

THE ALL-IN-ONE GUIDE TO

DEFEATING ICE HOLD REQUESTS

(a.k.a. Immigration Detainers)

APPENDIX 7

New Laws, Bills, Ordinances, Policies, and
Draft Legislation on ICE Detainers



ALL IN ONE GUIDE TO DEFEATING ICE HOLDS

APPENDIX 7

NEW Legislation and Administrative Policies on ICE Hold Requests/Detainers

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**DRAFT Alameda County Board of Supervisors Ordinance Regarding Civil
Immigration Detainer Requests**

WHEREAS, the County of Alameda is home to persons of diverse racial, ethnic, and national backgrounds, including many immigrants; and,

WHEREAS, approximately 31% of all County residents are foreign born, and approximately 43% speak a language other than English at home, and approximately, 55% of children in the County live in families with at least one foreign-born parent; and,

WHEREAS, the Board of Supervisors recognizes that fostering a relationship of trust, respect, and open communication between County employees and County residents is essential to County departments core mission of ensuring public safety and serving the needs of the entire community; and,

WHEREAS, public safety is a shared responsibility between the Sheriff and the Board of Supervisors, not just that of the Sheriff's Office, and both the Sheriff and Board of Supervisors must cooperate to maintain public safety; and

WHEREAS, a new federal immigration enforcement program which has been labeled "Secure Communities" enlists local law enforcement to engage in federal civil immigration enforcement through the sharing of biometric data at the point of arrest and/or booking at county jails undermines this trust and harms public safety by increasing fear in immigrant communities of coming forward to report crimes and cooperate with local law enforcement; and,

WHEREAS, "Secure Communities" undermines due process by resulting in the deportation of many individuals who have no criminal conviction on their record, and in Alameda County as of January 2013, 76% percent of the 1,947 Alameda County residents deported through "Secure Communities" had no criminal convictions or had convictions involving only minor offenses¹; and,

WHEREAS, S-Comm has resulted in the separation of families and according to a 2011 study by the Chief Justice Earl Warren Institute on Law and Social Policy at UC Berkeley, more than one-third of those targeted by "Secure Communities" have a U.S. citizen spouse or child, meaning that approximately 88,000 families with U.S. citizen members have been negatively impacted by "Secure Communities" nationwide, and,

WHEREAS, the Warren Institute report further found that ICE has falsely detained approximately 3,600 U.S. citizens as a result of "Secure Communities"²; and,

WHEREAS, "Secure Communities" incentivizes racial profiling, including the disproportionate targeting of Latino men and as the Warren report states, Latinos make up 93% of those detained through "Secure Communities" although they account for only 75% of the undocumented population in the U.S.³; and,

WHEREAS, involvement in civil immigration enforcement diverts limited local resources away from programs that are beneficial to the county even though local

¹ Immigration and Customs Enforcement, *Secure Communities Monthly Statistics through January 31, 2013 IDENT/IAFIS Interoperability* (January 2013), http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2013-to-date.pdf.

² Chief Justice Earl Warren Institute on Law and Social Policy, University of California, Berkeley Law School, "Secure Communities by the Numbers: An Analysis of Demographics and Due Process," October 2011 (finding based upon federal data that approximately 3,600 United States citizens have been arrested by ICE through the Secure communities program).

³ *Id.*

WHEREAS the Town of Amherst has been enriched and built by generations of immigrants; and,

WHEREAS the program called "Secure Communities" (SComm), run by federal Immigration and Customs Enforcement, harms our communities by mandating the sharing of local law enforcement reporting with the Department of Homeland Security on individuals they detain or arrest, thus involving local law enforcement in federal immigration policy; and,

WHEREAS SComm is an unfunded mandate, meaning that the burden of incarceration, detention, and care for detained people falls upon the budget of local law enforcement and upon the Town of Amherst; and,

WHEREAS SComm rejects a community policing model, which is based upon trust between law enforcement and the population it is meant to protect and serve, and has already been shown to increase distrust and fear of local authorities, making many immigrants afraid to be witnesses and report crimes against themselves and others; and,

WHEREAS SComm violates the Town of Amherst Bylaws, including the Human Rights Bylaw (STM- November 8, 1999, Art. 16), as SComm explicitly promotes discrimination on the basis of nation of origin and implicitly promotes discrimination on the basis of race, color, and socio-economic status; and,

WHEREAS the Code of Federal Regulations, 28 C.F.R. §20.21(c)(3), provides that “[s]tates and local governments will determine the purposes for which dissemination of criminal history record information is authorized by State law, executive order, local ordinance, court rule, decision or order”; then

NOW, THEREFORE, BE IT RESOLVED that the Town of Amherst and its officials and employees, to the extent permissible by law, shall not participate in federal law enforcement programs relating to immigration enforcement, including but not limited to, Secure Communities, and cooperative agreements with the federal government under which town personnel participate in the enforcement of immigration laws, such as those authorized by Section 287(g) of the Immigration and Nationality Act. Should the Commonwealth of Massachusetts enter into an agreement or Memorandum of Agreement regarding Secure Communities, the Town of Amherst shall opt out if legally and practically permissible. **To the extent permissible by law, immigration detainer requests will not be honored by the Amherst Police**

Department. Municipal employees of the Town of Amherst, including law enforcement employees, shall not monitor, stop, detain, question, interrogate, or search a person for the purpose of determining that individual’s immigration status. Officers shall not inquire about the immigration status of any crime victim, witness, or suspect, unless such information is directly relevant to the investigation, nor shall they refer such information to federal immigration enforcement authorities unless that information developed is directly relevant. The use of a criminal investigation or arrest shall not be used as a basis to ascertain information about an individual’s immigration status unless directly relevant to the offenses charged.”

governments are under no obligation to use their resources to enforce federal civil immigration laws; and,

WHEREAS, the enforcement of immigration laws is a responsibility of the federal government; and,

WHEREAS, Alameda County effectuates deportation of community members by treating “ICE holds” as mandatory, when in fact according to the California Attorney General’s Office and ICE they are merely *requests* for local law enforcement to advise immigration authorities when an individual is due to be released from custody and to hold the individual beyond the scheduled time of release in order for ICE to arrange to assume custody to initiate deportation proceedings⁴; and,

WHEREAS, Individuals with an “ICE hold” or “detainer” spend, on average, 7 days longer in Alameda County than similarly situated individuals without an “ICE hold”; and,

WHEREAS, “ICE holds” have been improperly issued by ICE and have even been imposed on U.S. citizens by mistake, as well as on immigrants who are not deportable; and,

WHEREAS, ICE will not indemnify local agencies for costs or liability incurred as a result of wrongfully placed “ICE holds”; and,

WHEREAS, “ICE holds” requests result in the use of local resources including jail space and jail staff, but the federal government does not fully reimburse for those costs⁵; and,

WHEREAS, the federal government spends more on civil immigration enforcement than all federal criminal law enforcement combined⁶ and therefore, limited local funds should not be expended to further federal civil immigration enforcement efforts, but rather on local social services and other essential County programs; and,

WHEREAS, by means of this resolution, Alameda County joins cities, states, counties, and cities across the nation including Berkeley, California, Cook County, Illinois and Santa Clara County, California, that are informed about the discretionary nature of “ICE holds” and therefore decline to enforce them.

NOW THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

A. The Alameda County’s Sheriff’s Office’s role is to reduce crime and protect public safety while respecting the constitutional principles of equal protection and due process of law for all individuals.

B. The Sheriff’s Office shall not deny or limit due process of law or equal protection of the laws to any individual because of the individual’s civil immigration status or the presence of any Immigration Customs and Enforcement (ICE) hold “request,” also known as a federal immigration detainer.

⁴ Attorney General Kamala Harris, Attorney General, *Responsibilities of Local Law Enforcement Agencies under Secure Communities*, Information Bulletin, December 4, 2012.

⁵ Letter to Miguel Marquez, County Counsel, County of Santa Clara, from David Venturella, Immigration and Customs Enforcement Assistant Director, dated 2010 (stating that “[p]ursuant to 8 C.F.R. section 287.7(e), ICE is not responsible for incarceration costs of any individual against whom a detainer is lodge until ‘actual assumption of custody’”).

⁶ Doris Meissner et al., *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*, Migration Policy Institute (January 2013), <http://www.migrationpolicy.org/pubs/pillars-reportinbrief.pdf>

C. The Sheriff's Office will follow its normal rules and procedures irrespective of the immigration status of the people with whom it has contact.

D. The Sheriff's Office will not honor requests by the United States Immigration and Customs Enforcement (ICE) to detain an inmate for suspected violations of civil federal immigration law.

E. The Sheriff's Office personnel shall not expend County time or resources responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates, unless ICE agents have a criminal warrant, or the Sheriff's Office has a legitimate law enforcement purposes that is not related to the enforcement of immigration laws, ICE agents shall not be given access to inmates held in criminal custody or be allowed to use County facilities for investigative interviews with such inmates.

PASSED AND ADOPTED by the Board of Supervisors of the County of Alameda, State of California, on _____, 2013 by the following vote:

AYES:

NOES:

EXCUSED:

KEITH CARSON, President
Board of Supervisors

ATTESTED TO:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY

County Counsel

WHEREAS the Town of Amherst has been enriched and built by generations of immigrants; and,

WHEREAS the program called "Secure Communities" (SComm), run by federal Immigration and Customs Enforcement, harms our communities by mandating the sharing of local law enforcement reporting with the Department of Homeland Security on individuals they detain or arrest, thus involving local law enforcement in federal immigration policy; and,

WHEREAS SComm is an unfunded mandate, meaning that the burden of incarceration, detention, and care for detained people falls upon the budget of local law enforcement and upon the Town of Amherst; and,

WHEREAS SComm rejects a community policing model, which is based upon trust between law enforcement and the population it is meant to protect and serve, and has already been shown to increase distrust and fear of local authorities, making many immigrants afraid to be witnesses and report crimes against themselves and others; and,

WHEREAS SComm violates the Town of Amherst Bylaws, including the Human Rights Bylaw (STM- November 8, 1999, Art. 16), as SComm explicitly promotes discrimination on the basis of nation of origin and implicitly promotes discrimination on the basis of race, color, and socio-economic status; and,

WHEREAS the Code of Federal Regulations, 28 C.F.R. §20.21(c)(3), provides that “[s]tates and local governments will determine the purposes for which dissemination of criminal history record information is authorized by State law, executive order, local ordinance, court rule, decision or order”; then

NOW, THEREFORE, BE IT RESOLVED that the Town of Amherst and its officials and employees, to the extent permissible by law, shall not participate in federal law enforcement programs relating to immigration enforcement, including but not limited to, Secure Communities, and cooperative agreements with the federal government under which town personnel participate in the enforcement of immigration laws, such as those authorized by Section 287(g) of the Immigration and Nationality Act. Should the Commonwealth of Massachusetts enter into an agreement or Memorandum of Agreement regarding Secure Communities, the Town of Amherst shall opt out if legally and practically permissible. **To the extent permissible by law, immigration detainer requests will not be honored by the Amherst Police**

Department. Municipal employees of the Town of Amherst, including law enforcement employees, shall not monitor, stop, detain, question, interrogate, or search a person for the purpose of determining that individual’s immigration status. Officers shall not inquire about the immigration status of any crime victim, witness, or suspect, unless such information is directly relevant to the investigation, nor shall they refer such information to federal immigration enforcement authorities unless that information developed is directly relevant. The use of a criminal investigation or arrest shall not be used as a basis to ascertain information about an individual’s immigration status unless directly relevant to the offenses charged.”

MINUTES
BERKELEY CITY COUNCIL MEETING
TUESDAY, OCTOBER 30, 2012
7:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 7:23 p.m.

Present: Councilmembers Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Mayor Bates.

Absent: None.

Ceremonial Matters:

1. Stephanie Anne Johnson Day, October 30, 2012.

City Manager Comments:

1. Halloween Activities at City of Berkeley Recreation Centers.
2. Traffic Advisory: Friday, November 2nd Cal Bears football game at 6:00 p.m.
3. Berkeley Project Day, Saturday, November 3, 2012.

Public Comment on Non-Agenda Matters: 1 speaker.

Public Comment on Consent Calendar and Information Items Only: 0 speakers.

Consent Calendar

Action: M/S/C (Moore/Worthington) to adopt Consent Calendar in one motion except as indicated.

Vote: All Ayes.

