



**BOULDER COUNTY SHERIFF'S OFFICE
JAIL DIVISION**

**SUBJECT: HOLDS FOR IMMIGRATION AND CUSTOMS
 ENFORCEMENT (I.C.E.)**

NUMBER: J933

EFFECTIVE DATE: May 21, 2014

POLICY: The Boulder County Jail will not comply with the directives of Federal Regulation, 8 C.F.R. § 287.7 (d), regarding Immigration Detainer requests (Form I-247), or federal Administrative Warrants issued pursuant to 8C.F.R § 236.1(b) (Form I-200), requesting the detention of inmates for I.C.E.

It is our policy to honor federal criminal arrest warrants, which are reviewed and signed by a federal magistrate, ordering the arrest of an individual in our custody. Those inmates will be held for a reasonable period of time as a courtesy for pickup by I.C.E., once state and local charges have been resolved.

Further, it is our policy to cooperate with I.C.E. in regards to sharing public and criminal justice records, release dates, and granting access to interview inmates in our jail, just as we would any other federal law enforcement agency.

This policy of cooperation extends only to the limits of current law and protection of Boulder County Jail inmates Fourth and Fifth Amendment rights. Boulder County Sheriff's deputies and staff will not conduct investigations on behalf of I.C.E. including, but not limited to, the collection of evidence for an I.C.E. investigation and/or allowing an inmate in the Boulder County Jail to have contact with I.C.E. without being provided a written advisement of their rights.

INFORMATION: Rulings in Federal Courts in Oregon and Pennsylvania, (made in March and April of 2014), decisively determined that I.C.E. detainers were merely requests to detain individuals for I.C.E. They do not establish probable cause, and they are not judicially reviewed or issued. County sheriffs have no statutory authority to enforce them. County jails in those jurisdictions were exposed to civil liability as a result. Extensive legal analysis by the Boulder County Attorney's Office, further determined that Administrative Warrants issued by I.C.E. agents hold the same constitutional faults, and would needlessly expose the county to liability if they are honored.

SOURCE: Federal Regulation 8 C.F.R. § 287.7(d)
 Federal Regulation 8 C.F.R. § 236.1(b)

DEFINITIONS:

I.C.E.: U.S. Department of Homeland Security Immigration and Customs Enforcement

Immigration Detainer-Notice of Action – (I247): A document issued by an I.C.E. agent describing a person they wish to detain and contact information for the requesting agent.

"Warrant for Arrest of Alien" (Administrative Arrest Warrant) – (Form I-200): A document issued by an I.C.E. agent, allowing for the detention of an individual by an I.C.E. agent, when contacted in a public place.

PROCEDURE I – Processing I.C.E. Criminal Warrants

1. In accordance with Boulder County Jail policy J1601, a warrants check will be completed for any inmate booked into, or released from, the Boulder County Jail.
2. If a criminal arrest warrant, issued and signed by a Federal Magistrate, is located and confirmed, the deputy/staff member will process the arrest paperwork as directed in Boulder County Jail policy J1601.
3. If there are no state or local charges against the arrestee, the deputy/staff member will contact I.C.E. and notify them that they will have reasonable time up to ten days to pick up the arrestee from the Boulder County Jail as directed in Procedure II of this policy.
4. If an arrestee has state or local charges, and they are able to post bond on these charges, but an active federal warrant remains, the deputy/staff member will notify I.C.E. as directed in Procedure II of this policy.
5. Inmates who have an active federal warrant, and are within 10 days of their release date stemming from a state or local sentence, will be processed for release in accordance with the 10 day list as directed in Boulder County Jail policy J1614. I.C.E. will be notified of the 10 day limit in accordance with procedure II of this policy.

PROCEDURE II – Rights of Inmates and I.C.E. Investigations

1. If an I.C.E. agent notifies (via telephone or in person) Jail staff that they wish to speak with an inmate in the Boulder County Jail, that Jail staff member will notify the On-Duty Supervisor (ODS) of the request.

2. The ODS will meet/speak with the I.C.E. agent to determine the nature of their business.
3. If the request from the I.C.E. agent is to interview an inmate, the ODS will obtain the inmate's name. Once identified, the ODS will direct that a deputy contact the inmate and provide them with the Boulder County Jail I.C.E. Interview Rights form (attachment A). The ODS will obtain a telephone number for the inmate to return the call to the I.C.E. agent should the inmate accept the request for interview.
4. After reading the form, the inmate will be asked to complete the form by initialing/signing the appropriate sections of the form designating the following information:
 - The inmate is the subject of an I.C.E. investigation
 - An agent of I.C.E. is requesting to interview the inmate
 - The inmate understands their rights in an I.C.E. investigation
 - Understanding their rights, the inmate either agrees to speak with the I.C.E. agent or declines the interview
5. The deputy will then have the inmate sign the form, make two copies of the form for distribution as follows:
 - Original copy to inmate's Booking File
 - One copy to I.C.E. agent (e-mailed to the agent if interview is conducted via telephone)
 - One copy to inmate
6. If the inmate accepts the interview, the deputy will escort the inmate and I.C.E. agent to an area where the interview may be conducted. If the request is for a return telephone call, the inmate will make the call from the Commander's Office from extension 4612.
7. The deputy will document this event by making a Worksheet/Bio entry in the inmate's Tiburon record.

