



U.S. Immigration
and Customs
Enforcement

May 31, 2023

MEMORANDUM FOR: Francisco Madrigal
Assistant Director
Enforcement

FROM: Michael Bernacke 
Field Office Director
Salt Lake City Field Office

SUBJECT: Sanctuary State Designation for the State of Utah

Discussion:

The Salt Lake City Field Office has encountered limitations and restrictions related to its ability to enforce the Immigration and Nationality Act and Chapter Eight of the Federal Code of Regulations due to terminations of intergovernmental service agreements with ICE by the Utah County Sheriff's Office in August 2016, Cache County Sheriff's Office in November 2022, and the Washington County Sheriff's Office on May 31, 2023.

These terminations have ended ICE's ability to detain foreign nationals on a long-term basis (over 72 hours).

In fiscal year 2023 (October 1, 2022 – April 30, 2023), the Salt Lake City Field Office arrested 4,216 foreign nationals of which only 33%, or 1,396, were detained by ICE, the other **67% were released from ICE custody**. Non-detention policies stemming from local sheriffs' offices directly resulted in the exceptional number of foreign nationals released back into the community to reside alongside Utah residents.

These non-detention policies have compromised the Salt Lake City Field Office's ability to support the U.S. Border Patrol and their efforts to stem the current border surge by providing the Department of Homeland Security additional bed capacity to detain and remove inadmissible foreign nationals. It is also providing a pull-factor from the border to the region as foreign nationals have provided intelligence to staff advising that word of mouth amongst migrants is that Utah is a location where they will likely not be deported. The field office is also observing migrants who recently crossed the border are relocating from sanctuary states like New York and Illinois to Utah due to the lessened risk for deportation.

Additionally, the bed terminations have also directly de-stabilized ICE's law enforcement capability in the States of Idaho and Montana as Utah-based bed space provided a central location for detainee transfers for those arrested by ICE and the Border Patrol on the northern border. Additionally, due process for foreign nationals has been degraded as those in immigration proceedings no longer direct access to Immigration Judges based in Utah who are responsible for hearings in Idaho, Montana, and Utah in an expedited detained setting. All hearings are now conducted in a non-detained setting, increasing hearing wait times from one to three months, in a detained setting, to two to five years due to lack of bed space for detained hearings.

Designation:

Accordingly, due to the de-stabilization of ICE's law enforcement mission in Idaho, Montana, and Utah, its negative downstream impact to the Border Patrol and border security, along with compromised due process and restriction of speedy immigration hearings, and the fact that other sanctuary states such as Colorado Illinois, Maryland, Washington, etc., have enacted similar non-detention policies, I am designating the State of Utah as a sanctuary state.

cc:

Robert Guadian, Assistant Director, Field Operations

Brian McShane, Acting Deputy Assistant Director, Field Operations