

<b>ALAMEDA COUNTY</b>  <b>SHERIFF'S OFFICE</b>  <b>GENERAL ORDER</b>	<b>NUMBER:</b> 1.24
	<b>RELATED ORDERS:</b> ACA 4-ALDF-2A-21 General Order 1.22 D&C 11.02, 11.09, 11.40
	<b>ISSUE DATE:</b> January 1, 2014
	<b>REVISION DATE:</b> <i>January 6, 2017</i>
<b>CHAPTER:</b> Law Enforcement Role, Responsibilities, and Relationships	<b>SUBJECT:</b> ICE Request for Notifications and Transfers

- I. PURPOSE:** The purpose of this order is to provide deputies with guidelines on their duties and responsibilities associated with immigration law, enforcement, arrests, detentions/detainers, and Requests for Notification.
- II. POLICY:** The Alameda County Sheriff’s Office will equally enforce laws and serve the public without consideration of immigration status. The ACSO does not accept and/or honor immigration detainers from ICE. The immigration status of a person, and the lack of immigration documentation, *alone*, shall have no bearing on the manner in which staff executes their duties. Please note there is a difference between an arrest warrant signed by a Judge (which ACSO does honor), and an immigration detainer signed by an ICE agent.

**Under no circumstances shall a person be detained or arrested by Sheriff’s Office members based solely on his or her immigration status whether known or unknown.**

**III. DEFINITIONS**

- A. IMMIGRATION ENFORCEMENT JURISDICTION:** The U.S. Department of Homeland Security’s Immigration and Customs Enforcement Agency (ICE) has primary responsibility to investigate and enforce federal immigration laws. Alameda County Sheriff’s Office personnel may assist ICE in the enforcement of federal immigration laws upon its specific request and in those situations where ICE initiated investigations have led to the discovery of criminal violations of California law. Assistance to ICE will also be provided in response to officer safety issues or emergency requests for immediate assistance.
- B.** Citizen contacts, detentions, and arrests shall be based on reasonable suspicion or probable cause in a manner prescribed by law. A deputy shall not initiate law enforcement action based solely on observations related to a subject’s immigration status.

This General Order does not prohibit investigative inquiries in instances where the immigration status of involved parties to a criminal act needs to be thoroughly investigated. Inquiries will be based on a “need to know” to complete California criminal code violations. These inquiries include, but are not limited to, investigations into human trafficking, smuggling, harboring, and terrorism.

- C.** Form I-247N (Request for Notification): Request for Voluntary Notification of Release of Suspected Priority Alien. The Form I-247N requests the receiving local law enforcement agency notify ICE of the pending release from custody of a suspected priority removable individual at

least 48-hours prior to release, if possible. The Form I-247N does not request or authorize the LEA to hold an individual beyond the point at which he or she would otherwise be released. Additionally, on the Form I-247N, ICE must identify the enforcement priority under which the individual falls.

- D. ***The Truth Act, AB 2792 (Bonta) states “ICE Access” means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:***
1. ***Responding to an ICE hold, notification, or transfer request.***
  2. ***Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.***
  3. ***Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs or otherwise.***
  4. ***Allowing Ice to Interview an individual.***
  5. ***Providing ICE information regarding dates and times of probation or parole check-ins.***

#### **IV. ORDER**

- A. When Alameda County Sheriff’s Office personnel encounter perceived immigration law violations, members shall be guided by the options set forth in this Order, which is in compliance with state law and Alameda County policies.
- B. IMMIGRATION VIOLATION COMPLAINTS: If members of the public contact any member of the Alameda County Sheriff’s Office to report suspected immigration violations, such persons should be directed to ICE.
- C. IMMIGRATION STATUS
1. A deputy’s suspicion about any person’s immigration status shall not be used as the sole basis to initiate contact, detain, or arrest that person unless such status is reasonably relevant to the investigation of a crime, such as, but not limited to, trafficking, smuggling, harboring, and terrorism.
  2. Sweeps intended solely to locate and detain undocumented immigrants shall not be conducted. Staff will not participate in ICE organized sweeps to locate and detain undocumented residents. This does not preclude staff from assisting ICE during critical incidents or emergency requests for assistance. Each level of assistance will be evaluated by the on scene supervisor to ensure the ACSO’s level of participation remains consistent with this order while protecting human life and property.
- D. ESTABLISHING IDENTITY

1. Deputies should make all attempts to identify any person they detain, arrest, or who come into the custody of the Sheriff's Office.
2. Any person who would be cited and released, but who is unable to present satisfactory evidence of his or her identity, will be detained for the purpose of establishing his or her identity, consistent with the treatment of all individuals.

E. ICE IMMIGRATION DETAINERS AND REQUESTS FOR NOTIFICATION

1. The Alameda County Sheriff's Office *previously received* immigration detainers (Form I-247D formerly known as the Form 247) from ICE. **The Alameda County Sheriff's Office no longer honors these detainers/holds.**
2. ***The Alameda County Sheriff's Office currently receives and accepts the Department of Homeland Security (DHS) I-247N form (Request for Voluntary Notification Release) from ICE as part of the 2015 Priority Enforcement Program. The Request for Notification does not seek any extended detention of the individual, but is merely asking that they receive timely notification of the release of priority aliens for which there is an enforcement interest, as indicated by the issuance of the Request for Notification.***

If ICE asks for information about an individual that we would otherwise share with other law enforcement agencies or is publicly available information), the Sheriff's Office *shall* share this information with ICE. To be clear, the Sheriff's Office shall not extend the detention of an inmate so that ICE may detain the individual; rather, the Sheriff's Office shall only provide ICE with timely notification of release. Upon receipt of a Request for Notification, if Sheriff's Office staff has any questions and/or concerns, the on-duty Watch Commander/Sergeant should be contacted before acting upon such a request.

