NEW ORLEANS WORKERS’ CENTER FOR RACIAL JUSTICE

BACKGROUND ON NEW ORLEANS PARISH PRISON IMMIGRATION DETAINER POLICY

What happened, and why does it matter?

● Reversing his previous position, Orleans Parish Sheriff Marlin Gusman has agreed to a policy that locks immigration enforcement out of New Orleans Parish Prison. The policy is the farthest-reaching of its kind in the country, and comes as some lawmakers push for broad criminalization and ever-harsher enforcement in national immigration reform.

● Sheriff Gusman’s previous policy of submitting to ICE immigration holds led to systematic racial profiling and severe constitutional violations. Immigrant workers in New Orleans were routinely held without charge past the 48-hour limit set by ICE’s own rules. Two members of the Congress of Day Laborers (a project of the New Orleans Workers’ Center for Racial Justice), were held for 160 and 90 days respectively.

● Those workers pressured Sheriff Gusman to change his policy through a federal lawsuit (Cacho v. Gusman, Civ. No. 11-225, E.D.La. February 2011). Simultaneously, the Congress of Day Laborers built massive community pressure over three years through public actions, community negotiations, and media exposure, eventually winning a unanimous New Orleans City Council resolution calling on the sheriff to reverse his policy of submitting to ICE holds.

● Now, the sheriff has reversed course, agreeing to a new policy that blocks immigration enforcement from the Orleans Parish Prison. The policy is a significant victory for immigrant workers who have been fighting for the right to remain in the communities they have rebuilt since Hurricane Katrina.

● Because the new policy comes as part of a settlement in federal court, its permanence is guaranteed.

What the new policy says

● Orleans Parish Prison will decline all ICE hold requests except in narrow circumstances: murder, aggravated rape, aggravated kidnapping, treason, or armed robbery with a firearm. In those circumstances, the Sheriff will decline the ICE hold upon recommendation of the criminal court.

● The Orleans Parish Sheriff may not investigate an individual’s immigration status or provide ICE with an individual’s home address and/or release date;

● ICE may not conduct civil enforcement in the jail. If ICE wants to conduct a criminal investigation in the jail, it must provide reasonable notice and opportunity for the individual’s attorney to be present at any interview.

Significance of the new policy

● It’s the furthest-reaching policy of its kind in the country, at a time when other localities, including Chicago; Washington, DC; Santa Clara, CA; and the State of Connecticut, have adopted their own policies limiting ICE collusion with local law enforcement.

● It’s a unique case of a Southern sheriff adopting a pro-immigrant policy, effectively acknowledging that ICE enforcement is trampling people’s rights, and is detrimental to public safety.

● Together, the community and the Sheriff have put New Orleans on the right side of history: rejecting a program forcing the local law enforcement officials to do ICE’s dirty work, stopping the deportation of tomorrow’s citizens, and respecting the right of immigrant workers to remain in the communities they rebuilt.

National stakes

● As national immigration reform moves to the House, some lawmakers are pushing for broad criminalization and ever-harsher enforcement, as exemplified by the SAFE Act.

More information: http://nowcrj.org/right-to-remain
Meanwhile, New Orleans is at the forefront of local efforts to do just the opposite: to limit ICE pressure on local police to carry out draconian and ineffective detention policies. One example is California's TRUST Act, an "anti-Arizona" law meant to limit the burden of ICE holds on local law enforcement.

This breakthrough in New Orleans is an example of how immigrant communities and local law enforcement can work together to find policies that work for all. Federal politicians and officials should let immigrant communities take the lead in setting policies that actually make communities safer, instead of running local deportation programs that divide families and lead to racial profiling and constitutional violations.

The road to the new policy

- In 2010, the Chief Federal Judge of the U.S. District Court of Eastern Louisiana granted the writ of habeas corpus of Antonio Ocampo, a Congress of Day Laborers member. Ocampo had been overdetained in Orleans Prison Parish for more than 90 days on an expired ICE hold request when the New Orleans Workers’ Center for Racial Justice (NOWCRJ) filed a writ of habeas corpus challenging the detention. The judge held that the Sheriff had unlawfully detained Ocampo, and ordered Ocampo’s immediate release.

- In 2011, NOWCRJ filed a federal lawsuit on behalf of Congress of Day Laborers members Mario Cacho and Antonio Ocampo challenging Sheriff Gusman’s unconstitutional policy of holding individuals in his jail for ICE. The lawsuit detailed the overdetention of Cacho and Ocampo for more than 160 days and 90 days respectively on expired ICE hold request (federal law limits ICE holds to 48 hours). The lawsuit also detailed the plaintiffs’ multiple written complaints to jail staff requesting their freedom from detention, all of which were ignored.

- In 2012, the U.S. Department of Justice (DOJ) issued a findings letter which found that the sheriff’s office had no tracking system to ensure that individuals were released after the 48-hour hold period. Rather, “staff members responsible for managing these holds appear to rely upon memory or handwritten notes on files.” The DOJ expressed serious concern that the individuals were “falling through the cracks” because of the sheriff’s submission to ICE hold requests.

- In May 2013, City Council unanimously introduced and passed a City Resolution calling on the sheriff to stop submitting to ICE hold requests. The resolution represented unanimous support from the city government and community to stop these deportation practices. NOWCRJ worked closely with city council members to draft the resolution and provide testimony on the resolution’s importance.

- In June 2013, Sheriff Gusman finally released the written complaints of Antonio Ocampo and Mario Cacho, along with those of a number of other individuals who NOWCRJ found were overdetained. The grievances confirmed what plaintiffs had been stating all along: that they had filed multiple complaints with jail staff seeking their release and that jail officials had ignored their pleas for freedom.

The fight ahead

- We fully expect the Southern Regional Office of ICE—which in the past has colluded with employers to attempt illegal private deportations of immigrant workers—will voice disagreement with the new policy. Nevertheless, the new policy is protected by court order, letting immigrant workers in New Orleans feel secure in their newly won protections.

- Immigrant communities will continue to organize against the deportation of tomorrow’s citizens, and for the right to remain in the communities they have rebuilt.

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The plaintiffs were represented by NOWCRJ; the National Immigration Law Center; and Orrick, Herrington & Sutcliffe LLP. The plaintiffs are members of NOWCRJ’s Congress of Day Laborers.

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