1. **Amendment to Affidavit of Residency Requirement for City Commissioners**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,260-N.S. amending Berkeley Municipal Code Section 2.04.145 to modify the enforcement procedure for non-filing of the Affidavit of Residency by City commissioners.
First Reading Vote: All Ayes
Financial Implications: See report
Contact: Mark Numainville, Acting City Clerk, 981-6900
Action: Adopted second reading of Ordinance No. 7,260–N.S.

Action Calendar – Old Business

17. **Residential Preferential Parking (RPP): Vehicle Registration Requirements**
(Continued from October 16, 2012)
From: Councilmember Arreguín
Recommendation: Refer to the City Manager and the Transportation Commission to evaluate and bring back for Council discussion alternatives to the requirement that vehicles must be registered at an address within an RPP area to qualify for a permit.
Financial Implications: Unknown; possible increased revenue from additional permits issued.
Contact: Jesse Arreguín, Councilmember, District 4, 981-7140
Action: Item removed from agenda by Councilmember Arreguín.
18. **Coro Center for Civic Leadership: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds** *(Continued from October 16, 2012)*
From: Councilmember Worthington
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including an amount not to exceed \$1,000 from Councilmember Worthington, to the Coro Center for Civic Leadership with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Worthington and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - \$1,000
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Item removed from agenda by Councilmember Worthington.

Action Calendar – New Business

19. **Consideration of Revisions to Policy Regarding Immigration Detainers in the Berkeley Jail**
From: City Manager
Recommendation: Review and comment on an amended policy drafted pursuant to the Council's direction at its June 19, and September 18, 2012 meetings regarding Immigration Detainers (General Order J-1 [139]).
Financial Implications: See report
Contact: Michael Meehan, Police, 981-5900
Action: 8 speakers. M/S/C (Maio/Arreguin) to establish a City of Berkeley policy as follows:

"The role of the City of Berkeley Police Department is to reduce crime and protect public safety while respecting civil rights and liberties.

The Berkeley Police Department will follow its normal rules and procedures irrespective of the immigration status of the people with whom it has contact.

The Berkeley Police Department will not honor requests by the United States Immigration and Customs Enforcement (ICE) to detain a Berkeley jail inmate for suspected violations of federal civil immigration law."

Vote: Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes - None.



AB-4 State government: federal immigration policy enforcement. (2013-2014)

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL

No. 4

Introduced by Assembly Member Ammiano
 (Principal Coauthor(s): Assembly Member Alejo, V. Manuel Pérez)
 (Principal Coauthor(s): Senator De León)
 (Coauthor(s): Assembly Member Skinner)

December 03, 2012

An act to add Chapter 17.1 (commencing with Section 7282) to Division 7 of Title 1 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 4, as introduced, Ammiano. State government: federal immigration policy enforcement.

Existing federal law authorizes any authorized immigration officer to issue an immigration detainer that serves to advise another law enforcement agency that the federal department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. Existing federal law provides that the detainer is a request that the agency advise the department, prior to release of the alien, in order for the department to arrange to assume custody in situations when gaining immediate physical custody is either impracticable or impossible.

This bill would prohibit a law enforcement official, as defined, from detaining an individual on the basis of a United States Immigration and Customs Enforcement hold after that individual becomes eligible for release from criminal custody, unless, at the time that the individual becomes eligible for release from criminal custody, certain conditions are met.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The United States Immigration and Customs Enforcement's (ICE) Secure Communities program shifts the burden of federal civil immigration enforcement onto local law enforcement. To operate the Secure Communities program, ICE relies on voluntary requests, known as ICE holds or detainers, to local law enforcement to hold individuals in local jails for additional time beyond when they would be eligible for release in

a criminal matter.

(b) State and local law enforcement agencies are not reimbursed by the federal government for the full cost of responding to a detainer, which can include, but is not limited to, extended detention time and the administrative costs of tracking and responding to detainees.

(c) Unlike criminal detainees, which are supported by a warrant and require probable cause, there is no requirement for a warrant and no established standard of proof, such as reasonable suspicion or probable cause, for issuing an ICE detainer request. Immigration detainees have erroneously been placed on United States citizens as well as immigrants who are not deportable.

(d) The Secure Communities program and immigration detainees harm community policing efforts because immigrant residents who are victims of or witnesses to crime, including domestic violence, are less likely to report crime or cooperate with law enforcement when any contact with law enforcement could result in deportation. The program can result in a person being held and transferred into immigration detention without regard to whether the arrest is the result of a mistake, or merely a routine practice of questioning individuals involved in a dispute without pressing charges. Victims or witnesses to crimes may otherwise have recourse to lawful status (such as U-visas or T-visas) that detention resulting from the Secure Communities program obstructs.

(e) It is the intent of the Legislature that this act shall not be construed as providing, expanding, or ratifying the legal authority for any state or local law enforcement agency to detain an individual on an immigration hold.

SEC. 2. Chapter 17.1 (commencing with Section 7282) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.1. Standards for Responding to United States Immigration and Customs Enforcement Holds

7282. For purposes of this chapter, the following terms have the following meanings:

- (a) "Conviction" shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.
- (b) "Eligible for release from criminal custody" means that the individual may be released from criminal custody because one of the following conditions has occurred:
- (1) All criminal charges against the individual have been dropped or dismissed.
 - (2) The individual has been acquitted of all criminal charges filed against him or her.
 - (3) The individual has served all the time required for his or her sentence.
 - (4) The individual has posted a bond.
 - (5) The individual is otherwise eligible for release under state or local law, or local policy.
- (c) "Immigration hold" means an immigration detainer issued by an authorized immigration officer, pursuant to Section 287.7 of Title 8 of the Code of Federal Regulations, that requests that the law enforcement official to maintain custody of the individual for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, and to advise the authorized immigration officer prior to the release of that individual.
- (d) "Law enforcement official" means any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.
- (e) "Local agency" means any city, county, city and county, special district, or other political subdivision of the state.
- (f) "Serious felony" means any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code.
- (g) "Violent felony" means any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a violent felony as defined by subdivision (c) of Section 667.5 of the Penal Code.

7282.5. (a) A law enforcement official has the discretion to detain an individual on the basis of an immigration hold after that individual becomes eligible for release from criminal custody, only if both of the following conditions are satisfied:

(1) The individual has been convicted of a serious or violent felony according to a criminal background check or documentation provided to the law enforcement official by United States Immigration and Customs Enforcement.

(2) The continued detention of the individual on the basis of the immigration hold would not violate any federal, state, or local law, or any local policy.

(b) If either of the conditions set forth in subdivision (a) is not satisfied, an individual shall not be detained on the basis of an immigration hold after that individual becomes eligible for release from criminal custody.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.



**SHERIFF DAN WALSH
CHAMPAIGN COUNTY SHERIFF'S OFFICE**

204 E. Main Street
Urbana, Illinois 61801-2702
(217) 384-1204

Dan Walsh

Sheriff

ph (217) 384-1205
fax (217) 384-3023

March 8, 2012

Chief Deputy

Kris Bolt

ph (217) 384-1222
fax (217) 384-1219

U.S. Immigration and Customs Enforcement
101 W. Congress Parkway – 4th Floor
Chicago, Illinois 60605

Captain

Allen Jones

ph (217) 819-3546
fax (217) 384-1272

Dear Sir,

Jail Information

ph (217) 384-1243
fax (217) 384-1272

This letter is to confirm my phone conversation of today with Supervising Agent Fernando Ramos (Chicago Office). This office will not hold inmates based on a routine detainer. Mr. Ramos advised me that should you have a court order or original warrant you will send a copy to us. Please do so and we will review the same. The primary fax number for our jail is (217) 384-1272.

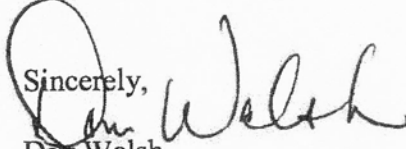
Investigations

ph (217) 384-1213
fax (217) 384-1219

Thank you for your time.

Civil Process

ph (217) 384-1204
fax (217) 384-1219

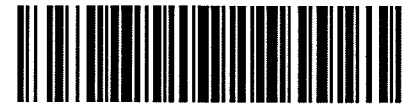
Sincerely,

Dan Walsh
Sheriff

Records/Warrants

ph (217) 384-1233



Office of the City Clerk



SO2012-4984

Office of the City Clerk

City Council Document Tracking Sheet

Meeting Date: 7/25/2012

Sponsor(s): Emanuel, Rahm (Mayor)

Type: Ordinance

Title: Amendment of Chapter 2-173 of Municipal Code by adding new Sections 005 and 042 regarding citizenship and immigration status

Committee(s) Assignment: Committee on Human Relations

SUBSTITUTE
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 2-173 of the Municipal Code of Chicago is hereby amended by adding new sections 2-173-005 and 2-173-042, by adding the language underscored and by deleting the language struck through, as follows:

CHAPTER 2-173

**~~ACTIONS RELATED TO CITIZENSHIP OR RESIDENCY STATUS~~ WELCOMING CITY
ORDINANCE**

2-173-005 Purpose and Intent.

The vitality of the City of Chicago (the "City"), one of the most ethnically, racially and religiously diverse cities in the world, where one-out-of-five of the City's residents is an immigrant, has been built on the strength of its immigrant communities. The City Council finds that the cooperation of all persons, both documented citizens and those without documentation status, is essential to achieve the City's goals of protecting life and property, preventing crime and resolving problems. The City Council further finds that assistance from a person, whether documented or not, who is a victim of, or a witness to, a crime is important to promoting the safety of all its residents. The cooperation of the City's immigrant communities is essential to prevent and solve crimes and maintain public order, safety and security in the entire City. One of the City's most important goals is to enhance the City's relationship with the immigrant communities.

Due to the City's limited resources; the complexity of immigration laws; the clear need to foster the trust of and cooperation from the public, including members of our immigrant communities; and to effectuate the City's goals, the City Council finds that there is a need to clarify the communications and enforcement relationship between the City and the federal government. The purpose of this chapter is to establish the City's procedures concerning immigration status and enforcement of federal civil immigration laws.

2-173-010 Definitions.

As used in this ordinance, the following words and phrases shall mean and include:

"Administrative warrant" means an immigration warrant issued by ICE, or a successor or similar federal agency charged with enforcement of civil immigration laws, used as a non-criminal, civil warrant for immigration purposes.

(a) Agency. "Agency" means every City department, agency, division, commission, council, committee, board, other body, or person established by authority of an ordinance, executive order, or City Council order.

(b) Agent. "Agent" means any person employed by or acting on behalf of an agency ~~as defined in Section (a).~~

(c) Citizenship or residency immigration status. "Citizenship or residency immigration status" means all matters ~~reading regarding~~ regarding questions of citizenship of the United States or any other country, ~~questions of the authority from the Department of Homeland Security or federal~~

~~entity charged with enforcing civil immigration laws— to reside in or otherwise be present in the United States, the time or manner of a person's entry into the United States, or any other civil immigration matter enforced by the Department of Homeland Security or a successor or other federal agency charged with the enforcement of civil immigration laws. The use in this ordinance of the term "residency" shall not mean street address or location of residence in Chicago or elsewhere:~~

"ICE" means the United States Immigration and Customs Enforcement Agency and shall include any successor agency charged with the enforcement of civil immigration laws.

"Immigration detainer" means an official request issued by ICE, or other federal agency charged with the enforcement of civil immigration laws, to another federal, state or local law enforcement agency to detain an individual based on a violation of a civil immigration law.

2-173-042 Civil Immigration Enforcement Actions-Federal responsibility.

(a) Except for such reasonable time as is necessary to conduct the investigation specified in subsection (c) of this section, no agency or agent shall:

(1) arrest, detain or continue to detain a person solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation;

(2) arrest, detain, or continue to detain a person based on an administrative warrant entered into the Federal Bureau of Investigation's National Crime Information Center database, or successor or similar database maintained by the United States, when the administrative warrant is based solely on a violation of a civil immigration law; or

(3) detain, or continue to detain, a person based upon an immigration detainer, when such immigration detainer is based solely on a violation of a civil immigration law.

(b) (1) Unless an agency or agent is acting pursuant to a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law, no agency or agent shall:

(A) permit ICE agents access to a person being detained by, or in the custody of, the agency or agent;

(B) permit ICE agents use of agency facilities for investigative interviews or other investigative purpose; or

(C) while on duty, expend their time responding to ICE inquiries or communicating with ICE regarding a person's custody status or release date.

