March 26, 2025

Iowa Attorney General's Review of Winneshiek County Sheriff related to Iowa Code § 27A

Complaint Regarding February 4, 2025
Winneshiek County, Iowa

Subject Involved: Winneshiek County Sheriff Dan Marx

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Executive Summary

The Iowa Attorney General's Office has received a formal complaint from Governor Kim Reynolds under Iowa Code section 27A.8 about a Facebook post made by Winneshiek County Sheriff Dan Marx. Shortly after, the Attorney General requested information and documentation from the Sheriff and federal authorities to determine whether Iowa law had been violated.

On February 14, the Attorney General received the Sheriff's response. That included four responses confirming that Winneshiek County had a written policy requiring complying with ICE detainers and evidence that it had done so.

The Winneshiek County Sheriff policy requires complying with ICE detainers and the evidence shows that the Winneshiek County Sheriff's Office has complied with all ICE detainers.

Violating Iowa Code chapter 27A has one remedy under State law: loss of funding for the county. That penalty is mandatory if the violation is not fixed.

Sheriff Marx's Facebook post violated Iowa Code section 27A.4 by discouraging "the enforcement of immigration laws." To remedy that issue, Sheriff Marx deleted the Facebook post, explicitly retracted his earlier support for that post, and posted new information accurately reflecting his office's long-time policy of complying with state and federal law, including ICE detainers.

Factual Summary

The Attorney General's Office received a formal complaint from Governor Kim Reynolds under Iowa Code section 27A.8. That complaint followed a Facebook post by Winneshiek County Sheriff Dan Marx alleged to violate Iowa Code.

Some of the language highlights that raised concerns included:

- Falsely stating that "[t]he only reason detainers are issued is because the federal agency does not have enough information or has not taken the time to obtain a valid judicial warrant."
- Falsely claiming "these detainers are violations of our 4th Amendment protection against warrantless search, seizure and arrest, and our 6th Amendment right to due process."
- Threatening that he might "make every effort to block, interfere and interrupt [ICE] actions from moving forward."
- And explaining that his "long-time stance" is to "not recogniz[e] detainers."

The post is included in full:

Winneshiek County Sheriff's Office
February 4 at 1:37 PM ·

People of Winneshiek County,
With the recent news, chatter and happenings surrounding federal agents from three letter agencies including ICE, FBI and others, I have fielded a fair number of concerns about their tactics and questions regarding the level of involvement or role the Winneshiek County Sheriff's Office would play during such a visit or operation. Given what we have seen from these agencies, I share your mistrust and many of your concerns with the legitimacy of how these federal agents conduct business. Hopefully, the following helps clear things up as to my position and the role of my office in these situations.

The elected sheriff (sheriff's office) serves as the chief law enforcement officer/peace officer of each respective county. You can (and should) always contact us, or the respective sheriff's office of the county you are in, to help navigate these situations should you find yourself or others in an encounter with any federal agents. We are always willing to assist with verifying credentials and the legitimacy of any paperwork federal agents should have to make certain your rights are not being abused.

Our sole oath and allegiance are to the Constitution and the protection of an individual's rights. Therefore, if the fed's actions and paperwork are within constitutional parameters (such as proper and valid judicial warrants/court orders) we will assist if needed or requested to ensure their actions are carried out professionally and in the least intrusive fashion possible. If their actions or paperwork are not within constitutional parameters (such as non-judicially vetted "detainers," which are very different than warrants and are simply an unconstitutional "request" from ICE or other three letter federal agency to arrest or hold someone), then we will make every effort to block, interfere and interrupt their actions from moving forward.

The only reason detainers are issued is because the federal agency does not have enough information or has not taken the time to obtain a valid judicial warrant. Simply put, they are not sure they are detaining the right person and need more time to figure it out. For the person who could be held erroneously (or determined to be someone other than who ICE is seeking), there is a gross violation of rights at hand. Specifically, these detainers are violations of our 4th Amendment protection against warrantless search, seizure and arrest, and our 6th Amendment right to due process.

