

<p>[NAME] COUNTY</p> <p>SHERIFF'S DEPARTMENT</p> <p>GENERAL ORDER</p>	<p>NUMBER:</p> <hr/> <p>RELATED ORDERS:</p> <hr/> <p>ISSUE DATE:</p> <hr/> <p>REVISION DATE:</p>
<p>CHAPTER:</p>	<p>SUBJECT: ICE Holds and the TRUST Act</p>

1. **PURPOSE:** The purpose of this order is to provide deputies with guidelines on their duties and responsibilities associated with immigration law, enforcement, arrests, and detentions.
2. **POLICY:** The [NAME] County Sheriff’s Department will equally enforce laws and serve the public without consideration of immigration status. Except as specifically outlined in this General Order, the immigration status of a person, or the lack of immigration documentation, shall have no bearing on the manner in which staff execute their duties.

Under no circumstances shall a person be contacted, detained, or arrested by agency members based on his or her immigration status, whether known or unknown.

3. **DEFINITIONS:**
 - A. **IMMIGRATION ENFORCEMENT JURISDICTION:** The U.S. Department of Homeland Security’s Immigration and Customs Enforcement Agency (ICE) has primary responsibility to investigate and enforce federal immigration laws.
 - B. **IMMIGRATION HOLD:** Immigration holds (also known as ICE holds) are requests by ICE to local law enforcement to hold detainees for additional time (maximum of 48 hours excluding weekends and holidays) after the criminal matter requires release to allow time for ICE to take the individual into immigration custody.
4. **ORDER:** When [NAME] County Sheriff’s personnel encounter perceived immigration law violations, members shall be guided by the options set forth in this Order, which is in compliance with state law.
 - A. **IMMIGRATION VIOLATION COMPLAINTS:**
 1. If members of the public contact any member of the [NAME] County Sheriff’s Department to report suspected immigration violations, such persons should be directed to ICE and a report should not be taken.
 - B. **IMMIGRATION STATUS:**
 1. A deputy’s suspicion about any person’s immigration status shall not be used as a basis to initiate contact, detain, or arrest that person.
 2. A deputy may not inquire about a person’s immigration status.

3. Sweeps intended solely to locate and detain undocumented immigrants shall not be conducted. Staff will not participate in ICE organized sweeps to locate and detain undocumented residents.

C. ESTABLISHING IDENTITY:

1. Deputies should make all attempts to identify any person they detain, arrest, or who come into the custody of the Sheriff's Department.
2. Acceptable forms of identification include, but are not limited to, student IDs, driver's licenses from any U.S. state or foreign country, municipal IDs issued by a U.S. jurisdiction, foreign passports, and consular ID cards. Individuals should not be detained solely for the purpose of establishing his or her identity.

D. RESPONDING TO IMMIGRATION HOLDS:

1. The [NAME] County Sheriff's Department receives immigration hold requests (Form I-247) from ICE. A hold request serves to advise that ICE seeks custody of an individual in the custody of the Sheriff's Department. The hold requests that the Sheriff's Department notify ICE and detain an individual for a maximum of 48 hours (excluding weekends and holidays) who would otherwise be released in the criminal matter, in order for ICE to arrange to assume custody. The Sheriff's Department will respond to these hold requests only within the guidelines established in this General Order. **No ICE holds shall be responded to unless supported by a judicial finding of probable cause. And if there is a judicial finding of probable cause, the hold shall not be responded to unless it complies with the TRUST Act and the additional limits enumerated in this policy.**
2. TRUST ACT. The Trust Act (AB 4, 2013) provides that a person may not be held in custody solely on the basis of an immigration hold if he or she is otherwise eligible to be released from custody. "Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:
 - a. All criminal charges against the individual have been dropped or dismissed; or
 - b. The individual has been acquitted of all criminal charges; or
 - c. The individual has served all the time required for their sentence; or
 - d. The individual has posted a bond; or
 - e. The individual is otherwise eligible for release under state or local law.