(2) An agency or agent is authorized to communicate with ICE in order to determine whether any matter involves enforcement based solely on a violation of a civil immigration law.

(c) This section shall not apply when an investigation conducted by the agency or agent indicates that the subject of the investigation:

- (1) has an outstanding criminal warrant;
- (2) has been convicted of a felony in any court of competent jurisdiction;
- (3) is a defendant in a criminal case in any court of competent jurisdiction where a judgment has not been entered and a felony charge is pending; or
- (4) has been identified as a known gang member either in a law enforcement agency's database or by his own admission.

SECTION 2. This ordinance shall take effect after its passage and publication.

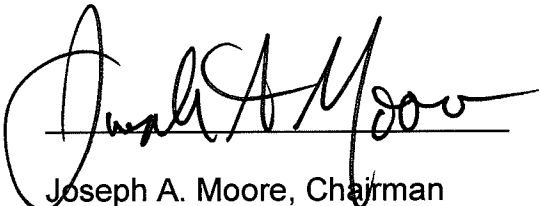
September 12, 2012

To the President and Members of the City Council:

Your Committee on Human Relations, for which a meeting was held on September 10, 2012, having had under consideration a substitute ordinance introduced by Mayor Rahm Emanuel on July 25, 2012, this being the ordinance to amend the Municipal Code by adding new Sections 2-173-005 and 2-173-042 regarding citizenship and immigration status, begs leave to recommend that Your Honorable Body Approve said ordinance transmitted herewith.

This recommendation was concurred in by a via voce vote of all committee members present with no dissenting votes.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph A. Moore", written over a horizontal line.

Joseph A. Moore, Chairman
Committee on Human Relations



General Assembly

Amendment

January Session, 2013

LCO No. 7546

HB0665907546HDO

Offered by:

REP. HOLDER-WINFIELD, 94th Dist.

REP. FOX, 146th Dist.

REP. REBIMBAS, 70th Dist.

REP. PERILLO, 113th Dist.

To: Subst. House Bill No. 6659

File No. 694

Cal. No. 477

"AN ACT CONCERNING CIVIL IMMIGRATION DETAINERS. "

Strike everything after the enacting clause and substitute the following in lieu thereof:

"Section 1. (NEW) (Effective January 1, 2014) (a) For the purposes of this section:

(1) "Civil immigration detainer" means a detainer request issued pursuant to 8 CFR 287. 7;

(2) "Convicted of a felony" means that a person has been convicted of a felony, as defined in section 53a-25 of the general statutes, pursuant to a final judgment of guilt entered by a court in this state or in a court of competent jurisdiction within the United States upon a plea of

guilty, a plea of nolo contendere or a finding of guilty by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from such judgment;

(3) "Federal immigration authority" means any officer, employee or other person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement or any division thereof or any officer, employee or other person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with enforcement of the civil provisions of the Immigration and Nationality Act; and

(4) "Law enforcement officer" means:

(A) Each officer, employee or other person otherwise paid by or acting as an agent of the Department of Correction;

(B) Each officer, employee or other person otherwise paid by or acting as an agent of a municipal police department;

(C) Each officer, employee or other person otherwise paid by or acting as an agent of the Division of State Police within the Department of Emergency Services and Public Protection; and

(D) Each judicial marshal and state marshal.

(b) No law enforcement officer who receives a civil immigration detainer with respect to an individual who is in the custody of the law enforcement officer shall detain such individual pursuant to such civil immigration detainer unless the law enforcement official determines that the individual:

(1) Has been convicted of a felony;

(2) Is subject to pending criminal charges in this state where bond has not been posted;

(3) Has an outstanding arrest warrant in this state;

(4) Is identified as a known gang member in the database of the National Crime Information Center or any similar database or is designated as a Security Risk Group member or a Security Risk Group Safety Threat member by the Department of Correction;

(5) Is identified as a possible match in the federal Terrorist Screening Database or similar database;

(6) Is subject to a final order of deportation or removal issued by a federal immigration authority; or

(7) Presents an unacceptable risk to public safety, as determined by the law enforcement officer.

(c) Upon determination by the law enforcement officer that such individual is to be detained or

released, the law enforcement officer shall immediately notify United States Immigration and Customs Enforcement. If the individual is to be detained, the law enforcement officer shall inform United States Immigration and Customs Enforcement that the individual will be held for a maximum of forty-eight hours, excluding Saturdays, Sundays and federal holidays. If United States Immigration and Customs Enforcement fails to take custody of the individual within such forty-eight hour period, the law enforcement officer shall release the individual. In no event shall an individual be detained for longer than such forty-eight hour period solely on the basis of a civil immigration detainer. "

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2014	New section

By Senator Bullard

39-00611-13

2013730__

1 A bill to be entitled
2 An act relating to federal immigration detainer
3 requests; providing a short title; providing
4 definitions; providing conditions under which law
5 enforcement officials may hold an individual pursuant
6 to a federal immigration detainer request; providing
7 applicability; providing an effective date.
8

9 WHEREAS, The United States Immigration and Customs
10 Enforcement's (ICE) Secure Communities Program relies on local
11 law enforcement to detain individuals wanted for immigration
12 violations in local jails for an additional time beyond that
13 when they otherwise would be eligible for release, shifting the
14 burden of federal civil immigration enforcement onto local law
15 enforcement, and

16 WHEREAS, local law enforcement agencies are not reimbursed
17 by the Federal Government for the full cost of responding to an
18 ICE detainer request, which may include, but is not limited to,
19 legal liability, administrative and personnel costs related to
20 tracking and responding to detainer requests, and costs related
21 to the custodial care of an inmate during the period of
22 detention, and

23 WHEREAS, an ICE detainer request, unlike a criminal
24 detainer, is not supported by a warrant or established standard
25 of proof, such as reasonable suspicion or probable cause, and

26 WHEREAS, ICE detainees have erroneously been placed on
27 United States citizens as well as immigrants who are not
28 deportable and can result in a person being held and transferred
29 into immigration detention without regard to whether the arrest

39-00611-13

2013730

30 is the result of a mistake or merely the routine practice of
31 questioning individuals in the course of a law enforcement
32 investigation, and

33 WHEREAS, the Secure Communities Program and ICE detainers
34 harm community policing efforts because immigrant residents who
35 are victims or witnesses to crime, including domestic violence,
36 and who may have recourse to lawful immigration status, are less
37 likely to report crime or cooperate with local law enforcement
38 if contact with local law enforcement could result in
39 deportation, NOW, THEREFORE,

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Florida Trust Act.-

44 (1) SHORT TITLE.-This section may be cited as the "Florida
45 Trust Act."

46 (2) DEFINITIONS.-For purposes of this section, the term:

47 (a) "Conviction" means a determination of guilt that is the
48 result of a plea or trial, regardless of whether adjudication is
49 withheld or a plea of nolo contendere is entered.

50 (b) "Eligible for release from criminal custody" means the
51 individual may be released from criminal custody because one of
52 the following conditions has occurred:

53 1. All criminal charges against the individual have been
54 dropped or dismissed.

55 2. The individual has been acquitted of all criminal
56 charges filed against him or her.

57 3. The individual has served all of the time required for
58 his or her sentence.

39-00611-13

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59 4. The individual has posted a bond.

60 5. The individual is otherwise eligible for release under
61 federal, state, or local law, or local policy.

62 (c) "Immigration hold" means an immigration detainer issued
63 by an authorized immigration officer pursuant to 8 C.F.R. part
64 287 which requests that a law enforcement official maintain
65 custody of an individual for up to 48 hours excluding Saturday,
66 Sunday, and legal holidays, and to advise the authorized
67 immigration officer before the release of the individual.

68 (d) "Law enforcement agency" means a law enforcement agency
69 of any county, municipality, special district, or other
70 political subdivision of this state.

71 (e) "Law enforcement official" means any person, law
72 enforcement agency, or officer of a law enforcement agency
73 authorized to:

74 1. Enforce criminal statutes, rules, or local ordinances.

75 2. Operate jails or maintain custody of individuals in
76 jails.

77 3. Operate juvenile detention facilities or maintain
78 custody of individuals in juvenile detention facilities.

79 4. Operate prisons or maintain custody of individuals in
80 prisons.

81 (f) "Serious offense" means the commission, attempt, or
82 solicitation of any of the following offenses:

83 1. Any offense listed in ss. 775.084(1)(c)1., 775.30,
84 776.08, 784.07, 787.06, 800.04, 810.02, 825.1025, 843.01,
85 847.0135, 847.0145, 859.01, 876.32, 893.135, and 895.03, Florida
86 Statutes.

87 2. Any offense in any other state or territory, organized

39-00611-13

2013730

88 or unorganized, of the United States, if the elements of the
89 offense are substantially similar to the elements of an offense
90 listed in subparagraph 1.

91 (3) STANDARDS FOR RESPONDING TO AN IMMIGRATION HOLD.—

92 (a) A law enforcement official may detain an individual on
93 the basis of an immigration hold after that individual becomes
94 eligible for release from criminal custody if:

95 1. The individual has been convicted of a serious offense
96 according to a criminal background check or documentation
97 provided to the law enforcement official by United States
98 Immigration and Customs Enforcement or is currently in criminal
99 custody for a charge of a serious offense; and

100 2. The continued detention of the individual on the basis
101 of the immigration hold would not violate federal, state, or
102 local law or local policy.

103 (b) If the conditions specified in paragraph (a) are not
104 satisfied, a law enforcement official may not detain an
105 individual on the basis of an immigration hold after that
106 individual becomes eligible for release from criminal custody.

107 (4) LIMITATIONS.—This section does not provide, expand, or
108 ratify the legal authority for any law enforcement official to
109 detain an individual on an immigration hold.

110 Section 2. This act shall take effect July 1, 2013.

Date Created:	3/4/13
Drafted by:	cjc
Sponsors:	Gossett
Attachments:	

1 ..Title

2 AN ORDINANCE related to how the county will honor
3 civil immigration hold requests from the United States
4 Immigration and Customs Enforcement for individuals in
5 the custody of the department of adult and juvenile
6 detention; adding a new section to K.C.C. chapter 2.15.

7 ..Body

8 STATEMENT OF FACTS:

- 9 1. King County was renamed in honor of the Reverend Doctor Martin
10 Luther King, Jr., and is a "home rule" government under Article XI,
11 Section 4, of the Washington State Constitution. Under its home rule
12 power, the county may exercise any power and perform any function,
13 unless preempted by state or federal law, relating to its government and
14 affairs, including the power to regulate for the protection and rights of its
15 inhabitants. To this end, the county is dedicated to providing all of its
16 residents fair and equal access to services, opportunities and protection.
- 17 2. The enforcement of civil immigration laws has traditionally been, and
18 continues to be, the responsibility primarily of the federal government.
19 Since 2003, immigration enforcement operations have been carried out by
20 the United States Immigration and Customs Enforcement, a division of the

21 Department of Homeland Security, which was, before 2003, known as the
22 Immigration and Naturalization Service.

23 3. Since the 1980s, the Immigration and Naturalization Service and
24 Immigration and Customs Enforcement have been apprehending
25 noncitizens arrested and detained by state and local criminal justice
26 systems through numerous enforcement operations, primarily through
27 some variation of the Criminal Alien Program. Under the program,
28 federal agents use booking and other information provided by local law
29 enforcement agencies to target noncitizens in local agency custody for the
30 placement of administrative immigration detainer requests that can result
31 in a direct transfer upon release of noncitizens from local custody into
32 immigration custody for initiation of removal proceedings.

33 4. In 2008, Congress directed the Department of Homeland Security to
34 expand efforts to target noncitizens with serious criminal convictions for
35 apprehension and removal. In response, the Department of Homeland
36 Security, through immigration and customs enforcement created the
37 Secure Communities program to complement its efforts under the
38 Criminal Alien Program initiative. The key component of the Secure
39 Communities program is automated information sharing between the
40 Department of Homeland Security and the Federal Bureau of
41 Investigation, primarily the sharing of fingerprint data collected from local
42 jails for identifying individuals incarcerated in local facilities to be
43 investigated for immigration proceedings. Like the Criminal Alien

44 Program, noncitizens identified through the Secure Communities and
45 targeted for Immigration and Customs Enforcement apprehension can be
46 subjected to placement of a detainer request while in custody of local jail
47 officials.

48 5. Since April 2012, Immigration and Customs Enforcement investigators
49 have had access to all fingerprint data transmitted to federal authorities
50 from jails in the state of Washington. Local jails have no discretion to opt
51 out of participation in the Secure Communities program.

