STATE OF INDIANA	)	IN THE ST. JOSEPH CIRCUIT COURT
	) SS:	
ST. JOSEPH COUNTY	)	CAUSE NO. 71C01-2501-PL-000026

STATE OF INDIANA, EX REL
TODD ROKITA,
ATTORNEY GENERAL OF INDIANA,

Plaintiff

V

WILLIAM REDMAN, in his official capacity as
ST. JOSEPH COUNTY SHERIFF, and
ST. JOSEPH COUNTY POLICE DEPARTMENT

Defendants

ORDER

Plaintiffs appeared by Deputy Indiana Attorneys General, Blake E. Lanning, Bradley S. Davis and Aaron M Ridlen, and Defendants appeared by counsel, Andrew B. Jones and Michael P. Smyth, before the Honorable John E. Broden on June 18, 2025 for hearing on Defendants' Motion to Dismiss. Hearing had by way of oral argument. At the conclusion of the hearing, the Court took the matter under advisement. Judge Broden thereafter, and prior to ruling on Defendants' Motion to Dismiss, recused from further proceedings in the above-captioned case. The undersigned was subsequently appointed as Special Judge of the St. Joseph Circuit Court to preside in this matter. The undersigned accepted and qualified for the appointment. Status hearing was held on September 9, 2025, at which time, and without objection, the undersigned advised counsel that she would obtain and review a copy of the transcript of the June 18, 2025 hearing (Transcript) and rule. She further advised if her review of the Transcript and the parties' submissions left questions in her mind, she would schedule further hearing. The Court obtained

Transcript on or about October 10, 2025, has now concluded its review and consideration of the Transcript and submissions and enters the following order:

Plaintiffs' Complaint alleges that Defendants violated certain provisions of the Indiana Code, specifically, I.C. 5-2-18.2.-3 and -4. Plaintiffs allege that Defendants "have implemented and maintain policies and practices of impermissibly restricting Defendants' and Defendants' officers' cooperation and communications with federal immigration authorities" in "clear" violation of these provisions of the Indiana Code.

Rhetorical paragraph 22 of Plaintiffs' Complaint cites I.C. 5-2-18.2-3 as providing that:

> a governmental body "may not enact or implement an ordinance . . . or policy that prohibits or in any way restricts another governmental body or employee . . . , including a law enforcement officer, a state or local official, or a state of local governmental employee from taking" specified "actions with regard to the information of the citizenship or immigration status, lawful or unlawful, of an individual."

The omission of the text represented by the second ellipsis is problematic. In its entirety, I.C. 5-2-18.2-3 provides:

> *A governmental body or postsecondary educational institution* may not enact or implement an ordinance, a resolution, a rule or a policy that prohibits or in any way restricts ***another*** *governmental body* **or** *employee of a postsecondary educational institution*, including a law enforcement officer, a state or local official, or a state or local government employee, from taking the following actions with regard to information of the citizenship or migration status, lawful or unlawful, of an individual:
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> (1) Communicating or cooperating with federal officials.
>
> (2) Sending to or receiving from the United States Department of Homeland Security.
>
> (3) Maintaining information.
>
> (4) Exchanging information with another federal state or local governmental entity.
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> (all emphasis added)

For the reasons set forth in the endnote to this Order, it is not at all clear that the conduct of which the Plaintiffs complain falls within the ambit of this statute. However, Defendants do not make this argument, and, accordingly, for purposes of this Court's resolution of their Motion to Dismiss the Court takes the reading of the statute the Plaintiffs proffer.

Defendants' Motion to Dismiss alleges "(1) the Attorney General lacks standing to bring this suit; (2) the complaint fails to state any claims which offer plausible grounds for relief, and (3) the Plaintiffs' complaint is an attempt impermissibly direct a local law enforcement agency to assist ICE I, essentially deputizing local law enforcement to perform the bidding of the federal government."

Plaintiffs' standing to bring this suit.

Plaintiffs' Response to Defendants' Motion to Dismiss invokes the "injury to the sovereignty" of the State as the "injury in fact" necessary for there to be standing to sue. Plaintiffs cite *Vermont Agency of Nat. Res. v United States ex rel. Stevens*, 529 U.S. 765, 771 (2000). This Court respectfully disagrees with the Plaintiffs' reading of *Stevens*.

