



FAQs on ICE’s New “Enforcement Partnerships” in Florida¹

What is ICE’s new “enforcement partnership” scheme?

The scheme announced on January 17, 2018, adds two pieces of paperwork to ICE’s existing detainer practices.² ICE will now sign agreements called Basic Ordering Agreements (BOAs) with local jails, under which ICE agrees to pay the jail \$50 per detainer.³ Later, alongside each detainer it sends to a jurisdiction that has signed a BOA, ICE will now send Form I-203, which is used to keep track of ICE detainees as they are booked into and out of rented local jail space.

What does the Basic Ordering Agreement say?

A BOA is not an enforceable contract and does not obligate the jail to honor any particular detainer. Instead, it provides that if the jail does hold someone for ICE, the jail will be reimbursed \$50 for up to 48 hours of detention. Under a BOA, local signatories also agree to

No. The same thing has always been true of detainers. ICE decides whether to issue an I-247A detainer, just as it will decide whether to issue an I-203. Local officials remain liable under the Fourth Amendment because they are the ones carrying out the seizure.

Does a Basic Ordering Agreement or I-203 give local law enforcement the legal authority to make a new arrest?

No. ICE has not claimed that the BOA process delegates immigration arrest authority to local officers. Similarly, an I-203 does not provide any arrest authority, but simply asks a jail to house a person who has *already* been arrested by federal officers. And nothing in ICE's contracting statute or procurement regulations purports to delegate authority for local officials to make immigration arrests. *See* 8 U.S.C. § 1103(a)(11) (authority to rent jail space);