52 7. In 2009, the county adopted Ordinance 16692 to ensure that all of the
53 county's residents have access to necessary services and benefits essential
54 for upholding the county's commitment to fair and equal access for all
55 residents by establishing in the King County Code the requirement that a
56 county office, department, employee, agency or agent shall not condition
57 the provision of county services on the citizenship or immigration status of
58 any individual. Further, the council adopted the requirement that sheriff's
59 office personnel shall not request specific documents relating to a person's
60 civil immigration status for the sole purpose of determining whether the
61 individual has violated federal civil immigration laws.

62 8. In accordance with those code requirements, the department of adult
63 and juvenile detention does not endeavor to determine the immigration
64 status of any individual held in county detention. However, it is the
65 current practice of the county to honor all civil immigration hold requests
66 from Immigration and Customs Enforcement for detainees, whether

67 identified through Criminal Alien Program or the Secure Communities
68 program, by holding adult inmates for up to an additional twenty-four
69 hours after they would otherwise be released from county jail facilities.

70 9. It is often unclear whether the individual under investigation by
71 Immigration and Customs Enforcement is being reviewed because of their
72 criminal history or due to prior immigration administrative violations.

73 10. Although the intended focus of programs like Secure Communities is
74 the removal of individuals with serious criminal records, data released by
75 Immigration and Customs Enforcement indicate that, between 2008 and
76 2011, seventy-eight percent of the detainer requests issued against
77 individuals at the county adult jail involved individuals with no criminal
78 records or convictions.

79 11. On March 26, 2013, the University of Washington released
80 Immigration Detainer Requests in King County Washington: Costs &
81 Consequences, a report analyzing jail data from 2011 and assessing the
82 impacts of submitting to Immigration and Customs Enforcement's
83 immigration detainer requests. The report concluded that four out of five
84 individuals subjected to Immigration and Customs Enforcement detainer
85 requests in 2011 had never been convicted of a felony. It also found that
86 Immigration and Customs Enforcement detainer requests
87 disproportionately targeted Latinos.

88 12. On February 11, 2013, the executive notified councilmembers by
89 letter that he supports amending county code to include policy direction

90 for the department of adult and juvenile detention to limit the
91 circumstances under which it will exercise its authority to honor federal
92 immigration detainers to individuals for whom the federal government has
93 documented the individuals' criminal history as demonstrated by having
94 been previously convicted of committing a violent or serious offense.

95 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

96 NEW SECTION. SECTION 1. There is hereby added to K.C.C. chapter 2.15 a
97 new section to read as follows:

98 A. It is the policy of the county to only honor civil immigration hold requests
99 from United States Immigration and Customs Enforcement for individuals that have been
100 convicted of a violent or serious crime. The department of adult and juvenile detention
101 may hold individuals for an additional twenty-four hours after they would otherwise be
102 released only upon receipt of a written immigration hold request by a federal agent to
103 detain a county inmate for suspected violations of federal civil immigration law, where
104 one or more of the following apply:

105 1. United States Immigration and Customs Enforcement agents provide written
106 certification and case identifying information that the individual has been previously
107 convicted of a homicide at any time in the past; or that the individual has been convicted
108 of a violent, serious or sex offense at any time within the past ten years. For purposes of
109 this section, "has been convicted of a violent, serious or sex offense" means the
110 individual was convicted of a most serious offense as defined in RCW 9.94A.030, a sex
111 offense as defined in RCW 9.94A.030 or at least four convictions of a serious traffic
112 offense as defined in RCW 9.94A.030; or

113 2. United States Immigration and Customs Enforcement agents provide written
114 certification and case identifying information that the individual has been convicted in
115 any jurisdiction of an offense that, if committed in the State of Washington would meet
116 the criteria outlined in subsection A.1. of this section .

117 B. Notwithstanding subsection A. of this section, the county shall not honor civil
118 immigration hold requests for any individuals who are younger than eighteen years old.

119 C. This section does not create or form the basis for liability on the part of the
120 county, its officers, employees or agents.

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
 "A Tradition of Service"

Date: April 9, 2013

OFFICE CORRESPONDENCE

FROM: ALEXANDER R. YIM, CHIEF CUSTODY DIVISION TO: ALL CONCERNED PERSONNEL CUSTODY DIVISION

SUBJECT: **MODIFICATION OF ICE DETAINER FORM; MODIFICATION OF ICE DETAINER ACCEPTANCE AND PROCESSING**

On December 21, 2012, Immigration and Customs Enforcement (ICE) modified the Immigration Detainer Notice of Action Form (ICE Detainer or I-247). The change is designed to ensure those arrested, charged, or sentenced with a minor crime(s) are not subject to a hold or removal unless otherwise specified on the ICE detainer.

Absent extraordinary circumstances, which may be determined by the Inmate Reception Center (IRC) Unit Commander, an appropriately completed ICE detainer will be accepted by IRC if the ICE Detainer clearly notes that ICE considers the inmate as a potential alien subject to removal proceedings or removal from the United States, and/or ICE has determined that one or more of the following conditions apply:

- The inmate has a prior felony conviction or charged with a felony offense;
- The inmate has three or more prior misdemeanor convictions, wherein the convictions reflect a clear and continuing disregard for the law;
- The inmate has a prior misdemeanor conviction or has been charged with a misdemeanor offense if the misdemeanor conviction or pending charge involves one or more of the following:
 - Violence, threats, or assault;
 - Sexual abuse or exploitation;
 - Crimes against children;
 - Under the influence of a controlled substance;
 - Unlawful flight from the scene of an accident;
 - Unlawful possession or use of firearm or deadly weapon;
 - Perjury or identification fraud;

MODIFICATION OF ICE DETAINER

- Significant threat to public safety or a threat that poses a significant risk of harm or injury to a person or property;
- The inmate is a known gang member;

IRC Records Watch Deputy shall review each ICE detainer received by IRC. Inappropriate or incomplete ICE detainers shall be referred to ICE for verification. For quality control, IRC Classification will conduct an analysis of at least two ICE detainers weekly. Findings will be recorded and tracked on an IRC ICE Detainer Survey Form and forwarded to IRC Operations.

While an inmate is in the custody of the Sheriff's Department, any disputed ICE detainer shall be investigated by the IRC Watch Commander or designee, and the matter recorded. Court Officers or investigators who have questions regarding potential victims or witnesses with ICE detainers should be referred to ICE at (802) 872-6020.

Upon case(s) disposition or case(s) adjudication, when the inmate is subject to release and no other holds are pending, and the inmate's ICE detainer hold is on file with IRC Records, and the ICE detainer has meet the above noted criteria, personnel shall expedite a request for inmate transfer to ICE. If ICE does not respond and take custody of an inmate within 48 hours, excluding weekends and holidays, or IRC is formally advised that no action will be taken on behalf of ICE, pursuant to 8 U.S.C. 287.7, the inmate shall be released from custody without delay.

Note: A bond or bail presented on behalf of an inmate for a bondable charge(s) being held on an ICE detainer shall be accepted at a Station or IRC.

Any questions involving ICE policies, deportation, or related proceedings, shall be directed to ICE at (213) 830-4927. For assistance, please contact the IRC Classification Sergeant at (213) 893-5341, or the IRC Watch Commander at (213) 893-5303.

Attached for reference: New DHS Form I-247 (12/12)
 Memorandum from ICE Director John Morton
 IRC ICE Detainer Survey Form
 State DOJ Informational Bulletin: 2012-DLE-01
 Custody Division Info Bulletin: 2013-07
 Custody Operations Directive: 12-002

IRC ICE DETAINER SURVEY FORM

SEQUENCE NO: _____-_____-_____



ARRESTEE/INMATE: _____

BOOKING NUMBER: _____ **ARREST CHARGE(S):** _____

CRIMINAL HISTORY CHECKED VIA: CCHRS / JDIC / CII / FBI / OTHER

OTHER: _____

INFORMATION VERIFIED: _____ **INFORMATION NOT VERIFIED:** _____

REASON NOT VERIFIED: _____

ICE AGENT NOTIFIED: _____ **CONTACT INFO:** _____

AGENT'S COMMENTS: _____

FORM COMPLETED BY: _____ **EMPLOYEE #:** _____ **DATE:** _____

DISPOSITION/FOLLOW-UP: _____

REVIEWING LIEUTENANT: _____ **EMPLOYEE #:** _____

IRC ICE DETAINER SURVEY FORM

SEQUENCE NO: _____-_____-_____



ARRESTEE/INMATE: _____

BOOKING NUMBER: _____ **ARREST CHARGE(S):** _____

CRIMINAL HISTORY CHECKED VIA: CCHRS / JDIC / CII / FBI / OTHER

OTHER: _____

INFORMATION VERIFIED: _____ **INFORMATION NOT VERIFIED:** _____

REASON NOT VERIFIED: _____

ICE AGENT NOTIFIED: _____ **CONTACT INFO:** _____

AGENT'S COMMENTS: _____

FORM COMPLETED BY: _____ **EMPLOYEE #:** _____ **DATE:** _____


DISPOSITION/FOLLOW-UP: _____

REVIEWING LIEUTENANT: _____ **EMPLOYEE #:** _____

ICE DETAINER SURVEY LOG

SEQUENCE#	INMATE NAME	BK#	VERIFIED	COMMENTS
2013-0116-000	Doe, John	99999999	Yes or No	

Kamala D. Harris, Attorney General

<p>California Department of Justice CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION Larry Wallace, Director, Division of Law Enforcement</p>		<h1>INFORMATION BULLETIN</h1>	
<p>Subject: Responsibilities of Local Law Enforcement Agencies under Secure Communities</p>	<p>No. 2012-DLE-01</p>	<p>Contact for information:</p>	
	<p>Date: 12-4-12</p>	<p>Larry Wallace, Director, Division of Law Enforcement 916-319-8200</p>	

TO: Executives of State and Local Law Enforcement Agencies

The California Department of Justice (CalDOJ) and the Office of the Attorney General have received inquiries about state and local law enforcement responsibilities under Secure Communities, a federal program administered by the Immigration and Customs Enforcement agency (ICE) of the United States Department of Homeland Security (DHS). These inquiries have included whether local law enforcement must fulfill a federal detainer request even if that agency determines that fulfilling the request would not be consistent with public-safety priorities or the best use of limited local law enforcement resources; and whether a local law enforcement agency may adopt guidelines for fulfilling federal detainer requests. To provide needed clarity on these matters, this bulletin:

- Provides information on the purpose and operation of the Secure Communities program;
- Outlines the responsibilities of state and local law enforcement agencies regarding custody of unlawfully present immigrants subject to federal detainer requests;
- Clarifies that individual federal detainers are requests, not commands, to local law enforcement agencies, who make their own determination of whether to use their resources to hold suspected unlawfully present immigrants; and
- Determines that the Secure Communities program does not prohibit local law enforcement agencies from adopting a protocol governing the circumstances under which they will fulfill federal detainer requests.

What is Secure Communities?

DHS implemented the Secure Communities program as a way to identify, detain, and remove from the United States unlawfully present immigrants who have been convicted of a crime and those who pose a threat to public safety. The program does not require California law enforcement agencies to determine an individual's immigration status or to enforce federal immigration laws.

Secure Communities works when fingerprints taken by state and local law enforcement agencies are sent to CalDOJ to positively identify the arrestee and to check his or her criminal history. In addition to checking its own records, CalDOJ forwards the fingerprints to the FBI's Criminal Justice Information Services division to search for federal and out-of-state arrest, warrant, and conviction history—an action that is essential both for officer safety and to identify and detain fugitives who may have fled other jurisdictions. Under the Secure Communities program, the FBI forwards the fingerprints to DHS to be checked against immigration and other databases. DHS then sends the immigration response, if any, to the FBI, which sends it, along with any criminal history information, to CalDOJ, which generally delivers all the information to the requesting law enforcement agency.

If fingerprints match an immigration record, ICE evaluates whether to take action. In deciding how to respond, ICE has purported to use a risk-based approach that classifies arrestees into levels, beginning with those who have serious prior convictions and those who present the greatest threat to public safety, which it has described as a "worst first" approach. If ICE chooses to assume custody of a detainee, it sends an "Immigration Detainer – Notice of Action" (DHS Form I-247) to the jailor asking that the jailor hold the individual for up to 48 hours after he or she would otherwise be released to give ICE time to complete its evaluation or to take the person into immigration custody. Unlike arrest warrants and criminal detainers, however, immigration detainers may be issued by border patrol agents, including aircraft pilots, special agents, deportation officers, immigration inspectors, and other employees of ICE, without the review of a judicial officer and without meeting traditional evidentiary standards.

