

Index as:

Department of Homeland Security
Immigration and Customs Enforcement
I.C.E.
Immigration Detainers

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Department of Homeland Security (DHS)

I. PURPOSE:

- A. To establish the procedures in the contacting and placing a hold for the Department of Homeland Security (D.H.S.), Immigration and Customs Enforcement Agency. (I.C.E.)

II. POLICY:

- A. No person shall be detained solely on the basis of his/her immigration status, except as set forth in this policy.
- B. The San Francisco Office of Detention and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security, is the designated federal agency responsible for interviewing and determining removal of foreign-born nationals from the United States. The Office of Detention and Removal is also responsible for the transportation of detainees.

III. DEFINITIONS:

- A. **“Conviction”** shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.
- B. **“Eligible for Release from Criminal Custody”** - the individual may be released from criminal custody because one of the following conditions has occurred:
 - 1. All criminal charges against the individual have been dropped or dismissed.
 - 2. The individual has been acquitted of all criminal charges filed against him or her.

_____ IMMIGRATION AND NATURALIZATION SERVICE (INS) _____

3. The individual has served all the time required for his or her sentence.
 4. The individual has posted a bond.
 5. The individual is otherwise eligible for release under state or local law, or local policy.
- C. **“Immigration Hold”** - an immigration detainer (Form I-247) issued by an authorized immigration officer, pursuant to Section 287.7 of Title 8 of the Code of Federal Regulations, that requests that the law enforcement official to maintain custody of the individual for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, and to advise the authorized immigration officer prior to the release of that individual.
- D. **“Law Enforcement Official”** - any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.
- E. **“Local Agency”** - any city, county, city and county, special district, or other political subdivision of the state.

IV. PROCEDURE

A. The Sheriff's Office regularly receives Immigration Detainer requests (Form I-247) from I.C.E. A detainer serves to advise that I.C.E. seeks custody of an individual presently in custody for the purpose of deportation. The detainer is a request that the law enforcement agency advise ICE, prior to releasing the individual, in order for I.C.E. to assume custody. The Sheriff's Office will not hold an inmate past his or her scheduled release date, regardless of whether and I.C.E. detainer request has been issued, except as provided below.

B. Authority To Place A Hold For I.C.E.

1. The authority to hold for the I.C.E. is 8C1-R287.7(a) of the INA. For booking purposes, the charge 1325 USC shall be used.
2. Inquiries to I.C.E. will be done via Livescan.
 - a. When an arrestee is fingerprinted, an electronic record is sent to

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I.C.E. via the Secure Communities link.

- b. If I.C.E. requests a hold be placed, a detainer will be sent from I.C.E. by facsimile to the jail for processing.
- c. When the detainer is received, the receiving staff member will enter the hold into the inmate's charge screen, and select the proper law enforcement ORI in the "Hold For" screen.
- d. Copies of the detainer will be made and given to the Transportation Supervisor.

3. A facsimile inquiry will be sent to I.C.E. for any foreign-born persons arrested for serious or violent felonies.
4. I.C.E. detainer requests will not be interpreted to allow the Sheriff's Office to hold an inmate past his or her release date unless the detainer request is supported by a judicial determination of probable cause.

C. Notification to I.C.E. of Scheduled Release Date

1. I.C.E. requests notification as soon as possible when an individual is ready for pickup or with expected release date. Notification will be made by fax
2. Upon sentencing, a copy of the detainer will be faxed to I.C.E. with the inmate's release date and last day for pickup information.

D. Inmates Ready for Pickup by I.C.E.

1. In order to provide adequate time for I.C.E. to pickup inmates on their detainer, inmates may be released to I.C.E. up to 7 days prior to their release date.
2. I.C.E. will attempt to pick up on the scheduled date of release.

E. Holds Dropped By I.C.E.

1. Should I.C.E. desire to drop their hold, they will so advise by fax.

F. Warrants

1. Detainers and warrants are entirely separate and should not be confused.

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Duly issued warrants will in all cases be honored.

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