (3d. Cir. 2014) (holding states and localities are not required to imprison people based on ICE detainees). In 2008, Galarza, a New Jersey-born U.S. citizen of Puerto Rico, was illegally held in jail for three days after a local police officer called ICE, claiming he might be an undocumented immigrant despite his state driver's license and Social Security card being in his wallet at the time. ICE issued an immigration detainer, and even though Galarza made bail the day after his arrest, he was not released because of the detainer.

³ *Arizona v. United States*, 567 U.S. 387, 413 (2012).

⁴ See, e.g., *Marquez, et. al. v. Commonwealth, et. al.*, No. 1:19-cv-00599-YK (M.D. Pa.).

⁵ See, e.g., *Farag v. United States*, 587 F. Supp. 2d 436 (E.D.N.Y. 2008).

⁶ *Id.*

⁷ See Intergovernmental Service Agreements, <https://www.ice.gov/foia-category/intergovernmental-service-agreements>.



than individuals who have been convicted of crimes.⁸ Accordingly, KDOC would face greater liability for exposing people detained for civil immigration purposes to the dangerous conditions in their carceral facilities.⁹

When state law enforcement agencies carry out immigration-related tasks, they expose the communities that they serve to unnecessary violence and themselves to avoidable legal liability. Given the purported challenges so many police departments are facing,¹⁰ taking on the additional work and legal risks associated with immigration enforcement makes little sense.

We strongly urge you to reject this resolution. If you have any questions, please do not hesitate to contact Lauren Bonds at legal.npap@nlg.org.

Sincerely,

Lauren Bonds
National Police Accountability Project

⁸ *Marsh v. Fla. Dep't of Corrections*, 330 F. App'x 179 (11th Cir. 2009) (civil detainees “are generally ‘entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish’”) (quoting *Youngberg v. Romeo*, 457 U.S. 307, 322 (1982)); *Edwards v. Johnson*, 209 F.3d 772, 778 (5th Cir. 2000).

⁹ Some courts have held that individuals in immigration detention have greater protections than those in pretrial detention because immigration detention does not implicate penological interests associated with criminal confinement or suspicion. *See, e.g., In re Kumar*, 402 F. Supp. 3d 377, 384 (W.D. Tex. 2019) (applying civil commitment standard to immigration detention); *Jones v. Blanas*, 393 F.3d 918, 933 (9th Cir. 2004).

¹⁰ Lauren Bonds, *Police Blame Accountability for Low Recruitment. But It's Their Only Hope*, THE APPEAL, May 15, 2024, <https://theappeal.org/police-recruitment-low-accountability/>.