



Immigration Enforcement Questions for Sheriff Meetings

Introduction: The purpose of your initial meeting with local law enforcement should be to gather information, educate, and relationship-build. It should be the first of many meetings to monitor TRUST Act¹ compliance, and ensure that any policy additionally complies with the Fourth Amendment as considered in *Miranda-Olivares*.² Also, explore any other ways in which the Sheriff may be cooperating with ICE.³ Use this meeting to gain an understanding of how these policies function inside of the jail and ascertain the Sheriff's openness to changing them if needed. The following is a guide to the types of questions you should ask.⁴

To prepare for the meeting, review the Sheriff's local policy.⁵ Ask how much time you will have and who will be in attendance. If you have a short amount of time, focus on the questions in **bold**.

QUESTIONS REGARDING ICE HOLD POLICY:

1. **Has all of your staff been trained on your current ICE hold policy? If so, how?**
2. **Has the Sheriff's Office incorporated Fourth Amendment safeguards as discussed in *Miranda-Olivares*, by adopting a policy of not responding to any ICE holds unless accompanied by a judicial determination of probable cause?**⁶
3. **Will the Sheriff's Office enforce ICE hold request under any circumstances? If so, what is required in order for the Sheriff to enforce an ICE hold?**
4. If the Sheriff's office still enforces ICE holds, ask:
 - a. The TRUST Act recognizes that counties can adopt policies which respond to ICE holds in even fewer circumstances than in the TRUST Act. Has your office reached out to the community to see if a more expansive policy is better?
 - b. The TRUST Act does not require that ICE holds be enforced. Rather, it states that law enforcement has the *discretion* to enforce ICE holds in certain circumstances.
 - i. Will you exercise your discretion to enforce ICE holds when they fall within an exception of the TRUST Act (i.e. when they are allowed to be enforced under the Act)?

¹ For more information on the TRUST Act, see www.catrustact.org

² For an explanation of *Miranda-Olivares*, including how to use the case in organizing, see *Updates in Immigration Detainer Cases and How to Use Them in Organizing*, available at www.ilrc.org/enforcement

³ For more information on immigration enforcement generally, see www.ilrc.org/enforcement In particular, see, *Getting ICE out of Your Jail: Criminal Alien Program Advocacy Guide*

⁴ Advocates should request meetings not only with the Sheriff who sets the policy, but also the jail administrator who will likely know the logistics of running the jail.

⁵ Ask for the policy in advance to see the most updated version. Additionally, the ILRC maintains an interactive map of ICE hold policies across the nation, and where available includes links to policies. See, *Detainer Map*, available at www.ilrc.org/enforcement

⁶ For a discussion of how an ICE hold policy should be altered to conform to the Fourth Amendment, present the Sheriff's Office with the letter prepared by legal organizations and mailed to Sheriff Offices and County Counsel offices across the state. See *Letter to County Counsel on recent court, decision Maria Miranda-Olivares v. Clackamas County*, available at <http://www.catrustact.org/resources.html>



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- ii. If the answer is yes, can you please explain why? (Prepare to share a compelling example of someone who would not be protected by the TRUST Act and should not be released to ICE based on their individual circumstances, e.g., health issues, U.S. citizen children or other family, community contributions, extenuating circumstances of the offense.)
 - iii. If the Sheriff's Department will exercise discretion, what is your procedure to determine *when* discretion will be exercised to enforce an ICE hold in a given case? How can advocates ask for discretion to be exercised and what should the request include? What is the name and contact information for the person in your Department who will receive these requests for discretion?
- c. At what point during a criminal case will the ICE hold be reviewed?⁷
 - d. How does jail staff confirm that a hold is allowed to be enforced under the TRUST Act? Are there screening tools or was training provided to staff? If so, which staff members were trained?
 - e. For the delineated felony offenses in the TRUST Act, how will staff know when *charges* are sufficient? Meaning, how will staff determine if there has been a probable cause finding by a magistrate judge per Cal. Penal Code § 872?
 - f. How will staff determine if someone has a *federal* conviction for an aggravated felony?
 - g. How do you record ICE holds and whether or not they will be enforced for a particular person?⁸
 - h. Once it has been determined that an ICE hold will not be enforced pursuant to the TRUST Act, how will the affected individual be notified? How will the defense attorney be notified?⁹
 - i. In criminal court, ICE holds may interfere with the issuance of bail, grant of release on own recognizance, and/or access to certain rehabilitative programs. Is there any written notification that the individual or his/her attorney can show to the court to prove that the ICE hold will not be enforced in his/her case?¹⁰
 - j. Who in your Department/Office can family members and advocates contact to see if an ICE hold is going to be enforced?
 - k. **Will there be a process to track the holds that are received and which are enforced?**
 - l. Who will be the jail contact person if a hold is enforced in violation of the TRUST Act? Will there be a process in place to file related grievances?

