

Raymond Rico
Federal and State Affairs Committee
Hearing on HB 2717
March 15, 2022

My name is Raymond Rico. I'm an immigration attorney, born and raised in Kansas City, Kansas. Everyday, I assist immigrants who have made Kansas their home as they navigate a difficult process to become lawful permanent residents. These processes can take years, in many instances decades, before their processes are complete. All the while, those I assist are opening businesses, raising children, and just living their everyday lives, right here in our state. Many have also been designated "essential workers" by our federal government keeping America productive during the Covid-19 pandemic.

I urge the Federal and State Affairs Committee to vote no on HB 2717. There are many reasons to vote no, I will highlight just a few from a legal perspective:

HB 2717 imposes a new mandate that every law enforcement officer across the state of Kansas "has a duty to cooperate with state and federal agencies and officials on matters pertaining to enforcement of state and federal laws governing immigration." Law enforcement agencies across the state have weighed whether to implement this policy by considering the voluntary 287(g) program that would create such a duty. Based on how many have voluntarily signed into such a program, it is safe to say law enforcement rejects this idea and so should you.

Furthermore, such a "duty to cooperate" imposes violations of the 4th Amendment to the United States Constitution. ICE detainers, when honored, keep people detained for 48 hours after bonding out and being released so that ICE can decide whether to come pick them up. When someone is detained for one minute more than they should be, without a judicial warrant or a review of whether the prolonged detention is proper, this is a violation of the person's constitutionally protected rights.ⁱ Local law enforcement agencies can be held liable for voluntarily prolonging one's detention in violation of their rights.

ICE "warrants," when honored by local law enforcement, also expose law enforcement agencies to violations of protected constitutional rights. Local law enforcement agencies do not have authority to arrest or detain someone for civil immigration violations.ⁱⁱ Unlike a judicial warrant, which is signed by a neutral magistrate, ICE itself prepares documents they call "warrants" that fall disastrously short of the meaning of the word. ICE's "warrant" is often signed by ICE agents without probable cause. The best excuse ICE often uses for not seeking proper official warrants signed by an independent magistrate is that it takes too long. Unfortunately for ICE, the constitution does not have an exception for taking too long to comply with. As with honoring detainers, if a local law enforcement officer cooperates with ICE in entering a home without a true judicially signed warrant, then the agency would be complicit in a constitutional violation of rights that HB 2717 seeks to mandate.

If past is prologue, many proponents of HB 2717 will claim that Wyandotte County's ordinance lessens public safety. It will do no such thing. Study after study have shown that immigrants commit less than crime, on average, than the native born population.ⁱⁱⁱ Furthermore, cities which have adopted similar ordinances to the one in Wyandotte County have lower crime rates than cities which do not have such an ordinance.^{iv} Lastly, Wyandotte County's ordinance has

provisions that state clearly that a request from ICE would be honored in instances where threats to public safety exist. Don't let the sad immigrant scapegoating during today's hearing paint immigrants as a whole in any way, shape, or form as pariahs to our state.

Law enforcement agencies understand that in order to solve crimes, it needs to build and maintain public trust among the residents they protect and serve. Law enforcement needs witnesses and victims to share what they know to find suspects and bring them to justice. Thus, policies like the one Wyandotte County chose to implement seeks to build that trust and let all of Wyandotte County's residents know they can report crimes without fear. When victims and witnesses report crimes, crime is reduced. Not cooperating with ICE federal immigration practices allows our local law enforcement to dedicate their limited resources to real criminal threats. This is what Wyandotte County prefers over this legislation's language making local law enforcement across the state force multiplying *de facto* ICE agents.

Federal ICE agents can continue operating in Wyandotte County and across the state as they always have. Nothing in Wyandotte County's ordinance keeps ICE from doing what ICE does every day. Nothing in the ordinance should be misconstrued as mandating the KCKPD or Sheriff's office to stand in ICE's way. Choosing not to ride with ICE and choosing one's own path is very different than blocking ICE's path. As a Home Rule state, Wyandotte County, and cities across the state should have the choice as to which path it takes.

ⁱ See *Galarza v. Szalczyk*, 745 F.3d 634, 641 (3rd Cir. 2014), *Miranda Olivares v. Clackamas County*, No. 3:12-cv-02317-ST at 17 (D. Or. April 11, 2014), or *Morales v. Chadbourne*, 793 F.3d 208, 217 (1st Cir. 2015).

ⁱⁱ See *Arizona v. United States*, 132 S. Ct. 2492, 2505 (2012)

ⁱⁱⁱ Nowrasteh, Alex and Michelangelo Landgrave, *Criminal Immigrants: Their Numbers, Demographics, and Countries of Origin*. Cato Institute, March 15, 2017.

^{iv} Wong, Tom K., *The Effects of Sanctuary Policies on Crime and the Economy*. National Immigration Law Center. January 26, 2017. <https://www.nilc.org/issues/immigration-enforcement/sanctuary-policies-effects-crime-economy/>