



LAW ENFORCEMENT IMMIGRATION TASK FORCE

A Path to Public Safety: Fact Sheet: Warrant Service Officer (WSO) Program

June 4, 2019

What is the WSO program?

U.S. Immigration and Customs Enforcement (ICE) [announced](#) the launch of the Warrant Service Officer (WSO) program on May 6, 2019. ICE called the WSO program “a new collaborative program intended for local law-enforcement that wish to honor immigration detainers but are prohibited due to state and local policies that limit cooperation with the agency.”

[Widely seen](#) to represent a “[workaround](#)” to counter [so-called sanctuary policies](#), the WSO program involves the federal government training and deputizing local law enforcement officers to process ICE administrative warrants.

Pinellas County, Florida, is the first locality to agree to partner with ICE through the WSO program.

How does the WSO program work?

Participation in the WSO program is voluntary. Localities that wish to cooperate with ICE will sign a WSO Memorandum of Understanding, which will permit the locality to nominate officers to receive training and be deputized as WSOs. Deputized WSOs will serve ICE administrative warrants and execute arrests on behalf of ICE, permitting localities to hold a noncitizen in custody for 48 hours past the time of his or her scheduled release. ICE will not reimburse localities for the costs of the WSO program.

Under the program, WSOs have limited federal immigration enforcement responsibilities, and will not question individuals about their citizenship, nationality, immigration status or removability. Nor will WSOs process undocumented persons.

What is ICE’s authority to create WSO?

According to ICE, WSO is an extension of the [287\(g\) program](#), under which local jurisdictions voluntarily enter into agreements with ICE to carry out immigration enforcement actions. Under 287(g), select officers from the locality undergo an extensive four-week, off-site federal training and are then deputized to investigate, arrest, and detain noncitizens for violations of immigration law. Deputized officers taking part in the program must also undergo a one-week refresher training every two years to ensure their knowledge of immigration enforcement is up-to-date.

In contrast to the 287(g) requirements, WSOs receive a single day of on-site training and have fewer responsibilities.

Law enforcement agencies in [states that place limits](#) on agencies’ ability to sign-up for the 287(g) program will likely be prevented from taking part in the WSO program.

Does WSO solve the legal problems surrounding immigration detainers?

Probably not. Multiple federal courts have found [immigration detainers](#) to be legally problematic in the absence of a warrant, potentially [creating civil liability](#) for jurisdictions that elect to honor them.

In the absence of a warrant or court order issued by a judge, immigration detainers raise significant Fourth Amendment issues for localities that honor them. According to ICE, administrative warrants issued by WSOs will address these concerns. ICE asserts that these administrative warrants have the force of law and will permit many jurisdictions that do not honor warrantless immigration detainers to cooperate closely with ICE. However, this step is [likely insufficient](#). Because an ICE administrative warrant is not issued by a judge or neutral magistrate and does not require probable cause that a crime has occurred, it likely does not satisfy Fourth Amendment requirements.

However, the WSO program may potentially shift liability for Fourth Amendment violations from local law enforcement agencies to the federal government (ICE), depending on whether judges determine that WSOs are acting in a federal or local role. ICE argues that the issuance of the administrative warrant and the detention by the deputized WSO would be considered holding someone in ICE custody, extinguishing the liability of the locality. This question will likely be the subject of future litigation.

What other objections have critics raised concerning the WSO program?

[Critics](#) have [argued](#) that the WSO program entangles the roles of federal and local law enforcement in enforcing federal immigration law. Because immigration enforcement has traditionally been a [federal responsibility](#), deputizing local law enforcement officers to serve as federal WSOs may lead immigrant communities to conflate local law enforcement agencies with ICE, undermining community trust and making them less likely to report crimes.