The United States Supreme Court reminds us of the "irreducible constitution minimum" constituents of standing: First, the plaintiff must have suffered an "injury in fact" -- an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of -- the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . the result [of] the independent action of some third party not before the court." Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision." *Lujan v Defenders of Wildlife*, 504 U.S. 555, 560,

119 L.Ed. 2d 351, 112 S.Ct. 2130 (1992). Plaintiffs have not met the first of these requirements and *Stevens* does not provide the basis Plaintiffs claim.

Standing - Injury in Fact

Stevens concerns the authority of an individual to file suit in federal court on his own behalf and on behalf of the United States (if the United States subsequently intervened in the individual's suit) (in which case the United States take the lead as acting on relation of the individual) against a State to enforce the False Claims Act, 31, U.S.C. Secs. 3729-3733. The final disposition of this case – that an individual cannot file this *qui tam* action against a State – is not a clear statement by the Supreme Court erecting a barrier around, or recognizing a limitless license flowing from, the sovereignty of the State. It is a holding, in accord with Supreme Court precedence, that the term "person," as used within the FCA to define the target of such suit, is understood not to include any State of the Union.[1] That is the gravamen of the holding – whether a state is a "person" against whom a claim can be brought under the FCA.

However, for purposes of this litigation, *Stevens* is instructive in understanding what is required of Plaintiffs to allege injury in fact.

The FCA imposes civil liability upon "any person" who, *inter alia*, "knowingly presents, or causes to be presented, to an officer or employee of the United States Government . . . a false or fraudulent claim for payment or approval." 31 U.S.C. Sec. 3729(a). The defendant/target of the successful prosecution of an FCA claim is liable for up to treble damages and a civil penalty of up to $10,000 per claim. *Ibid.* An FCA action may be commenced in one of two ways. First,

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[1] A *qui tam* action is an action brought by an individual to address a violation of law, in which action, the government may intervene. On a related point, it is not clear that the caption of this case properly reflects the Plaintiff's status, as it is not clear that the Attorney General, who, in that capacity, is not a private individual qualifies as a relator, as distinct from the public official authorized, generally, to bring suit on behalf of the State.

the Government itself may bring a civil action against the alleged false claimant. Sec. 3730(a). Second, a private person (the "relator") may bring a *qui tam* civil action "for the person and for the United States Government" against the alleged false claimant, "in the name of the Government." Sec. 3730(b)(1).

If a relator initiates the FCA action, he must deliver a copy of the complaint, and any supporting evidence, to the U.S. Attorney General and appropriate U.S. Attorney. The Government then has 60 days to intervene in the action. If it does so, it assumes primary responsibility for prosecuting the action, Sec. 3730(c)(1), though the relator may continue to participate in the litigation. If the Government declines to intervene within the 60-day period, the relator has the exclusive right to conduct the action, Sec. 3730(b)(4).[2] A successful prosecution of a claim under the FCA results in the financial recovery by the relator, or, if the Government has intervened, a share of any proceeds from the action, plus attorney's fees and costs. Secs. 3730(d)(1)-(2).

In *Stevens*, Jonathan Stevens brought a *qui tam* action in the United States District Court for the District of Vermont against the Vermont Agency of Natural Resources (VANR) alleging that VANR had submitted false claims to the Environmental Protection Agency (EPA) in connection with various federal grant programs administered by the EPA. The United States declined to intervene in the action. The VANR moved to dismiss Stevens's suit arguing that a State (or state agency) is not a "person" subject to liability under the FCA and that a *qui tam* action in federal court against a State is barred by the Eleventh Amendment. The District Court denied the motion. The VANR Petitioner then filed an interlocutory appeal, and the District Court stayed proceedings pending its outcome. The United States intervened in the

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[2] Subject to the potential for later intervention by the Government, upon a showing of "good cause. Sec. 3730(c)(3).

appeal in support of Stevens. A divided panel of the Second Circuit affirmed, 162 F.3d 195 (1998). The Supreme Court granted *certiorari.*