3. Furthermore, the Sheriff's Office may also inform ICE about the release of undocumented inmates, even if ICE has not made a formal Request for Notification, where the Sheriff's Office believes the individual(s) pose significant public safety concerns. Such determinations shall be made on a case by case basis.
4. TRUST ACT. The Trust Act (AB 4, 2013) provides that a person may not be held in custody solely on the basis of a request for notification and/or detainer if he or she is otherwise eligible to be released from custody. "Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:
  - a. All criminal charges against the individual have been dropped or dismissed; or
  - b. The individual has been acquitted of all criminal charges; or
  - c. The individual has served all the time required for their sentence; or
  - d. The individual has posted a bond; or
  - e. The individual is otherwise eligible for release under state or local law.

5. ***TRUTH ACT. The Truth Act, AB 2792, (Bonta) establishes a transparent process, including community engagement, prior to local law enforcement participation in Immigration and Customs Enforcement (ICE) deportation programs.***
- a. ***Prior to an interview between ICE and an inmate in ACSO custody regarding civil immigration violations, ACSO must advise the inmate of the ICE request and provide him/her with a copy of the DHS I-247N form.***
  - b. ***ACSO must also provide notification of the ICE request to the inmate. The notification is provided via agency notification forms, entitled the “ICE Notification” and the “Notification of ICE Interview” forms, which explain the following:***
    - 1) ***The purpose of the interview;***
    - 2) ***That the interview is voluntary;***
    - 3) ***The Sheriff’s Office decision to comply or decline the ICE request; and***
    - 4) ***The inmate’s decision to decline or accept the interview with ICE, in the presence of their attorney.***
  - c. ***The “ICE Notification” form advises the inmate of the ICE request, whether the Sheriff’s Office will comply with the request and notification to the inmate’s attorney of record (upon the attorney’s request).***
  - d. ***The “Notification of ICE Interview” form advises the inmate of the ICE request and indicates whether the inmate voluntarily consents or declines the ICE request for an interview.***
    - i. ***These forms will be provided the inmate prior to any ICE request for an interview and are available in several languages, in accordance with the Truth Act. The forms are available in the languages of English, Spanish, Chinese, Tagalog, Vietnamese and Korean. The agency notification forms shall also be available in any additional languages that “meet the county threshold as defined in subdivision (d) of Section 128552 of the Health and Safety Code if certified translations in those languages are made available to the local law enforcement agency at no cost.” The current languages as defined by this section, for Alameda County, are Spanish, Vietnamese, Cantonese, and Mandarin.***
  - c. ***Once the inmate has been served with the notification forms, the inmate will retain the original copy of the form. The second copy will be scanned into ATIMS JMS to maintain permanent electronic record of proof of service. Upon confirmed upload into ATIMS JMS, the hard copy can be destroyed.***
  - d. ***Each time ICE wishes to conduct an interview with an ACSO inmate for civil immigration violations, the “ICE Notification” and “Notification of ICE***

***Interview” forms must be served on the inmate, regardless if the inmate had been served for a prior incident.***

6. ***Inmate attorney notifications: Whenever ACSO receives any ICE requests on an ACSO inmate, via the DHS I-247N form, a copy of the form shall also be provided to the specified inmate(s) and their attorney of record, upon the attorney’s request.***
7. ***Upon notification to ICE that an individual is being, or will be, released on a certain date, ACSO shall promptly provide the same notification in writing to the individual and to his or her attorney and/or to one additional person who the individual shall be permitted to designate.***
8. ***All records relating to ICE access provided by and to ACSO, including all non-exempt communication with ICE, shall be public records for purposes of the California Public Records Act, including the exemptions provided by that act, and as permitted under that act, personal identifying information and other non-exempt information may be redacted prior to public disclosure. Records relating to ICE access include, but are not limited to:***
  - a. ***Data maintained by ACSO regarding the number and demographic characteristics of individuals to whom ACSO has provided ICE access;***
  - b. ***The date ICE access was provided;***
  - c. ***Whether the ICE access was provided through a notification request, transfer, or through other means, to the extent the ACSO maintains such records; and***
  - d. ***Non-exempt records to and/or from ICE and ACSO, including, but not limited to ICE notification or transfer requests.***
  - e. ***These records shall be maintained in ATIMS JMS.***
9. ***Beginning January 1, 2018, if ACSO has provided ICE access to an individual during the last year, the County Board of Supervisors shall hold at least one community forum during the following year that is open to the public, in an accessible location, and with at least 30 days’ notice to provide information to the public about ICE’s access to individuals and to receive and consider public comment.***

***As part of this forum, ACSO may provide the Board of Supervisors with data it maintains regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided and whether the ICE access was provided through a notification request or through other means. Data may be provided in the form of statistics or, if statistics are not maintained, individual records, provided that personally identifiable information shall be redacted.***

#### **F. WARRANT SIGNED BY A JUDGE**

1. A detainer will be acted upon ONLY for inmates with pending criminal cases that would normally be held for further criminal proceedings and if the ICE immigration detainer is

accompanied with an arrest warrant signed by a judge. An ICE detainer alone shall not be honored.

2. Criminally charged ICE detainees in the custody of the Sheriff's Office will receive all the rights and privileges consistent with a county or contract inmate.
3. Note that valid warrants of arrest, regardless of crime, shall be treated equally and will not be confused with a request for notification and/or immigration detainer. This General Order does not affect the proper handling of arrests and detentions associated with arrest warrants.

Attachments:

1. Sample Request For Voluntary Notification Of Release Of Suspected Priority Alien – Form I247N
2. ***Sample ACSO agency "ICE Notification" and "Notification of ICE Interview" forms (available in multiple languages)***