

ALAMEDA COUNTY SHERIFF'S OFFICE GENERAL ORDER	NUMBER: 1.24
	RELATED ORDERS:
	ISSUE DATE: January 1, 2014
	REVISION DATE: <i>July 6, 2015</i>
CHAPTER: Law Enforcement Role, Responsibilities, and Relationships	SUBJECT: ICE Enforcement, Arrests, Detention, Removal, and Request for Notifications

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.

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 regularly receives immigration detainers (Form I-247D formerly known as the Form 247) from ICE. A detainer serves to advise that ICE seeks custody of an individual in the custody of the Sheriff's Office. **The Alameda County Sheriff's Office does not honor these detainers.**
 - 2. Please note, however, that if ICE asks for information about an individual that we would otherwise share with other law enforcement agencies or is publicly available information (including a Request for Notification, Form I-247N, through the 2015 Priority Enforcement Program), the Sheriff's Office *shall* share this information with ICE. 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. ***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. ***Further, the Sheriff's Office may also inform ICE about the release of aliens, 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. Again, 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.***
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.

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

REQUEST FOR VOLUNTARY NOTIFICATION OF RELEASE OF SUSPECTED PRIORITY ALIEN

Subject ID: _____
 Event #: _____

File No: _____
 Date: _____

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)

FROM: (DHS Office Address)

Name of Subject: _____

Date of Birth: _____ Suspected Citizenship: _____ Sex: _____

1. DHS SUSPECTS THAT THE SUBJECT IS A REMOVABLE ALIEN AND THAT THE SUBJECT IS AN IMMIGRATION ENFORCEMENT PRIORITY BECAUSE HE/SHE (mark at least one option below, or skip to section 2):

has engaged in or is suspected of terrorism or espionage, or otherwise poses a danger to national security;

has been convicted of an offense of which an element was active participation in a criminal street gang, as defined in 18 U.S.C. § 521(a), or is at least 16 years old and intentionally participated in an organized criminal gang to further its illegal activities;

has been convicted of an offense classified as a felony, other than a state or local offense for which an essential element was the alien's immigration status;

has been convicted of an aggravated felony, as defined under 8 U.S.C. § 1101(a)(43) at the time of conviction;

has been convicted of a "significant misdemeanor," as defined under DHS policy; and/or

has been convicted of 3 or more misdemeanors, not including minor traffic offenses and state or local offenses for which immigration status was an essential element, provided the offenses arise out of 3 separate incidents.

2. DHS TRANSFERRED THE SUBJECT TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION.

Upon completion of the proceeding or investigation for which the subject was transferred to your custody, DHS intends to resume custody of the subject to complete processing.

IT IS THEREFORE REQUESTED THAT YOU:

- Provide **notice as early as practicable** (at least 48 hours, if possible) before the subject is released from your custody to allow DHS an opportunity to determine whether there is probable cause to conclude that he or she is a removable alien. **This voluntary notification request does not request or authorize that you detain the subject beyond the time he or she is currently scheduled for release from your custody. This request arises from DHS authorities and should not impact decisions about the subject's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters.**
 - As early as possible prior to the time you otherwise would release the subject, please notify DHS by calling U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) at _____. If you cannot reach a DHS official at the number(s) provided, please contact the ICE Law Enforcement Support Center at: (802) 872-6020.
 - Notify this office in the event of the subject's death, hospitalization or transfer to another institution.
- If checked: Please disregard the notification request related to this subject previously submitted to you on _____ (date).

 (Name and title of Immigration Officer)

 (Signature of Immigration Officer)

Notice: If the subject is taken into DHS custody, he or she may be removed from the United States. If the subject may be the victim of a crime, or if you want the subject to remain in the United States for a law enforcement purpose, please notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing, or faxing a copy to _____.

Local Booking/Inmate #: _____ Est. release date/time: _____ Date of latest criminal charge/conviction: _____

Latest offense charged/convicted: _____

 (Name and title of Officer)

 (Signature of Officer)