According to *Stevens*, a private individual has standing to bring suit in federal court on behalf of the United States under the FCA. Stevens met the requirements necessary to establish Article III standing. In particular, he has demonstrated "injury in fact" -- a harm that is both "concrete" and "actual or imminent, not conjectural or hypothetical." *Whitmore v. Arkansas*, 495 U.S. 149, 155, 109 L.Ed.2d 135, 110 S.Ct. 1717. Stevens argued before the Supreme Court that he was suing to remedy injury in fact suffered by the United States – "both the injury to its sovereignty arising from violation of its laws and the proprietary injury resulting from the alleged fraud." The Supreme Court wrote that the concrete private interest that Stevens has in the outcome of his suit, in the form of the bounty he will receive if the suit is successful, was insufficient to confer standing, since that interest did not consist of obtaining compensation for, or preventing, the violation of a legally protected right. However, shifting focus slightly, the Supreme Court found an adequate basis for Stevens' standing, in the doctrine that the assignee of a claim has standing to assert the injury in fact suffered by the assignor. Since the FCA could reasonably be regarded as effecting a partial assignment of the Government's *damages claim*, the United States' injury in fact suffices to confer standing on Stevens.

Thus, the Court did not dispense with the need to show injury in fact to confer standing. Stevens' standing was as assignee of the injury in fact – the damages sustained by the United States by the submission (and its payment of) the false claim, not the damage to the sovereignty of the United States.[3] More importantly for the instant case, the United States was not simply

[3] It is not clear that the status-standing of the United States was at issue, as it was acting on the relationship of Stevens, even though, ironically, the standing of Stevens was shown by the effective assignment to him of the damages claim available to the United States under the FCA.

interested in enforcing its laws out of a sense of sovereign dignity, the United States actually did suffer an injury in fact – the payment of a false claim. Indeed, the purpose of the FCA is to redress a financial wrong committed against the United States. The Supreme Court also acknowledged that injury to sovereignty arising from a violation of criminal law is sufficient to support a criminal prosecution, but it did not affirm that injury to sovereignty without injury in fact was sufficient to support a civil action brought in the name of a state.[4]

So, then, what are we to make of I.C. 5-2-18.2 5, which provides:

> If the attorney general determines that probable cause exists that a governmental body or a postsecondary educational institution has violated this chapter, the attorney general shall bring an action to compel the governmental body or postsecondary educational institution to comply with this chapter.

First, the General Assembly cannot override constitutional requirements.

Does that, then somehow vitiate I.C. 5-2-18.2-5? No, it simply means that the stance or circumstances under which such an action is brought must comport with the constitutional requirements of standing. The authorization in I.C. 5-2-18.2-5 to bring an action still requires that the constitutional requirements of standing be met with respect to the case that is brought.

A reasonable interpretation and one consistent with the fact that a violation of I.C. 5-2-18.2 (at least as alleged in the Complaint in the instant case) does not inflict an injury in fact upon the Plaintiffs, is that Sec. 5 authorizes the Attorney General, on the relation of an individual who can be shown to have suffered a particularized in injury in fact, may bring suit for the violation of I.C. 5-2-18.2. No such individual is identified in the Complaint, and the Complaint is not brought in this mode.

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[4] See *McLinden v. Tangoe United States, Inc.*, 263 N.E.3d 767 (Ind. Ct. App. 2025) for a discussion of the persistence of the obligation to show direct injury or immediate danger thereof necessary to establish standing in an environment where now causes of action are legislatively created.

Before moving on, consider *Lopez-Aguilar v. Marion Cty. Sheriff's Dept.* 924 F.3d 375 (7th Cir. 2019). Briefly, the U.S. District Court for the Southern District of Indiana entered an order approving the parties' stipulated judgment granting declaratory and prospective injunctive relief in Lopez-Aguilar's civil action alleging that the Marion County Sheriff's Department, and its Sherif (acting in his official and individual capacity) and a Seargent (acting in his individual capacity) had violated his rights by detaining him.[5]

After entry of this order, the State of Indiana filed a timely Motion to Intervene and for Extension of Time to File an Appeal, after having been advised, informally, by an attorney at the United States Department of Justice, that the State might have an interest in this case. The District Court granted these motions.

As to the injury-in-fact element of standing (recognized by the 7th Circuit in its opinion), the State of Indiana argued that "the Stipulated Judgment interferes *directly and substantially* with the use of its police power to cooperate with the federal government in the enforcement of the Country's immigration laws.

