

## Cook County Legislative Reference Services

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### POLICY FOR RESPONDING TO ICE DETAINERS

<b>Date Introduced:</b> Wednesday, September 07, 2011 <b>Date Passed:</b> Wednesday, September 07, 2011	<b>Committees:</b>	<b>Sponsors:</b> Bridget Gainer, Deborah Sims, Edwin Reyes, Jeffrey R. Tobolski, Jesus G. Garcia, Joan Patricia Murphy, John A. Fritchey, Larry Suffredin, Robert Steele, Toni Preckwinkle	<b>Co-Sponsors:</b>
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#### Summary:

Creates guidelines by which Cook County will comply with Immigration and Customs Enforcement detainer requests.

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#### Activity Log:

Wednesday, September 07, 2011	Introduced County Board : by President Toni Prekwinkle and Commissioners Garcia, Fritchey, Gainer, Murphy, Reyes, Sims, Steele, Suffredin, and Tobolski.
Wednesday, September 07, 2011	Approved by County Board :

#### Full Text of Legislation:

Submitting a Proposed Ordinance sponsored by

TONI PRECKWINKLE, President, JESUS G. GARCIA, JOHN A. FRITCHEY, BRIDGET GAINER,  
JOAN PATRICIA MURPHY, EDWIN REYES, DEBORAH SIMS, ROBERT B. STEELE,  
LARRY SUFFREDIN and JEFFREY R. TOBOLSKI, County Commissioners

PROPOSED ORDINANCE

## **POLICY FOR RESPONDING TO ICE DETAINERS**

**WHEREAS**, Cook County is a “Fair and Equal County for Immigrants,” as defined in 07-R-240; and

**WHEREAS**, there is ongoing confusion regarding the proper boundaries of the relationship between local law enforcement and Immigration and Customs Enforcement (“ICE”); and

**WHEREAS**, this is especially true in the context of ICE detainers, which are issued pursuant to 8 USC § 1226 or 8 USC § 1357(d), and used by the Department of Homeland Security (“DHS”) to advise local law enforcement agencies that DHS seeks custody of an individual presently in the custody of that agency; and

**WHEREAS**, 8 CFR § 287.7 expressly provides that ICE detainers are merely “requests” that local law enforcement advise DHS when the individual is due to be released, and that the agency continue holding the individual beyond the scheduled time of release for up to 48 hours, excluding weekends and federal holidays, in order for ICE to arrange to assume custody; and

**WHEREAS**, due to troubling inconsistencies in ICE policies, many local law enforcement agencies erroneously believe ICE detainers are mandatory and that local law enforcement agencies are legally required to comply; and

**WHEREAS**, ICE detainers are generally issued before a finding of probable cause that an individual is deportable, and have even been imposed on U.S. Citizens by mistake; and

**WHEREAS**, ICE detainers are routinely imposed on individuals without any criminal convictions or whose cases are dismissed, but the federal government only reimburses part of the costs associated with ICE detainers, if there is a written agreement with the State or local subdivision of a State; and

**WHEREAS**, ICE will not indemnify local agencies for costs or liability incurred as a result of wrongful detainers; and

**WHEREAS**, it costs Cook County approximately \$43,000 per day to hold individuals “believed to be undocumented” pursuant to ICE detainers, and Cook County can no longer afford to expend taxpayer funds to incarcerate individuals who are otherwise entitled to their freedom; and

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

**WHEREAS**, ICE detainers encourage racial profiling and harassment; and

**WHEREAS**, having the Sheriff of Cook County participate in the enforcement of ICE detainers places a great strain on our communities by eroding the public trust that the Sheriff depends on to secure the accurate reporting of criminal activity and to prevent and solve crimes; and

**WHEREAS**, by means of this ordinance, Cook County joins states, cities, and counties across the nation that are informed about the discretionary nature of ICE detainers and refuse to enforce them, except in situations where federal reimbursement may be available.

**NOW, THEREFORE, BE IT ORDAINED**, by the Cook County Board of Commissioners, that Chapter 46 Law Enforcement, Section 46-37 of the Cook County Code is hereby enacted as follows:

**Sec. 46-37. Policy for responding to ICE detainers.**

(a) The Sheriff of Cook County shall decline ICE detainer requests unless there is a written agreement with the federal government by which all costs incurred by Cook County in complying with the ICE detainer shall be reimbursed.

(b) Unless ICE 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 agents shall not be given access to individuals or allowed to use County facilities for investigative interviews or other purposes, and County personnel shall not expend their time responding to

ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates while on duty.

(c) There being no legal authority upon which the federal government may compel an expenditure of County resources to comply with an ICE detainer issued pursuant to 8 USC § 1226 or 8 USC § 1357(d), there shall be no expenditure of any County resources or effort by on-duty County personnel for this purpose, except as expressly provided within this Ordinance.

(d) Any person who alleges a violation of this Ordinance may file a written complaint for investigation with the Cook County Sheriff's Office of Professional Review.

**Effective Date:** This Ordinance shall be in effect immediately upon adoption.

Text of Amendment:

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