

**MARIN COUNTY SHERIFF'S OFFICE
GENERAL ORDER**

**CHAPTER 5 - OPERATIONS
GO-05-28
PAGE 1 of 6**

DATE: 11-27-18

ACCEPTANCE AND PROCESSING OF ICE DETAINER REQUESTS

POLICY

The Marin County Sheriff's Office will fully abide by the requirements set forth under California law with respect to accepting and processing detainer requests received by U.S. Immigration and Customs Enforcement (ICE).

DEFINITIONS

ICE ACCESS is defined as any of the following actions taken by Marin County Sheriff's Office personnel:

1. Responding to an ICE Detainer Notice of Action Form (Form I-247), Warrant of Arrest of Alien (Form I-200), or Warrant of Removal/Deportation (Form I-205).
2. Providing notification to ICE that an inmate is being or will be released at a certain date and time through data sharing or otherwise.
3. Providing ICE with information not otherwise available to the public, including, but not limited to home addresses, addresses, and dates of probation or parole check-ins, whether through data sharing or otherwise.
4. Allowing ICE agents to interview an inmate housed in the Marin County Jail.

ICE DETAINER NOTICE OF ACTION (FORM 1-247) is a request made by ICE to provide release date information and/or to detain an individual in the custody of the Marin County Sheriff's Office for up to 48 hours, inclusive of weekends and holidays.

ICE WARRANT OF ARREST OF ALIEN (FORM 1-200) is a request made by ICE for the Marin County Sheriff's Office to arrest and take into custody an alien for removal proceedings under the Immigration and Nationality Act. To be valid, the Form 1-200 must be signed by an authorized immigration officer.

ICE WARRANT OF REMOVAL/DEPORTATION (FORM I-205) is a request made by ICE for the Marin County Sheriff's Office to facilitate the transfer of an inmate from our custody to ICE.

MARIN COUNTY JAIL ICE INTERVIEW RIGHTS FORM (MCSO FORM #1) is a document advising an inmate that an ICE agent is requesting to interview the inmate (See attached Form #1). The form is to be made available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

MARIN COUNTY JAIL ICE REQUEST NOTIFICATION FORM (MCSO FORM #2) is a document advising an inmate that an ICE agent has made a Hold, Notification or Transfer request to the Marin County Sheriff's Office and indicates whether the Sheriff's Office intends to provide the information requested (See attached form #2). The form is to be made available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

MARIN COUNTY JAIL NOTIFICATION OF RELEASE DATE TO ICE FORM (MCSO FORM #3) is a document that advises an inmate when we notify ICE of that inmate's release (See attached Form #3). The form is to be made available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

PROCEDURE

ICE Interviews

Prior to any interview between an ICE agent and an inmate housed in the Marin County Jail regarding civil immigration violations, a completed Marin County Jail ICE Interview Rights Form (#1) will be provided to the named inmate, a copy of which will be maintained in the inmate's jail file. The form shall explain the purpose of the sought after interview, that the interview is entirely voluntary, that the inmate may refuse to participate in the interview, and that the inmate may choose to be interviewed only in the presence of his/her attorney.

Notification Requests from ICE

Upon receiving an ICE Form I-247, I-200, or I-205, or upon verbal request by an ICE official for information about or access to an inmate housed in the Marin County Jail, a completed Marin County Jail ICE Request Notification Form (#2) will be provided to the named inmate, a copy of which will be maintained in the inmate's jail file.