The first thing to note about the 7th Circuit opinion is that it found the State of Indiana had "suffered a cognizable injury sufficient *for standing to appeal.*" (emphasis added) Standing is a relevant consideration at *all* stages of litigation and its requirements at any time are in line with what is required of parties at the particular stage of the proceedings. In the instant case, the Plaintiffs are not seeking to intervene in an action to which it was not a party in order to weigh in

[5] The District Court's order declared certain seizure actions taken by ICE violate the Fourth Amendment and that certain hold or detention requests do not justify Fourth Amendment seizures. The District Court order permanently enjoined the defendants from "seizing or detaining any person based solely on detention requests from ICE, in whatever form, or on removal orders from an immigration court, unless ICE supplies a warrant signed by a judge or otherwise supplies probable cause that the individual to be detained has committed a criminal offense." Lopez-Aguilar at 381,382.

on appeal on the judgment entered in such a case; in the instant case, the Plaintiffs have instigated this litigation.

Second, the District Court's reading of the relevant Indiana law was considered by the 7th Circuit to be "so restrictive as to preclude state officers from cooperating with federal officers with respect to ICE detainers or immigration court removal orders. The district court's interpretation of the statute restricts significantly the vitality of the statute and the capacity of the State to cooperate with the federal government." No court-imposed restrictions on the Plaintiffs are at issue in the instant case. And, if this case were to proceed on the merits and a judgment entered in favor of a Defendants, no such order would issue. Defendants have not filed a counterclaim. Defendants, if their Motion to Dismiss were to be denied, would be seeking judgment on the merits.

Plaintiffs agree that the Defendants are free to "participate in the enforcement of federal immigration law." (See pages 56 and 57 of the Transcript). The District Court's interpretation of the law as embodied by its order approving the Stipulated Judgment in *Lopez-Aguilar* was found, for purposes of State intervention, to be "so restrictive as to preclude state officers from cooperating with federal officers with respect to ICE detainers or immigration court removals."

No court-imposed restriction on the Plaintiffs is alleged in the instant case. Neither do Plaintiffs seek any order of this Court interpretating of the statutes at issue that restricts their conduct. To the extent Plaintiffs' interest in seeing that this Court allows them to instigate and pursue a claim under those statutes, that interest does not vitiate the standing requirements at this stage of the proceeding. *Lopez-Aguilar* must be read in context, not as a free-floating authorization, untethered to any injury in fact, to act or intervene whenever that State is concerned that the laws of the State are not being followed.

Defendants' Motion to Dismiss as to the issue of Plaintiffs' standing is granted.[6]

Facts upon which relief may be granted – T.R. 12(B)(6)

Reviewing the well-established standard when considering a motion to dismiss for failure to state a claim upon which relief may be granted:

> We begin by observing that a motion to dismiss under Ind. Trial Rule 12(B)(6) tests the legal sufficiency of the complaint. We accept as true the facts alleged in the complaint. Although a plaintiff need not set out in precise detail the facts upon which the claim is based, he must still plead the operative facts necessary to set forth an actionable claim. When ruling on a motion to dismiss, the court must view the pleadings in the light most favorable to the nonmoving party with every reasonable inference construed in the non-movant's favor. Dismissals under Trial Rule 12(B)(6) are rarely appropriate. "Indeed, dismissal is appropriate only when 'it appears to a certainty on the face of the complaint that the complaining party is not entitled to any relief.'" Ind Trial Rule 18(A) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Ind. Trial Rule 8 (E) provides that "[e]ach averment of a pleading shall be simple, concise, and direct." Ind. Trial Rule 8(F) provides that "[a]ll pleadings shall be so construed as to do substantial justice, lead to disposition on the merits, and avoid litigation of procedural points." The Indiana Supreme Court has held that Indiana is a notice-pleading state and that, "[i]n practice, this liberal standard merely requires that a 'complaint . . . put the defendant on notice concerning why it is potentially liable and what it stands to lose.'" "To satisfy this standard, the plaintiff need not 'state all the elements of a cause of action.'" Rather, the plaintiff "need only plead the operative facts involved in the litigation." "Furthermore, although it 'may be highly desirable' for the plaintiff to include a 'statement of the [plaintiff's] theory' of liability in the complaint, the plaintiff 'is not required' to plead a specific theory of liability." *Simon Prop. Grp., L.P v Stewart*, 2025 Ind.App. LEXIS 190

And, from the Indiana Supreme Court:

> The dispute here turns on the legal sufficiency of the HOA's claims against (certain) Defendants for breach of the implied warranty of habitability and negligence. To be sure, the question at this early stage of litigation is not whether the HOA is entitled to relief; rather, the narrow inquiry is whether it is apparent that the complaint allegations are "incapable of supporting relief under any set of circumstances." *Residences at Ivy Quad Unit Owners Ass'n v. Ivy Quad Dev.*, 179 N.E.3d 977 (Ind. 2022)

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[6] Plaintiffs have suffered no injury in fact. As such, Plaintiffs cannot, of necessity, establish the second and third prongs of the *Lujan* trident of irreducible constitutional minima.

