



Written by [Warren Mass](#) on September 26, 2017

Maine Governor Tells Sheriffs to Cooperate With ICE Detainer Requests or Face Removal

Maine Governor Paul LePage (shown in suit) sent a letter to his state's 16 county sheriffs on September 25, telling them that he would remove from office any sheriff who did not cooperate with federal immigration officials. His letter said: "I am directing you to cooperate with federal immigrations officials and follow the provisions of Executive Order 001-2011, which I signed in January of 2011."



LePage continued by summarizing what that executive order required, including:

Employees and officials of the States of Maine shall cooperate with employees and officials of the federal government on all matters pertinent to immigrations, subject only to any limitations imposed by statutory law or by the Constitution of Maine or the United States.

As a state established under the authority of the Constitutions of the United States of America and of the States of Maine, the State must do its duty and work cooperatively at the Federal, State, and Local level to enforce the laws that maintain our nation's sovereignty and keep us safe.

LePage continued by stating the consequences of ignoring his executive order:

Should any citizen of Maine notify me of any undocumented, illegal alien who was detained and released by a Maine Sheriff following a written United States Immigration and Customs Enforcement (ICE) request the alien be detained pending federal enforcement action, I will commence the specific process afforded me under the Maine State Constitution Article IX Section 10. [Emphasis in original.]

In the paragraph before that, LePage, summarized what Article IX Section 10 stated:

Removal of sheriffs from office and replacement. *Whenever the Governor upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon the sheriff by law, the Governor may remove such sheriff from office and appoint another sheriff to serve for the remainder of the term for which such removed sheriff was elected. All vacancies in the office of sheriff, other than those caused by removal in the manner aforesaid shall be filled in the same manner as it provided in the case of judges and registers of probate.* [Emphasis in original.]

LePage's 2011 executive order was one of his first acts as governor, and rescinded an order issued by his Democratic predecessor John Baldacci that had barred state officials from asking detainees and others about their immigration status.

During a radio interview on September 25, Fox News host Laura Ingraham asked LePage about the current status of refugee resettlement in Maine. The governor said refugees were still coming in when he first announced that Maine was not going to participate in a refugee resettlement program during the Obama administration, but "they're not now."



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“We’ve asked ICE to investigate a few organizations in the state of Maine,” LePage continued. “I’m issuing an executive order right now because we have a couple sheriffs that say they’re not going to work with ICE.”

“Unbeknownst to them, the Maine constitution says if they don’t follow state law, then I can remove them,” said LePage, noting that there was a “likelihood you’re going to be hearing some stories about some sheriffs being removed from their duties.”

Further along in the interview, LePage told Ingraham about a situation that was partly responsible for his executive order. “We’ve had a couple of terrorists in the state of Maine and I’m not going to stand by and watch them settle in Maine and do their harm from here in Maine.” LePage noted that one of the terrorists, who came to Maine as a refugee, had been on welfare before going to the Middle East and fighting with a terrorist organization.

So far, the only Maine sheriff who has public stated that he would no longer hold inmates at the request of ICE was Cumberland County Sheriff Kevin Joyce. Joyce said during an interview with WCSH News in Portland on September 20 that the Cumberland County Jail will stop holding some inmates for immigration agents. The sheriff based his decision on constitutional grounds, he told the media, saying that to hold detainees without a warrant violates the Fourth Amendment. He did not explain how the Fourth Amendment, which prohibits unreasonable searches and seizure, and the issuing of warrants without probable cause, pertains to detainees that ICE suspects of being in this country illegally.

WCSH News reported Joyce’s explanation for his refusal to honor the ICE detainers. He told the station that he found what he considers to be an impediment to holding people on a detainer request from ICE instead of releasing them after they could make bail. “Let’s say that the case doesn’t build up beyond that and the person who is believed to be an illegal immigrant is found to be legal, then I’ve just committed a Fourth Amendment violation of false imprisonment.”

The station also quoted New England ICE agent Shawn Neudauer, who said, “It is disappointing that the Cumberland County Sheriff’s Office has taken such an extreme step in the wrong direction.”

“Time and time again we’ve seen tragic consequences because local jurisdictions declined to cooperate with U.S. Immigration and Customs Enforcement,” Neudauer said. “Policies like this deliberately obstruct our country’s immigration laws and shelter serious criminal alien offenders.”

Joyce continued his argument, saying, “This does not say we don’t hold ICE inmates. I’m not saying that at all. If ICE or Border Control came in with an arrest, we will take them because you’re assuming like any police department they have probable cause to do what they’ve done.”

The sheriff said that a judicial warrant would ensure that someone held beyond their release date, a detainer, couldn’t sue the county.

ICE, however, insisted it has the authority to make arrests without a warrant based on probable cause.

Joyce told that station he remains firm in his decision. If the law does change, and Fourth Amendment rights are protected, he will be happy to reconsider, he said. “If there’s a judicial warrant issued then we will recognize that. I will also take a detainer with a judicial warrant, but I can’t take a detainer on the guise that I’m holding someone beyond what they would be released for in hopes they won’t come back and sue us.”

In issuing his order, LePage cited the case *Morales v. Chadbourne*, wherein a federal court ruled that ICE must have probable cause to issue detainer requests to local law enforcement.



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Considering that, said LePage, “Because ICE officials must have probable cause prior to requesting a detainer, we should not be putting potentially dangerous illegal aliens back on the streets without granting federal officials the authorized 48 hours of detention.”

Though Joyce appears to have sincere concerns about subjecting his county to possible litigation, his position is not shared by many other law-enforcement personnel across the nation. In fact, the wide number of jurisdictions across the country that have reversed their former sanctuary city policy (“sanctuary cities” do not honor ICE detainees) indicates that officials in these jurisdiction do not share Joyce’s viewpoint.

The New American [published an article in February](#) noting that in response to President Donald Trump’s executive order issued on January 25 — “Enhancing Public Safety in the Interior of the United States” — a number of cities that formerly considered themselves as “sanctuary cities” for illegal immigrants are reversing their policies. The first to do so was Miami-Dade County in Florida. Shortly thereafter Saratoga, New York; Finney County, Kansas; and Bedford, Pennsylvania changed their policies, as well. Additionally, entire states are also joining the sanctuary exit, including Idaho, Texas, Iowa, Michigan, Ohio, Tennessee, Florida, North Carolina, and Pennsylvania.

Photo: [maine.gov](#)

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