You may say, "Those who entered our country illegally are not US citizens and, therefore, are not afforded constitutional rights!" But what if the person being held is a US citizen who happens to have the same name or shares other similarities with the subject of the detainer? Are you willing to sit in jail or a federal prison on an unconstitutional detainer with no right to due process until ICE clears your name? Or, if it were you or a loved one falsely arrested and/or detained, would you feel differently?

My office's actions and involvement will solely be based on constitutional standards. They will not be based on opinions, politics or emotions.

Bottom line – due to my long-time stance on not recognizing detainers, I have acquired two labels from opposing political parties – both intended to negatively impact my reputation as sheriff. The first is "Sanctuary Sheriff" and the second is "Constitutional Sheriff." Regardless of labels that others impose on me, I am uninterested in political agendas or propaganda stunts by either side. My job is to be fair, impartial, just and constitutional. Period. That is what I have done and will continue to do.

Thank you for your continued trust and confidence in me and my office to protect and defend your rights and freedoms.

Respectfully,
Sheriff Dan Marx See less

On February 7, the Attorney General requested information as part of its investigation under chapter 27A. On February 14, the Sheriff responded. The Sheriff's Response included:

- The Winneshiek County Immigration Enforcement Policy adopted November 26, 2018.
- Copies of all detainer requests received by his office from November 26, 2018, to present.

- His office's response to each ICE detainer.
- A copy of an email sent by the Winneshiek County Attorney to his office relating, in part, to the Facebook post that led to the complaint.

The Attorney General is expecting final confirmation from ICE that the Sheriff's Office complied with all ICE detainer requests. Meanwhile, the Attorney General concludes that the Sheriff's responses satisfy the questions to which they are responding regarding Iowa law.

Process, Authority, and Applicable Law

Iowa Code section 27A.8 allows any person to file a complaint with the Attorney General alleging a violation of chapter 27A. The Attorney General is authorized to seek documents and the local entity must comply with those requests. Within ten days of the complaint, the Attorney General notified the Sheriff regarding the alleged violation. Iowa Code § 27A.8(4). Within thirty days, the Sheriff responded with all the requested information required under Iowa Code. Iowa Code 27A.8(5).

Iowa Code section 27A.4 explains that a "local entity shall not adopt or enforce a policy or take any other action under which the local entity prohibits [] the enforcement of immigration laws." Iowa Code § 27A.4(1). It also addresses the Code requirement that a "local entity shall not prohibit [] a person who is a law enforcement

officer, corrections officer, county attorney, city attorney, or other local official who is employed by or otherwise under the direction or control of the local entity" from aiding or assisting with immigration enforcement. Iowa Code § 27A.4(2).

Both of those code sections also forbid the "local entity" from "discourag[ing]" the enforcement or assistance or otherwise aiding in enforcing federal immigration law. Iowa Code §§ 27A.4(1)–(2). Specifically, section 27A.4 requires that a "local entity shall not adopt or enforce a policy or take any other action under which the local entity prohibits **or discourages** the enforcement of immigration laws" nor shall such an entity "prohibit **or discourage** a person who is a law enforcement officer" from taking a set of prescribed actions consistent with assisting federal law enforcement in this context.

Analysis

First, the Winneshiek County Immigration Enforcement Policy adopted on November 26, 2018, complies with Iowa Code chapter 27A. The policy explains that Iowa Code "requires all employees to comply with 'immigration detainer requests' issued by United States immigration [sic] and Customs Enforcement ("ICE") for people in our custody." It confirms that ICE "immigration officers shall be allowed access to the Winneshiek County Jail to conduct

federal immigration enforcement activities." And it confirms the process and procedure by which the Sheriff will comply with ICE detainers. For purposes of this Report and this Complaint there are no issues with the written policy.

Second, the Sheriff included copies of all detainer requests received by his office from ICE after November 26, 2018. **Each of those 21 ICE detainer requests was honored.** We are seeking final confirmation from ICE that there are no further questions about compliance with those or any other ICE detainer. This confirms that the longstanding policy of the Sheriff's Office is to comply with ICE detainer requests.

Third, each ICE detainer request included information relating to when the detainer was successfully effectuated. Pending final confirmation from ICE, that is consistent with the Sheriff's written policy, state law, and federal law.

Fourth, the Sheriff attached an email sent by the County Attorney that satisfactorily explains the Sheriff's policy. The County Attorney's email contradicts the offending Facebook post. That too satisfies Iowa Code.