I.C. 5-2-18.2-3 provides, in part:

> A governmental body . . . may not enact or implement an ordinance, a resolution, a rule, or a policy that prohibits or in any way restricts another governmental body or employee of a postsecondary educational institution, including a law enforcement officer, a state or local official, or a state or local government employee, [from taking certain specific action] with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual.

I.C. 5-2-18.2-4 provides:

> A governmental body or a postsecondary educational institution may not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

The Complaint does not allege the Defendants enacted or implemented an ordinance, resolution or rule concerning the Defendants alleged actions or inactions concerning persons in the custody of the St. Joseph County Sheriff/Police Department. Thus, to state a claim upon which relief may be granted Plaintiffs' claim that Defendant violated I.C. 5-2-18.2-3 must allege that Defendants enacted or implemented a policy impermissibly prohibiting or restricting the conduct described in the statute.[7]

The Complaint speaks in terms of "policy and practice" or "policies and practices" or "pattern and practice" of the Defendants. The terms "practice," "practices," and "pattern" are not included in I.C. 5-2-18.2-3. Allegations within Plaintiffs' Complaint that complain of conduct or lack of conduct that is only a practice or pattern, or that constitutes only practices or patterns will not survive Defendant's 12(B)(6) Motion. The Court is left to consider those portions of Plaintiff's Complaint which allege the maintenance of a policy that prohibits or in

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[7] (1) Communicating or cooperating with federal officials.
(2) Sending to or receiving information from the United States Department of Homeland Security.
(3) Maintaining information.
(4) Exchanging information with another federal, state, or local government entity.

any way restricts law enforcement from taking the specific conduct referenced at I.C. 5-2-18.2-3.[8]

Rhetorical paragraph 17 alleges in relevant part, Indiana Attorney General Rokita's "belief [premiscd upon the content of Defendants November 7, 2024 response to Indiana Attorney General Rokita's October 24 letter] that SJCPD maintains a policy . . . that violates state law."

Rhetorical paragraph 18 does not allege Defendants enacted or maintained a policy that prohibited or restricted law enforcement from taking specific conduct under the statute, but it asserts that the alleged deficiency of Defendant's November 7 response "had given additional cause to believe that Defendants are violating Indiana Code chapter 5-2-18.2."[9]

Rhetorical paragraph 19, alleges, in relevant part that Defendants have not engaged with the Office of the Attorney General "regarding [Defendants'] immigration-related policies" since submitting their November 7, 2024, response.

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[8] 'Enactment or implementation' seems to suggest a genesis and animus (as in motivation as distinct from ill-will) when speaking of a policy that is not suggested with the concepts "existence of a policy" or "existence of a policy inferred from practice," or more so "enactment and implementation of a policy inferred from practice."

[9] The Complaint alleges the implementation of a policy by Defendants as follows:

> 2. Defendants St. Joseph County Sheriff William Redman (Sheriff Redman) and the St. Joseph County Police Department ("SJCPD") have implemented and maintain policies and practices of impermissibly restricting Defendants' and Defendants' officers' cooperation and communications with federal immigration authorities. Such policies and practices clearly violates (sic) state law.
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> 3. Attorney General Todd Rokita has determined probable cause exists that, by implementing and maintaining these policies and practices, Sheriff Redman and SJCPD have committed multiple violations of Indiana Code chapter 5-2-18.2. The appropriate remedy is for this Court to enjoin the violations.
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> 8. William Redman is the St. Joseph County Sheriff. Sheriff Redman is responsible for the policies and practices implemented at SJCPD.

Judge Broden, at the June 18, 2025 hearing, asked a question that came to this Court when reading the Motion to Dismiss and the Response: "Can you infer a policy?"