Release Date Notification to ICE

Whenever the Sheriff's Office receives an ICE Detainer Notice of Action (Form I-247N) from ICE, the following shall take place:

- If the named inmate does not have an identified release date at the time the ICE Detainer Notice of Action (Form I-247N) is received, the Marin County Jail ICE Request Notification Form (MCSO Form #2) shall be completed indicating ICE has expressed an interest in learning the inmate's release date. A copy of that form will be served on the named inmate, with a copy subsequently placed in the inmate's jail file.
- If the named inmate later receives an identified release date, the Marin County Sheriff's Office shall only initiate contact with ICE for the purpose of sharing that date if the inmate's open charges include a serious or violent predicate crime, as described by this Order, or if the inmate has suffered a previous conviction for a serious or violent predicate crime, as described by this Order. If, under those circumstances, the inmate's release date is provided to ICE, the Marin County Jail Notification of Release Date to ICE form (#3) shall be completed indicating the release date was provided and a copy of that form will be served on the named inmate, with a copy subsequently placed in the inmate's jail file.
- If the named inmate has an identified release date at the time the ICE Detainer Notice of Action (Form I-247N) is received, the Marin County Sheriff's Office shall only initiate contact with ICE for the purpose of sharing that date if the inmate's open charges include a serious or violent predicate crime, as described by this Order, or if the inmate has suffered a previous conviction for a serious or violent predicate crime, as described by this Order. If, under those circumstances, the inmate's release date is provided to ICE, the Marin County Jail Notification of Release Date to ICE form (#3) shall be completed indicating the release date was provided and a copy of that form will be served on the named inmate, with a copy subsequently placed in the inmate's jail file.

Because an inmate's release date is deemed "public information" that is otherwise available to a member of the general public, nothing in this section precludes the provision of that date in response to a telephone inquiry, regardless of who should make that call and irrespective of charge history. However, if an employee has specific knowledge that a telephone request for release date information is being made by ICE, the Marin County Jail Notification of Release Date to ICE Form (MCSO Form #3) shall be completed and served on the named inmate as described above.

The Marin County Sheriff's Office shall not honor any ICE detainer requests unless a judicial warrant supported by probable cause accompanies that request. In the event an ICE request to detain an inmate beyond his/her normal release date is being declined, the inmate's release date may still be provided to

ICE, subject to the terms and conditions described above.

Consistent with the requirements of California Government Code §7283.1(d), by January 31st of each year, the Sheriff's Office will report to the Marin County Board of Supervisors the number of inmates who ICE has requested access to in the prior year and the demographic characteristics of each.

COOPERATION WITH ICE

The Marin County Sheriff's Office shall not use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes.

The Marin County Sheriff's Office may:

(A) Provide ICE with notification that an inmate is being, or will be released on a certain date, only if the information is available to the public and in accordance with this policy or is in response to a notification request from immigration authorities in accordance with Government Code Section 7282.5, which lists the serious or violent predicate crimes triggering the discretion to provide the information:

1) The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code.

(2) The individual has been convicted of a felony punishable by imprisonment in the state prison.

(3) The individual has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony for, or has been convicted within the last 15 years of a felony for, any of the following offenses:

A) Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.

B) Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.

C) Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Code.

D) Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.

E) Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.

(F) Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.

(G) Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.

(H) Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.

(I) Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

(J) Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.

(K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.

(L) Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).

(M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.

(N) Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.

(O) Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.

(P) An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.

(Q) A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.

(R) Possession or use of a firearm in the commission of an offense.

(S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.

(T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.

(U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.

(V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.

(W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.

(X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.

(Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.

(Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.

(AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.

(AB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.

(AC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.

(AD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.

(AE) A violation of subdivision (c) of Section 20001 of the Vehicle Code.

(4) The individual is a current registrant on the California Sex and Arson Registry.

(5) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

(B) Respond to a request from ICE for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement Telecommunications System (CLETS) where otherwise permitted by state law.

(C) Conduct enforcement or investigative duties associated with a joint law enforcement task force including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations so long as the primary purpose of the joint law enforcement task force is not immigration enforcement and the enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

(E) Assert its own jurisdiction over criminal law enforcement matters.

RELATED STANDARDS

California Assembly Bill 2792 (2016)
California Senate Bill 54 (2017)
California Government Code Section 7282
California Government Code Section 7282.5
California Government Code Section 7284.6
California Public Records Act Section 6254(f)(1)

AFFECTED DIVISIONS

All

REVISIONS

4-4-2017
12-29-2016
12-27-17

By order of:

ROBERT T. DOYLE
SHERIFF-CORONER