The Attorney General concludes that making that post was intentional. The Sheriff's response did not propose a solution for the problems caused by the violations of Iowa Code caused by the post itself. *See* Iowa Code § 27A.8(3).

Remedy

Under chapter 27A, the statutory remedy for an intentional violation is loss of funds. Iowa Code section 27A.9 explains that "a local entity, including any entity under the jurisdiction of the local entity, shall be ineligible to receive any state funds if the local entity intentionally violates this chapter." The Attorney General is required under the law to file in district court to deny funding unless the violation is fixed.

While the Winneshiek County Sheriff's Office complied with the ICE detainers, the Attorney General's Office has determined that fixing the legal violation requires action. First, the Sheriff must delete the offending Facebook post. Second, to correct the discouragement he must make a new post with substantially the following language:

> People of Winneshiek County,
>
> The Winneshiek County Sheriff's Office fully complies with all state and federal law. We cooperate with ICE, FBI, and others under both state and federal law. Iowa law requires full and complete cooperation with federal immigration authorities. We follow that law. We will always comply with ICE detainers and, at least since November 26, 2018, we have done so. This post serves as formal revocation of my earlier February 4, 2025 post.
>
> Since we adopted our official policy that we will comply with ICE detainers, we have complied with all

> 21 ICE detainers that ICE has made with our office. We will continue to comply with every ICE detainer request made in Winneshiek County.
>
> On February 4, I posted a message on Facebook that implied we would not fully comply with state and federal law. I have deleted that message, which I disavow. It was wrong. It made many incorrect statements regarding my Office's policies on ICE detainers. This message explaining that the Winneshiek County Sheriff's Office has always complied with every single ICE detainer made and will continue to comply, as required by both state and federal law, replaces that message.
>
> My office has a long-time stance on recognizing and complying with ICE detainers. We will continue to do so.
>
> Respectfully,
>
> Sheriff Dan Marx

This proposed post is based on the cover letter to the Sheriff's response to the investigatory request, in which he wrote, in part:

> [I]n November 2018, Winneshiek County adopted the enclosed policy pursuant to then Chapter 825 (now Chapter 27A) of the Iowa Code, to confirm its compliance with then Chapter 825. It has been and remains my office's intent to follow that policy.
>
> . . .
>
> I expect my deputies to obey all federal, state, local and Constitutional requirements as they serve the people of Winneshiek County. When my deputies work with another state, local or federal law

> enforcement agency, it is my expectation that those agencies will also obey the law and protect the constitutional rights of those people that we are expected to serve . . . I acknowledge that some of the language I used in the letter could have been clearer on this point.

The Winneshiek County Sheriff's Office has confirmed that it complied with **every single ICE detainer request made since adopting its policy in November 2018.** It has also confirmed that it will continue to do so and will make every other effort to comply with both State and federal law. Deleting the offending Facebook post and posting a remedial post substantially as set forth in this report will fix any "discourage[ment]" caused by the initial post and will confirm to the public, other law enforcement officers, and the other categories of people listed in chapter 27A that the Sheriff's Office has complied, is complying, and will continue to comply with the law. And it will confirm that no other Sheriff, law enforcement officer, corrections officer, county attorney, city attorney, or other official will be discouraged from following the law by the incorrect legal statements in the post. On confirmation of that deletion and posting, the Attorney General will consider this matter closed.

Conclusion

The Attorney General concludes Sheriff Marx's February 4 Facebook post violated Iowa law by discouraging enforcement of federal and state immigration law. Following a review of Sheriff Marx's response to her request for information, she finds that the Winneshiek County Sheriff's Office complied with all ICE detainers made and has a written policy requiring such cooperation. Sheriff Marx's deletion of the original post and posting of a replacement, as detailed above, will remedy the harm caused by the original post. That will fix the "action under which the local entity prohibits or discourages the enforcement of immigration laws." Upon Sheriff Marx's confirmation of this deleting and posting of a replacement, the Attorney General will consider the investigation into this incident to be closed. **If the violation is not cured by 5:00 p.m. on March 26, 2025, then the Attorney General will file an enforcement action as required by chapter 27A.**