Plaintiffs argued at the June 18, 2025 hearing:

> [G]iven how closely related Section 3 is to Section 4(,) it's entirely appropriate and dictated by standing statutory interpretations that these sections should be read in harmony with one another. And so, Section 4 does not require a written formal policy for there to be a violation. Un, it would be inconsistent, I think, if the reading of the statute as a coherent whole to encourage that requirement on Section 3. So that's the point I think before you make is neither Section references, or requires something in writing, a written formal policy."

This Court disagrees. The term Section 4 does not use any of the terms used in Section 3 ("ordinance, a resolution, a rule or a policy that prohibits or in any way restricts") which seems to undermine the argument that since Section 3 mentions a "policy, but not a "written policy," and since Section 4 does not mention a policy, written or otherwise, the policy mentioned in Section 3 need not be written. A more reasonably harmonious interpretation would be to import or read the terms identifying as prohibited means of restriction in Section 3 ("ordinance, a resolution a rule or a policy") into the generalized prohibition ("restrict" – the term appearing in both Sections 3 and 4) of Section 4. Section 3, coming first in sequence, defines the means of impermissible restriction. Section 4, following, describes the scope of such of the prohibition on such restriction – albeit the scope is a challenge to discern from the language used in Section 4.

This may not be the only interpretation, but it is one that gives voice to the first rule of statutory interpretation: What is the plain language of the statute?

The term "pattern or practice" is not colloquial to the formal language of the law. It is enshrined in federal civil rights law. While it is odd if the General Assembly intended "policy"

to include something less formal than a written or other formally memorialized code of conduct, even if it is permissible to infer a policy from a "pattern and practice" of conduct, Plaintiffs must supply operative facts that give notice of the facts that support the inference. Or even the policy yielded by the inference. The Complaint does not allege the enactment of a policy by the Defendants. The Complaint does not allege the implementation of a policy by the Defendants except tautologically, to use those words to substantiate that allegation. The Complaint does not allege operative fact other than the ICE posting of Defendant's "noncooperation," which is insufficient to infer a policy much less sufficient conduct that could be said to manifest the existence of a policy or, more precisely, the implementation of a policy. That Plaintiffs' have "cause" to "believe" that Defendants violated the statutes at issue, without providing any real factual basis support those beliefs, is not enough to satisfy the low barrier established by Indiana's notice pleading regime.

Certainly, as to the statutory language of Section 3 that prohibits the enactment of certain policies that restrict certain individuals from "communicating or cooperating with federal officials," "sending to or receiving from the United States Department of Homeland Security, "maintaining information," or exchanging information with another federal state or local governmental entity," there is almost a total dearth of operative facts plead.

Home Rule/Federal Deputization of Local Police

Defendants' third basis in support of it Motion to Dismiss, is somewhat widespread and perhaps less precisely argued. It argues that under Indiana's Home Rule Act "the Sheriff gets to set his policies, not the Attorney General, the General Assembly, or federal immigration officials."

The Indiana Home Rule Act does not apply to the St. Joseph County Sheriff.

Defendants also argue that the Attorney is attempting to "deputize local police in an attempt to assist with policy goals of the current federal administration . . . [thereby] seek(ing) to impose responsibilities on the Sheriff that are not his . . . [actions that exceed] the purview of the responsibility of the [Indiana General]."

What Plaintiffs have done is allege the Sheriff has violated provisions of Indiana law, I.C. 5-2-18.2, and seek "an order enjoining Defendants from violating Indiana Code chapter 5-2-18.2." The specific conduct of which Plaintiffs complain, in the preamble to their Complaint, is the allege failure of the Sheriff to "honor ICE detainer requests by releasing aliens who are the subjects of detainers before the 48-hour detention period requested by the detainer expires." And, in rhetorical paragraphs 29 and 30, alleging Defendants have limited the communications and cooperation of Defendants' agents with ice concerning the immigration status of aliens in the custody of Defendants by providing inadequate notice to federal authorities about the release of detained aliens. Plaintiffs claim this alleged conduct violated I.C. 5-2-18.2-3 and - 4.

8 USC Sec 1357(g) governs the interaction between ICE and local law enforcement agencies. It provides, in pertinent part, as follows:

> **(1)** Notwithstanding section 1342 of title 31, United States Code, , the [United States] Attorney General may enter into a written agreement with a State, *or any political subdivision of a State,*[10] pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function *at the expense of the* State or *political subdivision and to the extent consistent with State and local law.*
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> * * * *

[10] Indiana Sheriffs are not "political subdivisions" for purposes of Indiana's Home Rule Act. The Court does not know whether the provisions of 8 U.S.C. 1357(g) assume or claim or so designate Sheriffs as being "political subdivisions" for the purposes stated in that subsection.