PROCEDURE III – Contacting I.C.E.

1. If an inmate, who is otherwise eligible for release from the Jail, has an active federal criminal warrant hold placed against them, the deputy/staff member will contact I.C.E., via fax and CCIC/NCIC teletype.
2. The deputy/staff member will place the faxed sheet(s) and copies of the CCIC/NCIC teletypes in the inmate's Booking File.

3. The deputy/staff member will fax both sheets to the number provided on the Notice of Action
4. The deputy/staff member will now make two entries on the inmate's records:
 - A. On the inmate's Hard Card, they will note the date and time that the fax/teletype was sent to I.C.E.
 - B. In the inmate's Tiburon record, the deputy/staff member will make an entry in the "Events" tab section. The event is titled "NICE" and in the remarks section, the deputy/staff member will note the date and time that the fax/teletype was sent to I.C.E. They will also note the date and time in which 10 days, from the date and time of notification, expires.
 - C. If the notice to I.C.E. is for the 10 day list, all dates, times, and limits will be in reference to 10 days from the date of notification and all paperwork will be filed as described in this procedure.

PROCEDURE IV – Supervisory Review of I.C.E. Deadlines

1. At the beginning of each day shift, a supervisor will run the Crystal Report "I.C.E. Transport Notice Inmates."
2. The supervisor will review the information on the list and note any inmates who are 8 hours, or less, from their 10 day transport deadline.
3. The supervisor noting any inmates on the report, who are 8 hours or less from their transport deadline, will TELEPHONE I.C.E. and give an I.C.E. representative a deadline for picking up the effected inmate.
4. If a supervisor has to make the telephone call to I.C.E., they will note, in the NICE event remarks section, who they spoke with, date and time of the contact, and when the deadline for transport was set.
5. The supervisor will note, for pass-on, what the deadline is on the current Master Briefing, in case the deadline is beyond their shift.
6. In the event that I.C.E. does not transport a person, after fax, teletype, and telephone notifications, a supervisor will complete an Information Only Incident Report documenting this event.
7. The on-duty supervisor will contact the on-duty Commander or on-call Commander in the event that an inmate needs to be released because of I.C.E. not picking up the inmate on their detainer.

PROCEDURE V – Sharing Information with I.C.E.

1. Once each week, the Jail Administrative Technician Supervisor will run the Jail Crystal Reports "CMS Received On Shift – Non Citizen" and "Inmates Booked Without Citizenship Records" listing any inmate who meets the following criteria:
 - No listed Place of Birth
 - Foreign Place of Birth
 - Release date for any inmate with no, or foreign, Place of Birth
2. Once compiled, the Jail Administrative Technician Supervisor will fax/e-mail the list to I.C.E.

By Order of the Division Chief



Bruce K. Haas

05/21/2014

Date

Boulder County Jail I.C.E. Interview Rights Form

I, _____, am an inmate in
(Print inmate's name)

the Boulder County Jail. An agent of I.C.E. has made a request to interview me in
the Jail _____ in person _____ via telephone. I understand that I have the
following rights regarding this interview:

I have made my first appearance in court for local charges. _____ Yes _____ No

I was advised of my constitutional rights at that appearance. _____ Yes _____ No

I understand that I may refuse to talk with an agent of I.C.E. _____ Yes _____ No

I understand that I have a right to speak to an attorney first. _____ Yes _____ No

Having received this information, I choose:

_____ To speak with the I.C.E. agent

_____ Not to speak with the I.C.E. agent

(Inmate's signature)

Date: _____

(Deputy's signature)

Date: _____

Instructions for completion of this form:

Advise inmate that an agent of I.C.E. requests to speak with them (in person or
via telephone.)

Present this form to the inmate and explain this outlines the inmate's rights
regarding speaking with I.C.E.

Print inmate's name in the space provided.

Check if the request is In person or Via telephone.

Instruct the inmate to initial the space next to their response (Yes or No) for the
four advisements.

Instruct the inmate to initial the space next to their choice to speak with, or not,
I.C.E.

Instruct the inmate to sign and date this form.

(Original copy to inmate's Booking File, one copy to inmate, one copy to I.C.E.)