



Sheriff James F. Fitzgerald
Howard County Sheriff's Office
8360 Court Avenue
Ellicott City, Maryland 21043

September 25, 2013

Dear Sheriff Fitzgerald:

On behalf of the American Civil Liberties Union of Maryland and CASA de Maryland, we write to bring to your attention a recent Fourth Circuit decision that may affect your agency's policies and practices.

The Fourth Circuit recently held that **state and local law enforcement officials may not arrest or detain an individual based solely on a civil immigration warrant**. *See Orellana Santos v. Frederick County*, 2013 WL 4008189, No. 12-1980 (4th Cir., August 7, 2013). In other words, state and local law enforcement officials lack the legal authority to stop, detain, search, or arrest any individual based solely on an ICE warrant unless they have specifically been deputized by ICE to do so.

The court also ruled that municipalities are liable for damages arising out of unlawful arrests of this kind. In the aftermath of the court's decision, we fully expect that in the future, individual officers will also be found liable for such arrests.

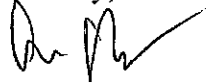
It is our understanding that most police departments in Maryland routinely stop, arrest and detain immigrants based solely on an outstanding civil immigration warrant—a practice the Fourth Circuit has now clearly stated is unlawful. If you have not done so already, it is critical that you immediately take any steps necessary to bring your department into compliance with the law, to inform all members of your department of this decision, and to provide training on proper application of this rule.

As an example, we attach a copy of a memorandum sent by Chief J. Thomas Manger to all members of the Montgomery County Police Department informing them of this decision and instructing them to stop arresting individuals solely on the basis of an ICE warrant. *See Attachment B, Memorandum from Chief Thomas Manger Re: ICE Civil Warrants and Secure Communities*. We strongly urge your department to release a similar statement.

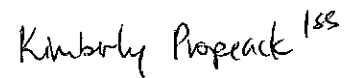
We would be happy to provide assistance with crafting policies to implement the law or to discuss this further if you have any questions. Please feel free to contact us with any questions or concerns.

Thank you for your attention to this matter.

Sincerely,



Sirine Shebaya
Immigrants' Rights Attorney
ACLU of Maryland



Kimberly Propeack
Political Director
CASA de Maryland



HEADQUARTERS MEMORANDUM 13-02

File With: FC 520

Distribution: All

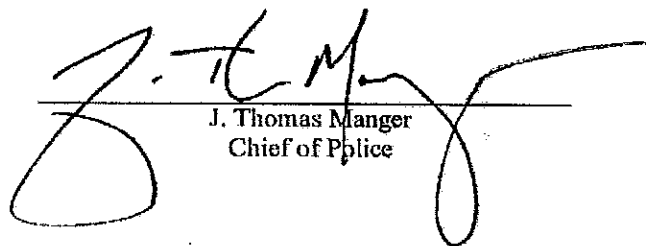
Date: 08-12-13

Subject: ICE Civil Warrants and Secure Communities

On August 7th, 2013, the United States Court of Appeals for the Fourth Circuit ruled that state and local law enforcement officers do not have legal grounds to stop, detain, search, or arrest any individual based solely on an ICE civil warrant, unless they have been deputized by ICE to do so. Officers must have a separate, arrestable offense in order to arrest any individual who is the subject of an ICE civil warrant.

Therefore, MCPD officers who receive a "hit" for an ICE civil warrant via NCIC will not use that information to stop, detain, search, or arrest any individual solely on the basis of the ICE warrant. Officers must have a legal reason (as listed in **FC 510, Adult Criminal Arrests**) separate from an ICE civil warrant in order to stop, detain, search or arrest any individual. Officers will not use the issuance of an ICE detainer after the fact to justify making an arrest based solely on an ICE civil warrant.

Officers are reminded that Montgomery County is a "Secure Community" through ICE, and that this designation alters certain parts of **FC 520, Dealing with Foreign Nationals**. Section IV of **FC 520**, paragraphs B, C, and D are no longer applicable, and should be disregarded. Officers will no longer notify ICE regarding the immigration status of an individual. Officers are still responsible for consular notifications when a foreign national is arrested, as stated in **FC 520, Dealing with Foreign Nationals**.



J. Thomas Manger
Chief of Police