

SANCTUARY POLICIES IN THE STATE OF UTAH

October 6th, 2023

Overview:

- Major local sheriffs have enacted soft-bans/sanctuary policies on immigration detention, terminating all long-term detention contracts with ICE Enforcement and Removal Operations (ERO) Salt Lake City.
- This has resulted in approximately 70% of the field office's arrests being released from custody.
- It has also destabilized ERO Salt Lake City's capability to support the Border Patrol's Havre Sector in Montana along with CBP's international screening activities at airports.
- ERO Salt Lake City and ICE Headquarters' officials have met with various Utah elected leaders since 2016 regarding lack of detention space in the region with no advancement on this issue.

ERO Salt Lake City Logistical Background:

- ERO Salt Lake City is responsible for ICE law enforcement activity in the States of Idaho, Montana, Nevada, and Utah.
- ERO Salt Lake City has 11 offices throughout the four-state region with 160 officers and professional staff.
- The office has immigration court support in Salt Lake City, UT and Las Vegas, NV.
 - The immigration court in Salt Lake City is responsible for cases in Idaho, Montana and Utah.
- Prior to detention contract terminations in Utah, detainees from Idaho, Montana and Utah were housed in the 300 – 400 beds in the Utah County Jail and subject to detained hearings with the local immigration court.
 - Detained hearings are resolved in about a month compared to five years for those released from ICE custody.
- At present, due to lack of long-term detention capacity in Utah, detainees from these states are largely released from ICE custody and bed space is frequently denied to the Border Patrol's Havre Sector along with local CBP airports.
 - When detention is feasible, detainees are generally transferred to Las Vegas, NV or Denver, CO. This is 900 – 500 miles from the point of arrest for cases originating from Idaho and Montana.
 - This presents enforcement and logistical issues for ICE and due process challenges for migrants, as they are unable to retain local legal representation.
 - As an example, and in addition to other public safety threats, ICE is unable to arrest El Salvadoran nationals, including MS-13 members, due to legal requirements mandating their stay in the district of arrest for seven days prior to transfer.

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- ERO Salt Lake City has no transportation contract support so ERO officers must conduct transfers, which pulls officers off of public safety-oriented law enforcement activities and becomes difficult/tearful in winter months.
- Utah is the preferred location for detention expansion due to local immigration court support, ICE prosecutor and private attorney access, along with hospitals.
- Idaho is not an option for detention due to lack of Immigration Judges in the state.
- Montana has not been an option for ICE due to lack of Immigration Judges in the state and ERO only maintains seven full-time employees in the entire state and does not have enough officers to support a jail.
- There are no federal facilities in the four-state region.

Engagement Chronology:

2016

- The Utah County Jail terminated their contract with ERO Salt Lake City, with a capacity of 300 - 400 detainee beds citing onerous detention inspections.
- ERO Salt Lake City and Assistant Director for Custody Management, and later Acting ICE Director, Tae Johnson, conducted engagement with former Congressman Jason Chaffetz regarding termination.
 - Congressman Jason Chaffetz was unsuccessful with influencing Utah County Sheriff to restart detention contract.

2017

- ERO Salt Lake City met with Salt Lake County, Cache County, Weber County and Davis County sheriffs regarding commencement of long-term detention contracts.
- All sheriffs cited concerns with detention inspections based on word of mouth from the Utah County Sheriff.
- Cache County signed a 50-bed detention contract with ERO Salt Lake City to supplement its local county budget.
 - The detention contract was terminated in 2022 by Cache County citing onerous detention inspections and low bed payment rates (approx. \$1 million per year for 50 beds) for the work required to house ICE detainees.
 - Cache County pivoted to house U.S. Marshals inmates as bed payment rate was the same as ICE's minus the number of inspections and oversight.
 - U.S. Marshals Service pays the same rate as ICE with less inspections required.

2018

- Senator Orrin Hatch and U.S. Attorney John Huber hosted a meeting with ERO Salt Lake City, ERO Deputy Director Tae Johnson, and Utah major county sheriffs' regarding detention space needs.
 - Detention expansion requests were unsuccessful.

2019 - 2021

- ERO Salt Lake City continued incremental engagement with all major and small counties in Utah to expand detention capacity.

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- All counties expressed concern with detention inspections based on word of mouth from the Utah County Sheriff and declined assistance.
- ERO Salt Lake City commenced with project to establish a Contract Detention Facility in Evanston, Wyoming, two hours from Salt Lake City, UT.
 - Local protest activity created a chilling effect toward the Utah-based vendor as activists reached out to the vendor's preferred loan provider and the vendor faced potential "de-banking".
 - ERO Salt Lake City is revisiting this project and submitted a new federal facility proposal in September 2023 to ICE Headquarters. Ideally a larger vendor will support.
- Daggett County Jail was offered for purchase to ERO Salt Lake City.
 - ERO Salt Lake City has not acted on this offer as the facility was shut down after a Utah Department of Corrections investigation revealed systemic inmate abuse.
 - The property is now up for sale, but due to negative optics, and distance, ERO Salt Lake City is not interested in the facility. [link](#) (for reference)

2022 – 2023

- Cache County Jail terminated its 50-bed agreement with ICE.
- Washington County Jail terminated its 10-bed agreement with ICE.
 - These terminations left ERO Salt Lake City with no long-term bed space in Utah.
- ERO Salt Lake City has informed Utah's federal Congressional Delegation of the strained detention situation.
 - Despite outreach by the offices of Senators Mitt Romney and Mike Lee along with Congressmen Stewart, Owens, Moore and Curtus to local major county sheriffs, these offices have been unable to influence the sheriffs to provide bed space.
- ERO Salt Lake City reached out to the Sanpete County Jail, Beaver County Jail, and Iron County Jail. They declined assistance based on word of mouth from Utah County.
- ERO Salt Lake City reached out to Weber County Jail, a pre-inspection was conducted. The pre-inspection passed; however, the sheriff is short staffed and lacks detention space to house ICE detainees and expressed significant concern with ongoing inspections and requested ICE to construct a new annex to the jail.
 - ICE has concerns with building an annex as the sheriff could kick ERO out of the facility post-construction.
- Utah passed the [Illegal Immigration Enforcement Act](#) in 2011.
- ICE believes that these jail terminations violated the below section of the act as the jail terminations limit/restrict ICE from enforcing our mandatory detention sections (e.g. [INA 236\(c\)](#)) of the Immigration and Nationality Act, among other federal provisions.
 - **76-9-1006 Enforcement of federal immigration laws.** *A state or local governmental agency of this state, or any representative of the agency, may not: (1) limit or restrict by ordinance, regulation, or policy the authority of any law enforcement agency or other governmental agency to assist the federal*

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government in the enforcement of any federal law or regulation governing immigration

Similar Sanctuary Policies:

- California:
 - [California's for-profit immigrant detention ban failed. - Los Angeles Times \(latimes.com\)](#)
- Colorado:
 - [Despite sheriff's plea, ban on ICE lockup agreements becomes Colorado law \(denverpost.com\)](#)
- Illinois:
 - [Inside the last week of ICE detention in Illinois | Injustice Watch](#)
- New Jersey:
 - [N.J. law barring prison operator from contracting with ICE is unconstitutional, judge says - New Jersey Monitor](#)
- New York:
 - [The New York State Legislature Introduces Dignity Not Detention Act to End ICE Detention | Center for Constitutional Rights \(ccrjustice.org\)](#)