(9) Nothing in this subsection shall be construed to require any State or *political subdivision of a State* to enter into an agreement with the Attorney General under this subsection.

* * * *

(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

> **(A)** to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or
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> **(B)** otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.

Plaintiffs do not allege that the State, the Sheriff or St. Joseph County has entered into such an agreement with the U.S. Attorney General. This shifts us to subsection 10, above. Section 10 provides that in the absence of such an agreement, nothing in 8 U.S.C. Sec.1357(g) prevents "any officer or employee of a State or political subdivision of a State" from communicating with the U.S. Attorney General regarding the immigration status of any individual . . . or otherwise to cooperate . . . in the identification, detention, or removal of aliens not lawfully present in the United States.

Plaintiffs seem to be arguing, or would seem to be likely to argue, that Subsection 1357(g)(10) is likely to be the "federal law" cited in I.C. 5-2-18.2-4:

> A governmental body or a postsecondary educational institution may not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

To argue a violation of I.C. 5-2-18.2-4 by virtue of restricting conduct permitted under 8 U.S.C. Section 1357(g)(10) means to argue that communication with the U.S. Attorney is being restricted.

Plaintiffs, however, argue that Defendants have violated I.C. 5-2-18.2-4 by restricting communications from the Sheriff to I.C.E. I.C.E. is not the U.S. Attorney General.

Plaintiffs have alleged that Defendants have limited or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law. To the extent Plaintiffs general allegations of Defendants' alleged violation of Section 4 is fleshed out somewhat in its preamble of its Complaint, there are no allegations that Defendants have limited communications the U.S. Attorney. Thus, any alleged violation of 8 U.S.C. Sec. 1357(g)(10) [as conduct prohibited by 8 U.S.C. Sec. 1357(g)(10)]is not supported by the Complaint and is dismissed pursuant to T.R. 12(b)(6).

Plaintiffs' allegation that Defendants violated I.C. 5-2-18.2-3 (the policy provision of I.C. 5-2-18.2) argues that Defendants have implemented a policy that restricts its communication with state and federal officials, generally, and Homeland Security, specifically. I.C. 5-2-18.2-3 does not require that Defendants allege that such conduct violates any specific federal law, or state law other than Section 3, itself.[11]

8 U.S.C. Sec. 1357(g)(10) does not appear to authorize the deputization of officers and/or employees of states or local subdivisions, as it merely provides that the absence of an agreement under subsection (g)(10) does not limit the ability of those officers or employees to act as described.[12]

Subsection 1357(g)(10) does not authorize the State to "deputize" or mandate the Sheriff or his employees or St. Joseph County or its and employees to cooperate or undertake the conduct described in Subsection 1357(g)(10)(a) and (b). But are Plaintiffs seeking to utilize I.C.

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[11] Defendants argue that whatever they are allegedly doing or not doing does not constitute prohibiting or restricting actions concerning "information of the citizenship or migration status, lawful or unlawful, of an individual" under I.C.5-2.2-18-3. This aspect of Defendants Motion to Dismiss need not be adjudicated to rule on the Motion, but, if the Court's ruling does not survive review this position is likely to include a factual component that cannot be decided on a Motion to Dismiss.

[12] These agreements are what the Court believes Defendants refer to as "287(g) agreements."

5-2-18.2-4 to free up employees of the Sheriff and St. Joseph County, including their law enforcement officers to, effectively, deputize themselves as ICE agents. And if so, is doing so a violation of the 10th Amendment?

These latter questions go beyond the briefing of the parties and, if this Court's order is appealed and reversed, are matters that require greater exploration by the parties and the Court. The Court stands on the bases it cites herein, [standing, T.R. 12(b)(6), and the use of 8 U.S.C. Sec. 1357(g)(10) as the "federal law" that may constitute a violation of I.C. 5-2-18.2-4] that support its decision to grant Defendants' Motion to Dismiss and leaves the exploration of this last aspect of Defendant's widespread final basis for Dismissal to be addressed another day. At this point, the Court cannot say that there are no set of circumstances pursuant to which a violation of I.C. 5-2-18.2-4 can be afforded relief. This does not mean, however, that this claim survives as a standalone claim if the bases for Dismissing Plaintiffs' claim survives review.