What Responsibilities Do State and Local Law Enforcement Agencies Have under Secure Communities?

As explained above, the Secure Communities program does not require state or local law enforcement officers to determine an individual's immigration status or to enforce federal immigration laws. Under the Secure Communities program, anyone who is arrested is automatically screened for immigration violations when his or her fingerprints are sent to the FBI to check for federal and out-of-state criminal history. And while the results of the immigration search generally are returned to the arresting law enforcement agency along with any criminal history, ICE alone evaluates whether to take immigration enforcement action based upon the facts of each case.

Are Local Law Enforcement Agencies Required to Fulfill Individual ICE Immigration Detainers?

No. Local law enforcement agencies in California can make their own decisions about whether to fulfill an individual ICE immigration detainer. After analyzing the public-safety risks presented by the individual, including a review of his or her arrest offense and criminal history, as well as the resources of the agency, an agency may decide for itself whether to devote resources to holding suspected unlawfully present immigrants on behalf of the federal government.

Several local law enforcement agencies appear to treat immigration detainers, sometimes called "ICE holds," as mandatory orders. But immigration detainers are not compulsory. Instead, they are merely requests enforceable at the discretion of the agency holding the individual arrestee. (See ICE Website, available at http://www.ice.gov/secure_communities ["Secure Communities imposes no new or additional requirements on state and local law enforcement"].) We reach this conclusion both because the I-247 form is couched in non-mandatory language and because the Tenth Amendment to the U.S. Constitution reserves power to the states to conduct their affairs without specific mandates from the federal government. Under the Secure Communities program, the federal government neither indemnifies nor reimburses local law enforcement agencies for complying with immigration detainers. (See 8 C.F.R. § 287.7(e).) Under principles of federalism, neither Congress nor the federal executive branch can require state officials to carry out federal programs at their own expense. If such detainers were mandatory, forced compliance would constitute the type of commandeering of state resources forbidden by the Tenth Amendment. (*Printz v. United States* (1997) 521 U.S. 898, 925 ["The Federal Government . . . may not compel the States to implement, by legislation or executive action, federal regulatory programs"]; *New York v. United States* (1992) 505 U.S. 144, 161 ["the Constitution has never been understood to confer upon Congress the ability to require the States to govern according to Congress's instructions"].)

In a time of shrinking financial resources, a growing range of critical public-safety priorities, limited space for housing prisoners, and layoffs of police officers and sheriffs deputies, it is appropriate that California law enforcement agencies that receive immigration detainer requests consider them carefully and determine what

course of action best protects public safety in light of the facts of each case. All efforts must be made to identify, detain, and remove from the United States unlawfully present immigrants who may be dangerous, pose a public-safety risk, or have been convicted of offenses of a serious or violent nature. Any action to the contrary could pose a great risk to public safety.

Does the Secure Communities Program Prohibit a Local Law Enforcement Agency from Adopting a Protocol Governing Its Response to ICE Immigration Detainers?

No. Immigration detainer requests are not mandatory, and each agency may make its own decision about whether or not to honor an individual request. Accordingly, local law enforcement agencies may establish a protocol to assist them in determining how to respond to a federal request to hold, at the local agency's own expense, suspected unlawfully present immigrants with minor or no criminal history, so long as any such protocol gives primary consideration to protecting public safety in determining whether to honor a detainer request.

Local agencies are best positioned to determine the highest use of local resources, and if the local law enforcement agency determines that releasing certain individuals does not present a risk to public safety, a federal detainer request cannot, by itself, reverse that determination.

###

Los Angeles County Sheriff's Department

CUSTODY OPERATIONS DIRECTIVE

Custody Support Services



CUSTODY OPERATIONS DIRECTIVE: 12-002

DATE: FEBRUARY 23, 2012

ISSUED FOR: CUSTODY OPERATIONS DIVISION
CORRECTIONAL SERVICES DIVISION
COURT SERVICES DIVISION
STATION JAILS

IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINDER NOTIFICATIONS

PURPOSE

The purpose of this directive is to implement the notification process regarding the "Immigration Detainer - Notice of Action" (DHS Form I-247) from the United States Department of Homeland Security. This directive shall apply to all custody and correctional facilities, station jails, and court services lock-ups.

POLICY AND PROCEDURES

Immigration detainees are sent to a variety of Department locations, such as station jails, court lock ups, and custody facilities. Effective immediately, those personnel who receive an "Immigration Detainer - Notice of Action", shall ensure the concerned inmate signs the original detainer next to his/her name (Name of Alien section), acknowledging their notification of the detainer. If the inmate refuses to sign the detainer, the person serving the detainer shall note the inmate's refusal in the same section and initial the form.

Additionally, personnel shall ensure the bottom portion of the form, "TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY HOLDING THE SUBJECT OF THIS NOTICE," section is completed. A copy of the signed detainer and the attached "Notice to the Detainee" shall be provided to the inmate. If the inmate is sent to the custody of the Inmate Reception Center (IRC) or Century Regional Detention Facility for processing, the original detainer shall be forwarded to IRC, Document Control, to be placed in the inmate's booking jacket. Should the inmate stay in the custody of the arresting agency, the original detainer remains with the station booking packet, until the inmate is released to Federal custody.

Should any custody facility receive a faxed detainer from IRC, the concerned facility's watch commander shall ensure the detainer is signed by the inmate and faxed back to IRC within the received shift. Inmates shall either be escorted to the appropriate personnel to sign the detainer or the detainer shall be brought to the inmate for

signature. A copy of the signed detainer and the attached "Notice to the Detainee" shall be provided to the inmate. If the inmate is unable to sign the detainer within the received shift, the watch commander shall notify IRC of the reason for the delay.

Claims of United States Citizenship or Legal Residency

If an inmate receives an "Immigration Detainer - Notice of Action" and claims to be in the United States legally, Department personnel shall immediately notify the watch commander. The watch commander shall make an immediate notification to the IRC Watch Deputy via telephone. The watch commander shall ensure the notification is recorded in the facility's Watch Commander's Log.

IRC personnel shall log the notification in the log book used exclusively to record ICE Detainer Disputes. IRC personnel shall record the following:

- Watch Commander's name, employee number, and unit
- The date and time of the notification
- The inmate's name and booking number.

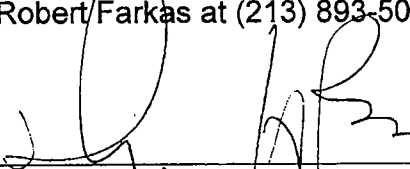
IRC personnel shall immediately contact the IRC ICE Liaison at (213) 893-5349 during normal business hours. After business hours and on weekends or holidays, IRC personnel shall contact the ICE Command Center at (949) 360-2519/2520.

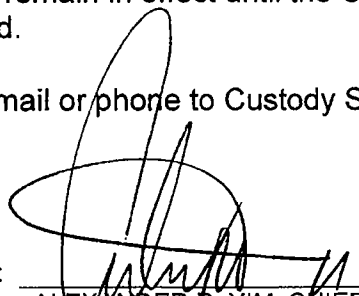
RETENTION

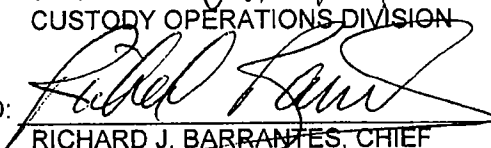
In accordance with Custody Division Manual section 4-13/000.00 "Retention of Records", the ICE Detainer Disputes Log shall be retained for a minimum of five years.

The policies and procedures outlined in this directive shall remain in effect until the Custody Division Manual is revised and/or this directive is rescinded.

Questions regarding this directive should be directed by email or phone to Custody Support Services, Sgt. Robert Farkas at (213) 893-5022.

APPROVED: 
 DENNIS H. BURNS, CHIEF
 CUSTODY OPERATIONS DIVISION

APPROVED: 
 ALEXANDER R. YIM, CHIEF
 CORRECTIONAL SERVICES DIVISION

APPROVED: 
 RICHARD J. BARRANTES, CHIEF
 COURT SERVICES BUREAU

DHB:ARY:RJB:oam

Originally Issued: 2/23/2012
 Revised:
 Latest Revision:

SENATE No. 1135

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to restore community trust in Massachusetts law enforcement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Anthony W. Petrucci</i>	<i>First Suffolk and Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Michael Barrett</i>	<i>Third Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>

SENATE No. 1135

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1135) of James B. Eldridge, Anthony W. Petruccelli, Patricia D. Jehlen, Linda Dorcena Forry and other members of the General Court for legislation to restore community trust in Massachusetts law enforcement. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

An Act to restore community trust in Massachusetts law enforcement.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 126 of the General Laws, as appearing in the 2010 Official
2 Edition, is hereby amended by inserting the following new section:-

3 Section 40.

4 (a) Definitions

5 For purposes of this chapter, the following terms have the following meanings:

6 (1) “Administrative warrant” means an immigration warrant, notice to appear, removal
7 order, or warrant of deportation, issued by ICE, Customs and Border Protection, or a successor
8 or similar federal agency charged with enforcement of civil immigration laws.

9 (2) “Citizenship or immigration status” means all matters regarding questions of
10 citizenship of the United States or any other country, the authority to reside in or otherwise be
11 present in the United States, the time or manner of a person's entry into the United States, or
12 another civil immigration matter enforced by the Department of Homeland Security or other
13 federal agency charged with the enforcement of civil immigration laws.

14 (3) “Commonwealth” shall include the territory and government of the state of
15 Massachusetts and any county, city, or municipal governing bodies or political subdivisions
16 therein.

17 (4) “Custodial Law Enforcement Agency” means the local law enforcement agency
18 having custody of the person against whom a detainer is lodged.

19 (5) “ICE” means the United States Immigration and Customs Enforcement Agency, and
20 includes the former Immigration and Naturalization Service, Customs and Border Protection, and
21 any successor agency charged with the enforcement of civil immigration laws.

22 (6) “Immigration detainer” means a written request issued by ICE, Customs and Border
23 Protection, former INS, or any other federal agency charged with the enforcement of civil
24 immigration laws, to another federal, state, or local law enforcement agency to provide notice of
25 release and to detain an individual based on an inquiry into immigration status or an alleged
26 violation of a civil immigration law, including detainers issued pursuant to 8 C.F.R. § 287.7 and
27 8 C.F.R. § 236.1, and on DHS Form I-247 “Immigration Detainer – Notice of Action.”

28 (7) “Inmate” means anyone in the custody of a law enforcement agency as defined under
29 (h) of this section, and does not include individuals in the custody of Immigration and Customs
30 Enforcement.

31 (8) “Law Enforcement Agency” means an agency in Massachusetts charged with
32 enforcement of state, county, municipal, or federal laws, or with managing custody of detained
33 persons in the Commonwealth, and includes municipal police departments, sheriffs’
34 departments, state police, campus police, and the Massachusetts Department of Corrections.

35 (9) “State correctional institution” means a penal institution managed by the
36 Massachusetts Department of Corrections.

37 (10) “Law enforcement official” means any officer of a state, county, or municipal
38 agency authorized to enforce criminal statutes, regulations, or local ordinances, or to operate jails
39 or to maintain custody of individuals in jails, and any person or local agency authorized to
40 operate juvenile detention facilities or to maintain custody of individuals in juvenile detention
41 facilities. This includes “police officers” as defined in Section 1 of chapter 90C.

42 (b) Standards for Responding to Immigration Detainers

43 (1) There being no legal authority upon which the federal government may compel an
44 expenditure of Commonwealth resources to comply with an immigration detainer, there shall be
45 no expenditure of any Commonwealth resources or effort by law enforcement officials for this
46 purpose, except as expressly provided within this Chapter.

