

# IMMIGRATION STATUS

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## 1.0 POLICY STATEMENT

The Sonoma County Sheriff's Office will equally enforce the laws and serve the public without regard to immigration status. No person shall be held solely on the basis of their immigration status. The immigration status of a person, and the lack of immigration documentation, should have no bearing on the manner in which Sheriff's Office personnel execute their duties.

## 2.0 DEFINITIONS

### **Civil Immigration Warrant**

Any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.

### **Hold Request**

Means a Federal Immigration and Customs Enforcement (ICE) request that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to ICE.

### **ICE ICE Access**

Immigration and Customs Enforcement  
Means for the purposes of civil immigration enforcement, including when an individual is stopped, with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:

- (1) Responding to an ICE hold, notification, or transfer request.
- (2) Providing notification to ICE in advance of the public that an individual is being, or will be released

at a certain date and time through data sharing or otherwise.

- (3) Providing ICE non-publically available information regarding release dates, home addresses, or work addresses whether through computer databases, jail logs, or otherwise.

- (4) Allow ICE to interview an individual.

Provide ICE information regarding date and times of probation or parole check-ins.

**Immigration Notification Criteria**

A list of conditions that when met requires immigration authorities to be notified of an inmate being, or will be, released on a certain date.

**Judicial Probable Cause Determination**

A determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.

**Judicial Warrant**

A warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

**Notification Request**

Means an Immigration and Customs Enforcement request that a local law enforcement agency inform ICE of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N. It does not authorize the Sheriff's Office to hold an individual beyond the point at which he or she would otherwise be released.

**Transfer Request**

Means an Immigration and Customs Enforcement request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X.

### **3.0 MANDATES**

AB 4 (TRUST ACT)

AB 2792 (TRUTH ACT)

SB54 (California Values Act)

Government Code 7282, 7282.5, 7283, 7283.1 and 7283.2, 7284, 7284.2, 7284.4, 7284.6, 7284.10

8 CFR 287.7

Civil Code 1798

California Public Records Act section 6250

### **4.0 GENERAL INFORMATION**

- A. Immigration Enforcement Jurisdiction. The U.S. Department of Homeland Security's Immigration and Customs Enforcement agency (ICE) has primary responsibility to investigate and enforce federal immigration laws. Sheriff's Office personnel shall have discretion to cooperate with immigration authorities only if doing so would not violate any federal, state or local law, local policy and where permitted by the California Values Act. Refer to Law Enforcement *Division Policy 428 – Immigration Violations*.
- B. Sheriff's Office personnel shall only notify immigration authorities in written form of an inmate's pending release from custody in response to a Notification Request if the inmate falls within the *Notification Matrix* and where permitted by the California Values Act, (Government Code 7282.5(a)).
- C. In cases in which the individual is arrested and taken before a magistrate in a preliminary hearing on a charge involving a serious or violent felony, and the magistrate makes a finding of probable cause as to that charge, the Sheriff's Office will generally notify immigration authorities in written form of an inmate's pending release from custody in response to a Notification request where permitted by the California Values Act, (Government Code 7282.5(b)).
- D. Sheriff's Office personnel shall not provide personal information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address or work address, to immigration authorities unless that information is available to the public.
- E. Sheriff's Office personnel shall only transfer an individual to immigration authorities if authorized by a Judicial Warrant or a Judicial Probable Cause Determination or where permitted by the California Values Act (Government Code 7282.5(a)).
- F. Sheriff's Office personnel shall not detain an individual on the basis of a Hold Request. Hold Requests and Judicial Warrants or Probable Cause Determinations are entirely separate and should not be confused. Duly issued Judicial Warrants and Judicial Probable Cause Determinations signed by a federal judge or federal magistrate judge in all cases will be honored.
- G. The Sheriff's Office shall not cooperate with immigration authorities for any inmates arrested, detained, or convicted of misdemeanors that were previously felonies, or were

previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code.

- H. If members of the public contact the Sheriff's Office to report suspected immigration violations, such individuals will be directed to ICE.
- I. This policy does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

## 5.0 PROCEDURES

The Sonoma County Sheriff's Office, Detention Division complies with the California Values Act and the TRUTH Act by:

1. In advance of any interview between ICE and an inmate regarding civil immigration violations, the Office shall provide the individual with a written *ICE Interview Consent Form*, that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written form is available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean.
2. If it is determined an inmate falls within the *Notification Matrix* and upon receiving any ICE hold, notification, or transfer request, the Office shall provide a copy of the request to the inmate and inform them on an *Immigration Notification Form* that the Office intends to comply with the request, along with the *Immigration Notification Review Form* attached. When the Office provides ICE with notification that an inmate is being, or will be, released on a certain date, the Office shall promptly provide the same notification in writing to the inmate and to his/her attorney of record or to one additional person who the inmate shall be permitted to designate. The written form is available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean.
  - a. An inmate and/or their designee may request an immigration notification review by completing an *Immigration Notification Review Form* and forwarding the form to the Pre-Trial Sergeant. A review will occur (when possible) before ICE is notified. The Pre-Trial Sergeant will notify the inmate or requestor of the outcome of the review. The written form is available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean.
3. If an inmate does not fall within the Sheriff's Office immigration notification criteria and upon receiving any ICE hold, notification, or transfer request, the Office shall provide a copy of the request to the inmate and inform them on an *Immigration Notification (ICE DENIAL) Form* that the Office will not comply with the request. The written form is available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean.

4. All records relating to ICE access provided by the Office, including all communication with ICE, shall be public records for the purposes of the California Public Records Act, including the exemptions provided by that act, as permitted under that act all personal identifying information will be redacted prior to public disclosure. Records relating to ICE access shall include, but not limited to, data maintained by the Office regarding the number and demographic characteristics of inmates to whom the Office has provided ICE access, the date ICE access was provided, and whether the ICE access was provided.
5. The Office will maintain the following statistical data in the Office's shared drive in the County computer system:
  - a) All Immigration Notification Forms to inmates.
  - b) All Request for Voluntary Notification of Release of Suspected Priority Alien ICE forms.
  - c) All communications to and from ICE notifying them of an inmate's impending release.
  - d) ICE access to Sheriff's Office facilities for the purpose of effecting an arrest.
  - e) The Sheriff's Office will report annually to the Department of Justice, in a manner specified by the Attorney General, the number of inmates transferred to ICE Custody and the offense that allowed for the transfer.

## **6.0 RESOURCES**

[Forms](#)

[Policies](#)

## **7.0 REVISION HISTORY**

Version 01.04.14 – 4/2014 New Policy

Version 02.11.14 – Revised 11/2014

Version 03.01.17 – Revised 01/2017

Version 08.11.17 - Revised 01/2018

Version 01.01.18 - Revised 02/2018

Version 23.02.18 – Revised 07/2018