Defendants' Motion to Dismiss is granted.

So ordered this 17th day of October, 2025.

Jenny Pitts Manier, Special Judge
St. Joseph Superior Court

cc: Counsel of Record

ENDNOTES

I.C. 5-2-18.2-3:

A governmental body[13] *or postsecondary educational institution* may not enact or implement an ordinance, a resolution, a rule or a policy that prohibits or in any way restricts ***another*** *governmental body* **or** *employee of a postsecondary educational institution*, including a law enforcement officer, a state or local official, or a state or local government employee, from taking the following actions with regard to information of the citizenship or migration status, lawful or unlawful, of an individual:

(1) Communicating or cooperating with federal officials.

(2) Sending to or receiving from the United States Department of Homeland Security.

(3) Maintaining information.

(4) Exchanging information with another federal state or local governmental entity.

To whom does this statute apply?

A governmental body **or**

A postsecondary educational institution

What is the prohibited vehicle?

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[13] For purposes of this statute, "governing body" has the meaning set forth at I.C. 5-22-2-13

Sec. 13. "Governmental body" means an agency, a board, a branch, a bureau, a commission, a council, a department, an institution, an office, or another establishment of any of the following:
(1) The executive branch.
(2) The judicial branch.
(3) The legislative branch.
(4) A political subdivision.

A "governing body" would seem to include the Sheriff ("an office"). Does it include St. Joseph County or is it more likely only to reach its Board of Commissioners ("board") or County Council ("council"). This seems somewhat likely as it is generally Boards of Commissioners and County Councils that pass ordinances and resolutions. But perhaps naming the County is a proper was at subjecting this board and council to the outcome of this litigation.

An ordinance

A resolution

A rule or policy

That does what?

Restricts ***another*** governmental body **or** employee of a postsecondary educational institution from engaging in certain conduct.

Does the word "another" modify only the term "governmental body", or does it also apply to the term "postsecondary educational institution?" That is, does the statute provide that a governmental entity or postsecondary education institution is (each) prohibited from enacting a policy that prohibits certain conduct on the part of *another* governmental body or *another employee* of a postsecondary institution, meaning that it does ***not*** prohibit a postsecondary educational institution from enacting such a policy prohibiting that conduct by its own ***employees***?

That seems unlikely. And, for purposes of this Motion, it is not necessary to construe how the statue impacts the conduct of postsecondary educational institutions. But the statue seems clearly to prohibit the actions of a governmental body from enacting policies prohibiting or restricting **another** governmental body. The work "another" is a clear and unambiguous term but how it functions in this statute is unclear.

But, it may be argued, that the statute can be read to prohibit the actions of governmental entities to enact policies prohibit or restricting conduct of . . . an employee." But there is no way to add or delete or move commas that yields that interpretation. The word "or" prevents attaching the word "employee" to the clause "other governmental body," as doing so leaves what follows the word "or" ("of postsecondary educational institution") dangling.

That is not how the Plaintiffs parses the statute. Plaintiffs' Complaint cites the operative words and phrases of the statute as follows:

> 22. Indiana Code § 5-2-18.2-3 ("Section 3") states that a governmental body "may not enact or implement an ordinance . . . or a policy that prohibits or in any way restricts another governmental body or employee [***omitted from the original text: of a postsecondary institution*** . . .], including a law enforcement officer, a state or local official, or a state or local government employee, from taking" specified "actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual."

Although the Court is not certain this is what the statute actually provides, it is a way of reading the statute that shows how Plaintiffs feel it is applicable to the allegations it makes. Defendants do not seem to quibble with this interpretation. The Court's ruling on Defendants' Motion to Dismiss accepts this unopposed aspect of the Plaintiffs' interpretation and application of the state.

Where does that leave us, irrespective of whether "another" modifies "postsecondary educational institution", it modifies "governmental body." The language that follows this language (including…") is where we find what categories of actors are included within the classification "other governmental body" whose conduct cannot be prohibited or restricted as the statute provides.

So, accepting that all of the examples of who is included in the statute applies to the term another governmental body, and jettisoning further consideration of how the statute applies to postsecondary educational institutions, then the following are within the term "another governmental body:"

A law enforcement officer

A state or local official

A state or local government employee