47 (2) A law enforcement official or agency in the Commonwealth may detain an inmate
48 pursuant to an immigration detainer, provided that:

49 (i) Such detention is permitted by local, state and federal law and the Massachusetts and
50 United States Constitutions; and

51 (ii) The inmate has not been ordered released by the criminal justice system, pursuant to:

52 (A) a finding of not guilty;

53 (B) dismissal of charges; or

54 (C) granting release pending trial by a bail commissioner or clerk, judge, or magistrate, as
55 soon as the inmate has met any imposed conditions for release; and

56 (iii) The following conditions are met:

57 (A) The subject of the detainer is over 18 years of age;

58 (B) The inmate has been convicted and confined to a state correctional institution for five
59 years for an offense enumerated in chapter 265;

60 (C) The immigration detainer is accompanied by a prior order of removal for the subject
61 of the detainer, or evidence that DHS has filed a Form I-862 Notice to Appear with the
62 immigration court; and

63 (D) The custodial law enforcement agency has an agreement with the federal government
64 for the reimbursement of all costs associated with the further detention of that individual.

65 (3) No inmate subject to an immigration detainer shall be denied bail solely on the basis
66 of that detainer. Such an inmate shall still be subject to the custody provisions of subsection
67 (b)(2) of this act.

68 (4) Law enforcement agencies shall not make inmates available for ICE interviews, in
69 person or over the telephone or videoconference, unless the inmate is provided an opportunity to
70 have counsel present during the interview and signs a written consent form in a language the
71 inmate understands, that explains who the interviewer is and the possible legal consequences of
72 providing information to ICE. Notice of the interview request shall be provided in a language or
73 manner that the inmate understands. Inmates who are hospitalized or on suicide watch shall not
74 be made available for ICE interviews.

75 (5) If any inmate is subject to an immigration detainer or a Notice to Appear in
76 immigration court, the custodial law enforcement agency shall provide notice in writing to that
77 inmate of the nature and substance of the detainer or notice, immediately following the receipt of
78 that detainer or Notice to Appear. Such notice shall be provided in a language or manner that the
79 inmate understands.

80 (6) Unless ICE agents provide a criminal warrant, or a law enforcement agency has a
81 legitimate law enforcement purpose that is not related to the enforcement of civil immigration
82 laws, law enforcement agencies shall not provide booking lists to ICE, or communicate with ICE
83 regarding individuals' incarceration status or release dates. Nothing in this section shall limit the
84 exchange of information regarding citizenship or immigration status as permitted by federal law.

85 (c) Administrative Arrests

86 There being no legal authority for law enforcement officials in the Commonwealth to
87 enforce federal civil immigration laws, law enforcement officials shall not make arrests or detain
88 any individual based on an administrative immigration warrant in the National Crime
89 Information Center (NCIC) database.

90 (d) Transfers of custody

91 Law enforcement officials are not responsible for the enforcement of federal immigration
92 laws and shall not arrest or transport inmates for civil immigration enforcement purposes or on
93 the basis of a civil immigration detainer, unless the inmate has been formally placed in federal
94 immigration custody under a contract with the Department of Homeland Security, or in
95 accordance with section 2 of this act. Nothing in this section shall be construed as limiting or
96 changing the duties of Sheriffs regarding transportation in section 24 of chapter 37, except that
97 ICE facilities or ICE custody shall not be considered non-correctional for the purposes of
98 subsection (c) of that section.

99 (e) Data Collection

100 (1) All law enforcement agencies shall record the following for any inmates subject to an
101 immigration detainer: race, gender, place of birth, date and time of arrest, arrest charges, date and
102 time of receipt of detainer, immigration or criminal history known or marked on the detainer
103 form, whether the detainer was accompanied by additional documentation regarding immigration
104 status or proceedings, whether a copy of the detainer was provided to the inmate, and, if
105 applicable, the date and time that ICE came to take custody of the inmate.

106 (2) All law enforcement agencies that receive detainer requests shall report the
107 information in subsection (a) yearly to the Civil Rights Division of the Attorney General's
108 Office. Such information, with the exception of the name of the individual named in the
109 detainer, shall be a public record, within the meaning of section 3 of chapter 66.

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(ITEM) A resolution by Supervisors Romo West, Stamper, Dimitrijevic, Harris and Bowen establishing Milwaukee County policy with respect to honoring detainer requests from US Department of Homeland Security - Immigration and Customs Enforcement, by recommending adoption of the following:

A RESOLUTION

WHEREAS, the United States Department of Homeland Security – Immigrations and Customs Enforcement’s (ICE) Secure Communities program uses data provided through local law enforcement agencies to identify undocumented aliens, and prioritizes the removal of aliens deemed criminal, a threat to public safety, or repeat immigration violators; and

WHEREAS, when ICE identifies an inmate detained by local law enforcement, the local agency is notified to place a hold of up to 48 hours beyond the time that inmate may have otherwise been released to allow ICE to investigate whether that person should be processed for deportation; this practice is known as an ICE detainer request; and

WHEREAS, it has been noted that some detained aliens choose to not post bail, preferring to sit in a local jail rather than being subjected to ICE proceedings, resulting in much longer – and much more costly – lengths of stay in local jails; and

WHEREAS, as part of its ongoing efforts to work collaboratively with outside law enforcement agencies, the Milwaukee County Sheriff’s Office (MCSO), as a practice, honors ICE detainer requests when received; and

WHEREAS, for 2010 and 2011 MCSO detained 246 and 193 inmates, respectively, as requested by ICE, for a period of up to 48 hours; and

WHEREAS, immigration enforcement is the responsibility of the federal government and, without proper reimbursement for the costs of housing alien inmates, ICE detainer requests represent, in effect, an unfunded mandate from the federal government; and

WHEREAS, many local law enforcement agencies nationwide are under the mistaken impression that ICE detainers are mandatory and that local law enforcement agencies are legally required to comply, although recent policy directives from the Department of Homeland Security – and, in fact, the immigration detainer request form itself – have clarified that the detainers are not mandatory but are considered ‘requests’; and

WHEREAS, despite ICE’s prioritization of certain classes of criminal aliens, ICE detainers are routinely imposed on individuals without any criminal convictions or whose cases have been dismissed, resulting in possible deportation proceedings against non-criminal aliens; and

46 WHEREAS, when local law enforcement honors all ICE detainer requests, including
47 those that target non-criminal aliens, community residents become less likely to cooperate with
48 local agencies, eroding public trust and unnecessarily hindering the law enforcement abilities of
49 MCSO Deputies on patrol; and

50
51 WHEREAS, while the County Board recognizes that the Milwaukee County Sheriff has
52 broad latitude to administer his oversight over inmate detentions, Milwaukee County may
53 nonetheless adopt a policy regarding ICE detainer requests that respects and values the
54 community contributions of Milwaukee County’s diverse population; now, therefore,

55
56 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby adopts the
57 following policy with regard to detainer requests from the US Department of Homeland Security
58 – Immigrations and Customs Enforcement:

- 59
60 1. Immigration detainer requests from Immigrations and Customs Enforcement shall be
61 honored only if the subject of the request:
- 62 a) Has been convicted of at least one felony or two non-traffic misdemeanor
63 offenses
 - 64 b) Has been convicted or charged with any domestic violence offense or any
65 violation of a protective order
 - 66 c) Has been convicted or charged with intoxicated use of a vehicle
 - 67 d) Is a defendant in a pending criminal case, has an outstanding criminal warrant, or
68 is an identified gang member
 - 69 e) Is a possible match on the US terrorist watch list

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75 ; and

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78 BE IT FURTHER RESOLVED, that the County Board requests that, to the extent
79 allowed by law, the Milwaukee County Sheriff adopt the directed County policy.

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81

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

In Support of Multnomah County Sheriff's Office Revised Plan for I-247 Immigration Detainers

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County is home to a diverse and vibrant community of people representing many races, ethnicities, and nationalities, including immigrants and refugees from all over the world. More than 13 percent of Multnomah County's residents are foreign-born.
- b. The Board of Commissioners recognizes that fostering a relationship of trust, respect, and open communication between local law enforcement and county residents is essential to the Multnomah County Sheriff's Office and the Department of Community Justice's core mission of ensuring public safety and serving the needs of our entire community.
- c. Documented public testimony has demonstrated that members of our community are not reporting crimes, and are not seeking access to emergency and other health and human services, for fear of deportation through the Secure Communities program and I-247 Immigration Detainers.
- d. Multnomah County families are being separated and isolated by deportation, and in many cases, these removals are disrupting and damaging the lives and support networks of spouses, children and young adults who are US citizens.
- e. The deterioration of trust in local government, as a result of ICE's Secure Communities program and I-247 Immigration Detainers, hampers the county's ability to provide public safety and social services.
- f. The Board of County Commissioners and the Sheriff are committed to the preservation and effective use of county resources to maximize public safety and social service outcomes for the community, and the lawful operation of county jails consistent with prevailing constitutional standards.
- g. According to the regulation promulgated by DHS, "No detainer issued as a result of a determination made under this chapter shall incur any fiscal obligation on the part of the Department, until actual assumption of custody by the Department..."
- h. The uncompensated detention of individuals in county jails, for violations of civil immigration laws, places an undue burden on the county. Moreover, the unmitigated compliance with ICE detainers requests has the potential of further straining the resources of the Multnomah County Sheriff's Office and occupying scarce and costly jail beds that should be reserved for those who pose the greatest threat to public safety.

- i. The Sheriff is committed to the most effective and efficient administration of the county jails. The Sheriff is the sole individual charged with the administration of Multnomah County jails pursuant to Multnomah County Charter § 6.50, and Multnomah County Code § 15.001 and has custody and control of all persons confined to county correctional facilities pursuant to ORS § 169.320.
- j. The Department of Homeland Security's (DHS) - Immigration and Customs Enforcement's (ICE) Secure Communities program has been imposed throughout the United States.
- k. The Secure Communities program is being implemented through biometric data collected at each jail booking across the United States. Access to this information, in most cases, is involuntary and part of the already existing communications infrastructure and agreements between State law enforcement, the Federal Bureau of Investigation and DHS.
- l. The implementation of the Secure Communities program is amplified by the proactive collaboration of many local governments and elected county sheriffs across the country, through compliance with I-247 Immigration Detainers.
- m. An I-247 Immigration Detainer - Notice of Action, "is a request that, such agency advise the Department [of Homeland Security], prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible."
- n. Any authorized immigration officer may issue an ICE Hold to any other federal, state, or local law enforcement agency for an undocumented person, "such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the Department."
- o. There are more than 10 million foreign nationals who are undocumented in the US and the White House acknowledges that the federal government cannot afford to deport them all, and must focus its limited resources in a way that prioritizes public safety and national security. It is the Obama administration's mandate to use prosecutorial discretion to clear out low-priority cases, and focus on the deportation of undocumented immigrants they have determined pose the greatest public safety risk.
- p. The enforcement of federal civil immigration law is the responsibility of the federal government and not of county, city or state governments.
- q. The Sheriff, upon consultation with community advocates, service providers and the Multnomah County Chair's Office, has established a policy direction that carefully balances the public safety needs of the county, the preservation of scarce county resources, and compliance with prevailing constitutional standards.

The Multnomah County Board of Commissioners Resolves:

1. The Board of County Commissioners shares the Sheriff's and the public's deep concern regarding issues raised by ICE's national Secure Communities program and its I-247 Immigration Detainer requests.
2. The Board of County Commissioners supports and endorses the Sheriff's decision to comply only with I-247 Immigration Detainer - Notice of Action requests for individuals, who are:
 - charged with Felonies as defined by Oregon Revised Statutes;
 - charged with Class A – Person Misdemeanors as established by the Oregon Criminal Justice Commission - OAR (213-003-001(15)); or
 - when ICE can demonstrate through affidavit that an individual poses a threat to public safety based on previous, non immigration-related, convictions or current charges related to:
 - violence, threats, or assaults;
 - sexual abuse or exploitation;
 - driving under the influence of alcohol or a controlled substance;
 - unlawful possession of firearm or other deadly weapon; or
 - the distribution or trafficking of a controlled substance.

3. The Board of County Commissioners supports and endorses the Sheriff's commitment to adjust future policy determinations in regards to civil immigration detainees so as to ensure Multnomah County's continued compliance with applicable federal and state laws, and binding judicial determinations.

ADOPTED this 4th day of April, 2013.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Jeff Cogen, Chair

REVIEWED:
JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Jenny M. Morf, County Attorney

SUBMITTED BY:
Jeff Cogen, Multnomah County Chair



San Francisco Sheriff's Department

INTER-OFFICE CORRESPONDENCE

October 4, 2012
Reference: 2012-092

TO: All Personnel

FROM: Interim Sheriff Vicki Hennessey

A handwritten signature in blue ink that reads "Vicki L. Hennessey".