⁷ Advocates should push for review to happen as soon as possible, to get the most benefit – e.g. to protect access to bail, rehabilitative programs, etc. Note, for felony charges, ICE holds can *only be enforced after a probable cause hearing*. Charges are not enforced under any circumstance when the charge is for a misdemeanor or for felony domestic violence.

⁸ For example, will there be a note in the file/system will the ICE hold be removed from the file/system, etc.?

⁹ Advocates should push very strongly for notification, certainly to the defendant and also to the defense attorney – again, to reap the full benefits of non-enforcement. With the criminal defense attorney, this information is needed to provide effective representation.

¹⁰ This could be something minor with low administration cost to sheriff, e.g. copy of notice that hold won't be enforced.



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QUESTIONS REGARDING OTHER ICE ACCESS:

5. Are ICE agents presently allowed access in the jails? If so, how often? For how long?
6. What information are ICE agents given access to? E.g. booking information such as intake forms and logs, computer databases, anything else? Is any of this information otherwise given to ICE in any other way?
7. Are individuals asked for place of birth during booking? For what purpose? Is ICE given access to this information?
8. Do jail staff ask for a person's immigration status or otherwise attempt to determine immigration status? If so, why? Is this information shared with ICE and if so, how?
9. Does the Sheriff's Office share any of the following with ICE? If so, why is this shared? How is this information shared? Is this by written policy or a practice?
 - a. Criminal custody release dates.
 - b. Home address or other contact information.
 - c. Physical description.
 - d. Court dates.
10. Are ICE agents allowed to interview individuals? If so, how? In person, over the phone, etc. Are individuals provided notice beforehand of the interview? Do you know whether ICE agents are required to identify themselves before proceeding with an interview?
11. On average, how many people do ICE agents interview a day?
12. Where do these interviews occur?
13. Do you know how ICE agents decide whom to interview?
14. Do any of the practices above change when the detainee is someone that is otherwise protected by the TRUST Act? If so, how?
15. Does the jail work with ICE in any other ways? If so, how?



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NEXT STEPS:

16. **Can the Sheriff's Office share any written policies, procedures, and training materials regarding implementation of ICE hold policies or any other interactions with ICE?**
17. Would the Sheriff's Office be willing to share data regarding: (1) the weekly number of ICE holds received, (2) the number of holds where ICE took custody of the individual and the basis for allowing ICE to do so, and (3) the number of holds where the individual was released from the jail, and not released to ICE?
18. **If applicable, would the Sheriff's Office be open to adopting a policy to limit or eliminate ongoing cooperation with ICE?**
19. **How soon can we meet to discuss next steps?**

Individualized support for law enforcement meetings is **available upon request**, including meeting preparation and analysis of a local policy. Also, **please share** the **results** of your meetings. This strengthens campaigns in other counties and contributes to monitoring statewide.

For individualized support and/or to share your meeting results please contact:

Grisel Ruiz at gruiz@ilrc.org and/or **Angela Chan** at angelac@advancingjustice-alc.org