

# Ocean County Department of Corrections

Theodore J. Hutler Jr., MA, CJM, CPM  
Warden



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## EXECUTIVE TEAM

Chief Sandra Mueller, MAS, CJM, CPM  
Captain Craig Dey, CPM  
Captain John Haberbush, MAS, CJM, CPM  
Captain Robert Serino, CPM  
Captain Joseph Valenti, CPM  
Erick Kiefer, MAS, CPM

July 24, 2014

Ari Rosmarin, Public Policy Director  
ACLU  
P.O. Box 32159  
Newark, NJ 07102

**Re: Response to your Immigration Detainer letter of July 15, 2014**

Dear Mr. Rosmarin,

After receiving your letter, advice was solicited from the Attorney of Counsel for the County, John Sahradnik. Subsequent to his review and input, and that of County Administrator Carl Block, I was authorized to promulgate the attached Department Policy regarding ICE detainers. If you have any questions with regard to this policy I would suggest that you contact Mr. Sahradnik.

Sincerely,

Theodore J. Hutler, Jr.  
Warden

Cc: John Sahradnik, Esq.  
Carl Block, County Administrator  
File



# COUNTY OF OCEAN

## DEPARTMENT OF CORRECTIONS

### GENERAL ORDER #2014-03

**TO:** Department Personnel  
**FROM:** Theodore J. Hutler Jr., Warden  
**DATE:** July 24, 2014  
**RE:** ICE Detainers  
**COPY:** EXEC TEAM, All Lieutenants, Unit Supervisors, File

## 48 HOUR IMMIGRATION DETAINERS

The United States Court of Appeals for the Third Circuit, which has jurisdiction over New Jersey, has ruled that a jail's compliance with 48 hour civil detainer requests from Homeland Security's Immigration and Customs Enforcement (ICE) by local law enforcement authorities, prisons, and jails, are not mandatory and need not be followed, but rather are voluntary.

The Ocean County Department of Corrections has and will continue to cooperate with all law enforcement agencies at the local, state and federal levels in order to ensure the safety of its residents. However, it shall be the general policy of the Department of Corrections to not comply with 48 hour civil detainer requests from ICE with the following exception.

When the subject of a 48 hour detainer request has been convicted or is facing a charge of a first or second degree offense as outlined below, within ten years prior to the date of the detainer request for this individual, it shall be the policy of the Ocean County Department of Corrections to comply with the 48 hour detainer request only for those individuals meeting the following criteria. The charge must be for an indictable offense of the first, second or third degree and involve one of the following statutes:

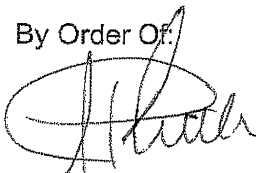
- I. **Offenses Involving Danger to the Person or Community;**
  - A. Criminal homicides, 2C:11-2
    - 1. Murder, 2C:11-3
    - 2. Manslaughter, 2C:11-4
    - 3. Death by vehicular homicide, 2C:11-5
  - B. Aggravated Assault, 2C:12-1a
  - C. Offenses involving a "deadly weapon," as defined in 2C:11-1c (firearms, stun guns, knives, simulated weapon)
  - D. Offenses causing "serious bodily injury" or "significant bodily injury," as defined in 2C:11-1 b and d.
  - E. Aggravated Sexual assault, 2C:14-2
  - F. Terroristic threats during a declared period of national, state or county emergency, 2C:12-3
  - G. Kidnapping, 2C:13-1
  - H. Luring or enticing a child, 2C:13-6
  - I. Human trafficking, 2C:13-8
  - J. Robbery, 2C:15-1
  - K. Carjacking, 2C:15-2
  - L. Bias Intimidation, where there is an underlying crime connected to the bias intimidation that is a crime of at least the third degree or higher, 2C:16-1

- II. **Offenses Against Property;**
  - A. Arson, 2C:17-1(a)
  - B. Causing or risking widespread injury or damage, 2C:17-2(a)
  - C. Burglary, 2C:18-2 a and b (1) (2)
  - D. Theft, constituting a crime of the second degree, which involves 1) an amount of \$75,000 or more; or 2) if property is taken by extortion; or 3) the property stolen is a CDS or a CDS analog as defined in N.J.S. 2C:35-2 and the quantity is in excess of 1 kilogram; or 4) the property stolen is a person's federal or state benefit, or from any other source, 2C:20-2 b (1), et seq.
  
- III. **Offenses Against Others;**
  - 1. Endangering the Welfare of children, 2C:24-4
  
- IV. **Offenses Against Public Order, Health and Decency;**
  - A. Controlled Dangerous Substances, 2C:35-1, et seq.
  - B. Soliciting or recruiting gang members, in the course of which significant bodily injury is inflicted upon another, 2C:11-28 c.
  - C. Anti-Terrorism Act, 2C:38-1, et seq.
  
- V. **Other offenses;**
  - A. Escape or Eluding an officer, if the flight or attempt to elude creates a risk of death or death or injury to any person, 2C:29-2b.
  - B. Tampering with Witnesses and Informant 2C:28-5a
  - C. Retaliation against witness or informant where the actor uses force or the threat of force, 2C:28-5b
  
- VI. When during the intake or release process, the inmate is identified as a known gang member in the database of the National Crime Information Center (NCIC) or any similar or successor database in the United States.
  
- VII. When the inmate is or has previously been subject to a Final Order of Removal issued by federal immigration authorities as it relates to any of the serious crimes listed above.

Therefore it shall be the policy of the Department of Corrections to identify, in advance of release, any individual meeting the above listed serious offense criteria and to ensure that ICE shall be notified of the custody of these individuals as expeditiously as practical.

Those persons not meeting the serious offense criteria will continue to be released without unnecessary delay after meeting the legal obligations for release.

By Order Of:



Theodore J. Hutler Jr.  
Warden