RE: Immigration & Custom Enforcement Procedures

This memo supersedes the previous Immigration & Custom Enforcement Procedures memo from former Sheriff Hennessey (Reference: 2011-003). The procedure was updated to address previously unaddressed procedural changes dealing with misdemeanor re-bookings. These changes are addressed in Item #2 Ice Detainers with non-citable misdemeanors.



San Francisco Sheriff's Department

INTER-OFFICE CORRESPONDENCE

October 4, 2012

Reference: 2012-091

TO: All Sworn Personnel

FROM: Interim Sheriff Vicki Hennessy

A handwritten signature in blue ink that reads "Vicki J. Hennessy".

RE: Immigration & Custom Enforcement Procedures

David Venturella, Assistant Director of U.S. Department of Homeland Security, has informed the Department that an Immigration Detainer (Form I-27) is a request for an agency to maintain custody of an alien, who may otherwise be released, for up to forty-eight (48) hours (excluding Saturdays, Sundays, and holidays). An Immigration Detainer does not impose a legal mandate to hold a person in custody. Therefore, effective Monday, May 16, 2011, the following applies:

1) ICE DETAINERS WITH INFRACTIONS & CERTAIN MISDEMEANORS

ICE Detainers received for individuals who have been booked into the Sheriff's custody at County Jail # 1 on only the following offenses:

- cite eligible, on-view misdemeanor offenses
- on-view infractions (Per 853.5 PC)
- traffic infractions (Per 853.5 PC) or CWB Specials which are cite eligible
- cite-eligible misdemeanor bench warrants
- cite-eligible out of county warrants

shall be subject to the following procedure:

The individual shall be checked for the eligibility conditions listed in number 4) **RELEASE ELIGIBILITY**. If this check reveals that the individual is eligible for release, the ICE Detainer shall not be booked, and the subject will be cited and released according to established release procedures. A deputy must then write "NOT BOOKED" across the detainer. That detainer will be forwarded to the Sheriff's Department Information and Technology Service Section (ITSS). ITSS will scan the detainer and attach it as a document to the subject's "Global Subject Jacket" in the Jail Management System (JMS). The detainer should then be destroyed.

2) ICE DETAINERS WITH NON-CITABLE MISDEMEANORS

ICE Detainers shall be booked and honored when received for individuals who have been booked into the Sheriff's custody for non-cite eligible, on-view misdemeanor, or non-cite eligible misdemeanor bench warrant offenses.

If an on-view misdemeanor criminal matter is dismissed during the initial rebooking process and an ICE Detainer has already been booked, an entry of "HOLD OFF" shall be entered as a charge disposition for the ICE Hold. Additionally, "HOLD OFF" shall be entered in the *remarks* field of the *Charges Detail*

window. In the final release process at County Jail # 1, the release deputy shall enter a notation in the *Comments Field* in JMS indicating, "ICE Detainer Not Honored, Subject Released". A deputy shall then write, "NOT HONORED" across the ICE Detainer. That detainer will be forwarded to ITSS. ITSS will scan the detainer and attach it as a document to the subject's "Global Subject Jacket" in JMS. The detainer should then be destroyed.

If a misdemeanor bench warrant is discharged and the associated charges are dismissed on the first court appearance for the first failure to appear and an ICE Detainer has already been booked, an entry of "HOLD OFF" shall be entered as a charge disposition for the ICE Hold. Additionally, "HOLD OFF" shall be entered in the *remarks* field of the *Charges Detail* window. In the final release process at County Jail # 1, the release deputy shall enter a notation in the *Comments Field* in JMS indicating, "ICE Detainer Not Honored, Subject Released". A deputy shall then write, "NOT HONORED" across the ICE Detainer. That detainer will be forwarded to ITSS. ITSS will scan the detainer and attach it as a document to the subject's "Global Subject Jacket" in JMS. The detainer should then be destroyed.

3) ICE DETAINERS WITH ON-VIEW FELONY DOMESTIC VIOLENCE CHARGE(S) - PC 273.5 (a)

ICE Detainers shall be booked and honored when received for individuals who have been booked into the Sheriff's custody for a felony on-view domestic violence offense as defined in Penal Code Section 273.5 (a) - Felony. If the domestic violence matter is subsequently dismissed during the initial rebooking process, and, there are no other criminal matters, and an ICE Detainer has already been booked, an entry of "HOLD OFF" shall be entered in the *remarks* field of the *Charges Detail* window. In the final release process at County Jail # 1, the release deputy shall enter a notation in the *Comments Field* in JMS indicating, "ICE Detainer Not Honored, Subject Released". A deputy shall then write, "NOT HONORED" across the ICE Detainer. That detainer will be forwarded to ITSS. ITSS will scan the detainer and attach it as a document to the subject's "Global Subject Jacket" in JMS. The detainer should then be destroyed. This section only applies to a felony 273.5 (a) PC booking and no other felony offense.

4) RELEASE ELIGIBILITY

Prior to any release as indicated in #1 #2, or #3 above, a deputy shall check the subject's Criminal History Information in CII and the FBI criminal history databases. Individuals are not eligible for release and ICE Detainers shall be booked and/or honored for anyone who has been previously convicted of:

- a felony offense(s) or
- two misdemeanor offenses (resulting from two different criminal cases)

OR

Prior to any release as indicated in #3 above, a deputy shall check the subject's Criminal History Information in CII and the FBI criminal history databases. Individuals are not eligible for release and ICE Detainers shall be booked and/or honored for anyone who has been previously arrested for any:

- domestic violence offence either for a felony or misdemeanor classification, or
- violation of a domestic violence protective order

HOUSE BILL 1874

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Moscoso, Jinkins, Appleton, Roberts, Reykdal, Hunt, Ryu, Pollet, and Farrell

Read first time 02/13/13. Referred to Committee on Public Safety.

1 AN ACT Relating to federal immigration policy enforcement; adding
2 new sections to chapter 10.31 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds and declares all of
5 the following:

6 (1) The United States immigration and customs enforcement's secure
7 communities program burdens state resources by requiring local law
8 enforcement officers to assist with federal immigration enforcement.
9 The detainers issued as a result of the secure communities program and
10 related immigration and customs enforcement programs request that local
11 law enforcement agencies detain individuals for forty-eight hours.
12 Local tax dollars are spent on these detainers and the local law
13 enforcement agencies do not receive full reimbursement from the federal
14 government for these costs.

15 (2) The implementation of the secure communities program has not
16 matched up with its original goal of making our communities safer by
17 removing and deporting violent criminals. Because the program conducts
18 mandatory immigration checks of everyone booked into local jails, it
19 has led to the deportations of people with no criminal records. The

1 program actually harms communities by making immigrants and communities
2 of color less likely to report crimes. When every arrest is a
3 potential immigration arrest, people in immigrant communities are
4 afraid to report crimes or cooperate with investigations. The fewer
5 crimes that are reported, the longer criminals remain on the streets of
6 our communities.

7 (3) According to immigration and customs enforcement, the secure
8 communities program is supposed to prioritize the deportation of
9 illegal immigrants who have been accused or convicted of serious
10 crimes. However, immigration and customs enforcement statistics from
11 2011 show only twenty-two percent of the six thousand deported through
12 the program were high level, felony offenders. Twenty-eight percent
13 had no criminal record at all.

14 (4) Immigration detainers operate at the pretrial level. These
15 detainers require no determinations of probable cause or warrants.
16 Complying with these detainers could cause law enforcement officers to
17 violate individuals' constitutional rights.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.31 RCW
19 to read as follows:

20 (1) A law enforcement officer is prohibited from detaining an
21 individual on the basis of an immigration detainer after that
22 individual becomes eligible for release from criminal custody, unless,
23 at the time the individual becomes eligible for release, a criminal
24 background check reveals the individual was previously convicted of a
25 most serious offense or violent offense.

26 (2) For the purposes of this section:

27 (a) "Criminal custody" means in the custody of the state department
28 of corrections, the state department of social and health services, a
29 local division of youth services, or a local jail or detention facility
30 in connection to a criminal offense.

31 (b) "Eligible for release from criminal custody" means that the
32 individual may be released from criminal custody because one of the
33 following conditions has occurred:

34 (i) All criminal charges against the individual have been dropped
35 or dismissed;

36 (ii) The individual has been acquitted of all criminal charges
37 filed against him or her;

1 (iii) The individual has served all the time required for his or
2 her sentence;

3 (iv) The individual has posted bond; or

4 (v) The individual is otherwise eligible for release under state or
5 local law, or local policy.

6 (c) "Immigration detainer" means a detainer issued by an authorized
7 immigration officer, pursuant to section 287.7 of Title 8 of the code
8 of federal regulations that requests that the law enforcement official
9 maintain custody of the individual for a period not to exceed forty-
10 eight hours, and to advise the authorized immigration office prior to
11 the release of that individual.

12 (d) "Law enforcement officer" means any local agency or officer of
13 a local agency authorized to enforce criminal statutes, regulations, or
14 local ordinances or to operate jails or to maintain custody of
15 individuals in jails, and any person or local agency or state
16 governmental entity authorized to operate juvenile detention facilities
17 or to maintain custody of individuals in juvenile detention facilities.

18 (e) "Most serious offense" has the same meaning as in RCW
19 9.94A.030.

20 (f) "Violent offense" has the same meaning as in RCW 9.94A.030.

21 (3) The state, its subdivisions, officers, and employees and local
22 governments and their subdivisions, officers, and employees are immune
23 from civil liability for damages arising from failure to comply with an
24 immigration detainer except upon proof of willful or wanton misconduct.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.31 RCW
26 to read as follows:

27 There being no legal authority for state or local law enforcement
28 officers to enforce federal civil immigration laws, no state or local
29 law enforcement officer shall make arrests or detain any individual
30 based on an administrative immigration warrant in the national crime
31 information center database of the federal bureau of investigation.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.31 RCW
33 to read as follows:

34 Unless an individual in the custody of a law enforcement officer or
35 agency is provided an opportunity to have counsel present, and signs a
36 written consent form that indicates knowledge of who the interviewer is

1 and the possible legal consequences of providing information to any
2 employee or agent of the United States immigration and customs
3 enforcement agency or the United States border patrol, no law
4 enforcement officer or agency shall make the individual available for
5 interview by any employee or agent of the United States immigrations
6 and customs enforcement agency or the United States border patrol, in
7 person or over the telephone or videoconference. Such notice shall be
8 provided in a language or manner that the individual in custody
9 understands. Any individual who is hospitalized or on suicide watch
10 shall not be made available for interviews with any employee or agent
11 of the United States immigration and customs enforcement agency or the
12 United States border patrol.

13 NEW SECTION. **Sec. 5.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

--- END ---

AN ACT
D.C. ACT 19-379

Codification
District of
Columbia
Official Code

2001 Edition

2012 Fall
Supp.

West Group
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 15, 2012

To amend , on an emergency basis, An Act To create a Department of Corrections in the District of Columbia to limit the circumstances under which the District will comply with an immigration detainer request from United States Immigration and Customs Enforcement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Immigration Detainer Compliance Emergency Amendment Act of 2012".

Sec. 2. An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.01 *et seq.*), is amended by adding a new section 7 to read as follows:

Note,
§ 24-211.06

"Sec. 7. District compliance with federal immigration detainers.

"(a) The District of Columbia is authorized to comply with civil detainer requests from United States Immigration and Customs Enforcement ("ICE") by holding inmates for an additional 24-hour period, excluding weekends and holidays, after they would otherwise be released, but only in accordance with the requirements set forth in subsection (b) of this section.

"(b) Upon written request by an ICE agent to detain a District of Columbia inmate for suspected violations of federal civil immigration law, the District shall exercise discretion regarding whether to comply with the request and may comply only if:

"(1) There exists a prior written agreement with the federal government by which all costs incurred by the District in complying with the ICE detainer shall be reimbursed; and

"(2) The individual sought to be detained:

"(A) Is 18 years of age or older; and

"(B) Has been convicted of:

"(i) A dangerous crime as defined in D.C. Official Code § 23-1331(3) or a crime of violence as defined in D.C. Official Code § 23-1331(4), for which he or she is currently in custody;

"(ii) A dangerous crime as defined in D.C. Official Code §

23-1331(3) or crime of violence as defined in D.C. Official Code § 23-1331(4) within 10 years of the detainer request, or was released after having served a sentence for such dangerous crime or crime of violence within 5 years of the request, whichever is later; or

“(iii) A crime in another jurisdiction which if committed in the District of Columbia would qualify as an offense listed in D.C. Official Code § 23-1331(3) or (4); provided, that the conviction occurred within 10 years of the detainer request, or the individual was released after having served a sentence for such crime within 5 years of the request, whichever is later.

