



DIRECTIVE

Date: July 8, 2014

To: All Personnel

Subject: ICE Detainers and Administrative Warrants

Due to recent case law in the Federal Courts, the Archuleta County Sheriff's Office has reviewed ICE (Immigration and Customs Enforcement) Detainers and Administrative Warrants. Prior to coming to a final decision, the Archuleta County Sheriff's Office reviewed documents provided by the American Civil Liberties Union (ACLU), consulted with other Colorado Sheriff's throughout the state, and consulted with our County Attorney (Todd Starr) regarding the validity of the above mentioned documents.

After review, it was determined that ICE Detainers and ICE Administrative Warrants are not subject to judicial review which conflicts with Colorado State law; specifically, Colorado Revised Statute (CRS) 16-3-102 and CRS 16-1-104(18). Therefore, we will not be honoring either request from ICE unless they are accompanied by an affidavit of probable cause and/or warrant signed by a Magistrate or Judge.

Background:

After conducting research it was determined the detainers are merely requests for the agency to hold a subject. ICE Detainers (I-247) and Administrative Warrants (I-200) were/are being used to detain an individual for an additional period of time. Unfortunately, neither of the documents contain or require a statement of probable cause or a judicial finding of probable cause which is required by law enforcement in the State of Colorado. This is clearly stated in CRS 16-3-102 which states:

- 1) A peace officer may arrest a person when:
 - a) He has a warrant commanding that such person be arrested; or
 - b) Any crime has been or is being committed by such person in his presence; or
 - c) He has probable cause to believe that an offense was committed and has probable cause to believe that the offense was committed by the person to be arrested.

In accordance to CRS 16-1-104(18) defines a “warrant” as follows:

(18) A “warrant” is a written order issued by a judge of a court of record directed to any peace officer commanding the arrest of the person named or described in the order.

All Federal Special Agents as described in CRS 16-2.5-147, who are performing their duties within the State of Colorado, are considered a Peace Officer and must comply with said laws.

When issuing an arrest warrant, the courts shall issue an arrest warrant only on an affidavit that is sworn to or affirmed before a Judge and Notary Public stating the probable cause that a specific offense has been committed by a specific person. It is then that the courts will determine if probable cause exists to issue a warrant for the arrest of such person(s).

Directive:

Therefore, the Archuleta County Sheriff’s Office has implemented the following directive to begin immediately:

- 1) ACSO **WILL NOT** hold or detain any person in the Archuleta County Jail solely on an ICE Detainer (I-147) or an ICE Administrative Warrant (I-200).
- 2) ACSO personnel will continue to notify ICE that suspected illegal immigrants are in custody in the Archuleta County Jail.
- 3) Once a person has completed their custody time, or posted bond, the inmate is free to leave. ICE will be notified, as soon as possible, of the expected release date of any inmate that has an ICE Detainer or an ICE Administrative warrant (I-200).
- 4) ACSO **WILL** detain any person if we are presented with a Federal warrant that has met the legal standard of judicial review. In its’ simple terms, a warrant that is signed by a federal magistrate or judge. US Marshall or other Federal warrants received through NCIC are presumed to meet the legal threshold. Any ICE warrant received through NCIC must be located and confirmed prior to the execution of the warrant.
- 5) ACSO **WILL** continue to cooperate with all Federal Law Enforcement agencies as long as those agencies requests are conforming to Colorado State Law.

Sheriff Peter Gonzalez

Date