3. RESTRICTIONS:

Immigration holds shall not be responded to based on a subject's conviction(s) for misdemeanor crimes. The Trust Act allows immigration holds to be responded to for convictions for certain felony offenses listed in Government Code 7282.5(a). Immigration

holds may only be responded to by the [NAME] County Sheriff's Department under the following conditions.

- a. If ICE requests an immigration hold be placed on a detainee for a felony conviction suffered outside of California, documentation must be provided by ICE to support the request. This documentation could include, but is not limited to, a federal criminal records check through the FBI database. AB 4 only applies to felonies committed in another state which, if committed in California, would be punishable as a "serious" felony, as defined in Penal Code 1192.7(c), or a "violent" felony, as defined in Penal Code 667.5(c). ICE hold requests for any other out-of-state felony will not be honored.
- b. The subject of the hold has suffered a prior felony conviction in California during his/her lifetime for a felony listed in Government Code 7282.5(a).
- c. The subject of the hold is required to register on the California Sex and Arson Registry as a sex offender per PC 290 or arson offender per PC 457.1.
- d. If none of the conditions of subsections a through c are satisfied, an individual shall not be detained on the basis of an immigration hold after eligibility for release. Release shall take place through the same jail exit as detainees who are not the subject of an ICE hold.
- e. If one of the conditions in subsections a through c are satisfied, an individual may be detained only if such detention does not conflict with federal, state, or local law, or local policy.

E. PROTOCOL FOR EVALUATING HOLD REQUESTS:

1. The [NAME] County Sheriff's Department may respond to immigration holds (I-247 form) issued by ICE consistent with section D above. When we receive an ICE immigration hold on a subject in our custody on local charges, the subject will be booked on the new offense(s) consistent with the appropriate criminal charge(s). When the detainee becomes eligible for release on the local charges, a records check shall be conducted by the Intake Transfer and Release Record's Deputy. The Record's Deputy shall be responsible for the following:
 - a. Provide a copy of the immigration hold to the subject and the subject's attorney.
 - b. Check jail records to ensure the detained subject has no further criminal matters pending in [NAME] County and is eligible for release.
 - c. Evaluate the ICE immigration hold and verify that it is complete and valid. If relying on out of state convictions, ensure proper documentation is present.
 - d. Conduct a records check to ascertain if the subject has an applicable felony conviction in California.
 - e. Notify the ITR Sergeant of the findings and provide supporting documentation. The ITR Sergeant will evaluate the information and authorize the release or continued detention of the subject.

- f. If the ITR Sergeant determines the subject does not have an appropriate felony conviction that would allow a detention in response to an ICE hold, and ICE has not provided supporting documentation to prove out of state convictions, process the subject for front door release.
 - g. If the ITR Sergeant determines the subject has a prior applicable felony conviction, he/she is eligible to be held for ICE. ICE may be notified of the subject's availability for pick-up. The detained subject shall not be held longer than 48 hours, not including weekends and holidays.
2. ICE detainees in the custody of the Sheriff's Office will receive all the rights and privileges consistent with a county or contract inmate.
 3. Valid criminal warrants of arrest, regardless of crime, shall be treated equally and will not be confused with an immigration hold. This General Order does not affect the proper handling of arrests and detentions associated with criminal arrest warrants.
- F. CIVIL IMMIGRATION WARRANTS:
1. The [NAME] County Sheriff's Department shall not respond to any civil immigration warrants (I-200, I-203, and any listed in the National Crime Information Center Database (NCIC)) because these civil immigrant warrants are not signed by judge and are not based on a finding of probable cause for an alleged criminal law violation.
- G. USE OF RESOURCES
1. Unless ICE or Customs and Border Patrol (CBP) agents have a criminal warrant, or County officials have a legitimate law enforcement purpose that is not related to the enforcement of immigration laws, ICE or CBP agents shall not be given access to County facilities or individuals in County custody, and County personnel shall not expend County time or resources responding to ICE or CBP inquiries or communicating with ICE or CBP regarding individuals' booking information, hearing dates, incarceration status, release dates, or home addresses.
 2. Citizenship, immigration status, national origin, race, and ethnicity should have no bearing on an individual's treatment in the jail, or on decisions to initiate stops or make arrests.