“(c) Notwithstanding subsection (b)(2)(B)(ii) and (iii) of this section, a detainer request for an individual who has been convicted of a homicide crime, pursuant to An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Official Code § 22-2101 *et seq.*), or a crime in another jurisdiction which if committed in the District of Columbia would qualify as a homicide crime, may be honored regardless of when the conviction occurred.

“(d)(1) The District shall not provide to any ICE agent an office, booth, or any facility or equipment for a generalized search of or inquiry about inmates or permit an ICE agent to conduct an individualized interview of an inmate without giving the inmate an opportunity to have counsel present.

“(2) This subsection shall not be construed to establish a right to counsel that does not otherwise exist in law.”.

Sec. 3. Fiscal impact statement.

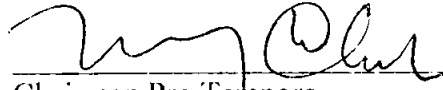
The Council adopts the fiscal impact statement in the committee report for the Immigration Detainer Compliance Amendment Act of 2012, passed on 1st reading on June 5, 2012 (Engrossed version of Bill 19-585), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

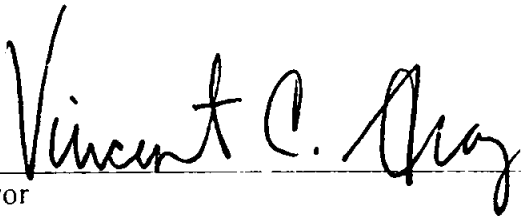
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).



Chairman Pro Tempore
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
June 15, 2012

ADMINISTRATIVE WARRANTS IN NCIC

The purpose of this teletype is to remind members of our policy on immigration enforcement and the enforcement of administrative warrants contained in NCIC. The Metropolitan Police Department (MPD) relies on the cooperation of all the residents of and visitors to the District of Columbia to support our community policing efforts. We cannot develop effective partnerships with our community members if a portion of that community fears that we will enforce civil immigration laws. To support the development of strong partnerships with all members of our many diverse communities, it has been the longstanding policy of MPD that our members do not make inquiries into the residency status of the people we serve, and we do not enforce civil immigration laws.

Section B, Paragraph 5 of Mayor's Order 2011-174, *Disclosure of Status of Individuals: Policies and Procedures of District of Columbia Agencies*, reads as follows:

Law enforcement officers shall not make arrests solely based on administrative warrants for arrest or removal entered by ICE into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, including administrative immigration warrants for persons with outstanding removal, deportation, or exclusion orders.

Consistent with both MPD policy and the above order, members shall not arrest individuals **solely** based on administrative (civil) warrants of removal or arrest entered by U.S. Immigration and Customs Enforcement (ICE) into NCIC. Additionally, members shall not assist ICE agents in the arrest or transport of individuals solely based on administrative warrants. Members can identify these administrative warrants based on the language of the "hit" or response resulting from a WALES/NCIC inquiry.

If members receive a "hit" for an **ADMINISTRATIVE** warrant, they shall **NOT** act upon the warrant **AS LONG AS** there is no additional criminal warrant or underlying offense for which the individual is subject to arrest. In other words, if the member's **ONLY** basis for arresting the individual is the positive "hit" for the ICE administrative warrant, the member shall **not** arrest the individual and ICE shall **not** be contacted.

These aforementioned instructions apply only to **administrative** ICE warrants. Members shall continue to act upon the **criminal** warrants entered by ICE into NCIC pursuant to relevant directives (e.g., G.O. 302.06, WALES).

TO IDENTIFY ICE ADMINISTRATIVE WARRANTS:

The member and dispatcher shall review the introductory message at the beginning of the "hit" from NCIC. If it is administrative in nature, it will contain the language:

- SUBJECT HAS AN OUTSTANDING **ADMINISTRATIVE** WARRANT OF REMOVAL
- OR**
- SUBJECT HAS AN OUTSTANDING **ADMINISTRATIVE** WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS

If members encounter either of these types of ICE administrative warrants **AND** the individual does not have a criminal warrant or has not committed any other offense for which he or she would be subject to arrest, **THEN** the officer shall not take action on the administrative warrant. Sergeants shall ensure compliance with this teletype when reviewing and signing arrest paperwork. Examples of the two types of ICE administrative warrants in NCIC are attached. One example of a criminal warrant is also attached in order to provide context.

**SAMPLE RESPONSE FROM NCIC INQUIRY: ADMINISTRATIVE (CIVIL)
WARRANTS**

Administrative Warrant of Removal:

WARNING REGARDING ~~FOLLOWING RECORD~~ SUBJECT OF NIC/N307770847 HAS AN
OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL FROM THE UNITED STATES.
CONTACT LESC
AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - FAILURE TO APPEAR FOR REMOVAL
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN DOB/19510101
HGT/510 WGT/180 EYE/BRO HAI/BRO CTZ/FN SKN/DRK
SMT/SC LF ARM
SOC/777010000
OFF/ALIEN UNLAWFULLY PRESENT DUE TO ORDER OF REMOVAL OR EXCLUSION FROM
THE USA
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT
SUPPORT CENTER
(877) 999-5372
NIC/N307770847 DTE/19980605 0000 EDT DLU/20090101 0600 EST
*****THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR
CRIMINAL JUSTICE PURPOSES.
*****END OF IMMIGRATION VIOLATOR FILE RESPONSE*****

Administrative Warrant of Arrest:

WARNING REGARDING ~~FOLLOWING RECORD~~ SUBJECT OF NIC/N307770847 HAS AN
OUTSTANDING ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS
FOR FAILURE TO COMPLY WITH NATIONAL SECURITY REGISTRATION. CONTACT LESC
AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - NATIONAL SECURITY REGISTRATION
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN DOB/19510101
HGT/510 WGT/180 EYE/BRO HAI/BRO CTZ/FN SKN/DRK
SMT/SC LF ARM
SOC/777010000
OFF/SOUGHT FOR VIOLATION OF NATIONAL SECURITY REGISTRATION
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT
SUPPORT CENTER (877) 999-5372
NIC/N307770847 DTE/19980605 0000 0830 EDT DLU/20090101 0600 EST
*****THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR
CRIMINAL JUSTICE PURPOSES.
*****END OF IMMIGRATION VIOLATOR FILE RESPONSE*****

SAMPLE RESPONSE FROM NCIC INQUIRY: CRIMINAL ICE WARRANT

One Example of a Criminal Warrant

***MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FELONY RECORDS REGARDLESS OF EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE INTERSTATE EXTRADITION FROM THE INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS.

MKE/WANTED PERSON

EXL/1 - FULL EXTRADITION UNLESS OTHERWISE NOTED IN THE MIS FIELD

ORI/VTICE0900 NAM/TEST, TEST SEX/M RAC/W POB/EY

DOB/19000101 HGT/509 WGT/175 EYE/BR0 HAI/BLK

SKN/LGT

MNU/PP-1234567 SOC/123456789

OFF/FRAUD - FALSE STATEMENT

DOW/20090114 OCA/2-M-TEST

VLD/20120411

MIS/CRIMINAL WARRANT IN VIOLATION OF TITLE 18 USC, SECTION 1542, FALSE STATEMENT

MIS/ON A PASSPORT APPLICATION; ISSUED BY THE U S DISTRICT COURT, EASTERN

MIS/DISTRICT OF VIRGINIA

DNA/N

ORI IS ICE LESC 802 872-6020

DOB/19730515

AKA/TESTER, TEST

AKA/ALPHA, BET

MNU/PP-5678943

SOC/9854321

NIC/W123456789 DTE/20090115 1510 EST DLU/20120411 1301 EST

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

Again, members shall continue to act upon criminal warrants entered by ICE into NCIC pursuant to relevant directives (e.g., G.O. 302.06, *WALES*).

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2011-174
October 19, 2011

SUBJECT: Disclosure of Status of Individuals: Policies and Procedures of District of Columbia Agencies

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2011 Supp.), it is hereby **ORDERED** that:

I. PURPOSE

The dual purpose of this Order is to establish District-wide policy and procedures concerning the disclosure of immigration status, and to ensure that District resources are not used for federal immigration enforcement activities. This Order supplements Mayor's Memorandum 84-41, dated August 2, 1984, and Mayor's Order 92-49, dated April 29, 1992, by delineating the responsibilities of local agencies, and preserving the limited resources of Public Safety Agencies.

II. DISCLOSURE OF IMMIGRATION STATUS

A. Background

1. The District of Columbia is home to a diverse population. Many of its residents have immigrated here and some are not citizens of the United States. The District of Columbia is committed to promoting the safety and rights of *all* who live here.
2. The District of Columbia should preserve the tradition of ensuring that immigrants and noncitizens are treated equitably at any stage where they seek services from the District of Columbia, provide services to the District of Columbia, or have contact with the criminal justice system. The Metropolitan Police Department and other agencies of the District of Columbia rely upon the cooperation of all persons--documented citizens, lawful residents, and those without documentation status--to achieve our goals of protecting life and property, preventing crime and resolving problems. In addition to promoting important community policing goals, assistance from immigrant populations is especially important when an immigrant, whether documented or not, is the victim of or witness to a crime. These persons must feel comfortable in coming forward with information and in filing reports. Their cooperation is needed to prevent and solve crimes and maintain public order, safety,

and security in the entire community. One of our most important goals is to enhance our relationship with immigrant communities as well as to establish new and ongoing partnerships consistent with our community policing philosophy.

3. Moreover, the District of Columbia should ensure that the rights of immigrants or suspected immigrant detainees in District of Columbia facilities and facilities elsewhere to which District of Columbia detainees are transferred are observed and that federal immigration officials do not abuse their privilege of access to District facilities.
4. The limited resources of the District, the complexity of immigration laws, limitations on authorities, the risk of civil liability for immigration and enforcement activities, and the clear need to foster trust and cooperation from the public, including members of immigrant communities, are the principal factors that were taken into account when formulating the policy under this Order.

B. Policy and Procedures

1. This Order shall apply to the Department of Corrections, the Department of Fire and Emergency Medical Services, the Metropolitan Police Department, the Office of the Attorney General, the Office of Returning Citizen Affairs, the Office of Victim Services, the Department of Youth Rehabilitation Services, and all other agencies under the direction of the Mayor that employ law enforcement officers (Public Safety Agencies).
2. Public Safety Agencies and their officials and employees shall not inquire about a person's immigration status or contact United States Immigration and Customs Enforcement (ICE) for the purpose of initiating civil enforcement of immigration proceedings that have no nexus to a criminal investigation. It shall be the policy of Public Safety Agencies not to inquire about the immigration status of crime victims, witnesses, or others who call or approach the police seeking assistance.
3. Public Safety Agencies shall establish a policy to ensure that District of Columbia-incarcerated youth and adults are not made available for immigration interviews related to immigration status without a criminal nexus, in person, over the phone, or by video without a court order. The policy shall include a disclosure to the inmate that all information provided to federal agents, including ICE agents, may be used in a criminal, immigration, deportation, or other collateral cases. The disclosure shall be in writing, shall be signed by the inmate, and shall comply with applicable standards of the Language Access Act of 2004 (D.C. Official Code §§ 2-1931, *et seq.* (2007 Repl.)).
4. No person shall be detained solely on the belief that he or she is not present legally in the United States or that he or she has committed a civil immigration violation. The Department of Corrections shall not send lists of foreign-born inmates to the Department of Homeland Security.


5. Law enforcement officers shall not make arrests solely based on administrative warrants for arrest or removal entered by ICE into the National Crime Information Center database of the Federal Bureau of Investigation, including administrative immigration warrants for persons with outstanding removal, deportation, or exclusion orders. Enforcement of the civil provisions of United States immigration law is the responsibility of federal immigration officials.
6. Public Safety Agencies shall conduct all necessary training and education to ensure that law enforcement officers are knowledgeable about all provisions contained in this Order. Referrals to medical or social service agencies shall be made for undocumented immigrants in the same manner they are made for all other community members.

III. CONSTRUCTION OF ORDER

This Order:

1. Shall not be construed to prohibit an officer or employee of a Public Safety Agency from cooperating with federal immigration authorities when required by law; and
2. Is not intended to create or imply a private cause of action for a violation of its provisions.

IV. EFFECTIVE DATE: This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA