

OCTOBER 2021

ANNOTATED IMMIGRATION DETAINER (I-247A)

DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: _____ File No: _____
 Event #: _____ Date: _____

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) _____ FROM: (Department of Homeland Security Office Address) _____

Name of Alien: _____
 Date of Birth: _____ Citizenship: _____ Sex: _____

1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete box 1 or 2).

- A final order of removal against the alien;
- The pendency of ongoing removal proceedings against the alien;
- Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

2. DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete box 1 or 2).

- Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- Notify DHS** as early as practicable (at least 48 hours, if possible) before the alien is released from your custody. Please notify DHS by calling U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) at _____ . If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.
- Maintain custody** of the alien for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The alien **must be served with a copy of this form** for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the alien's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
 - Relay this detainer to any other law enforcement agency to which you transfer custody of the alien.
 - Notify this office in the event of the alien's death, hospitalization or transfer to another institution.

- If checked: please cancel the detainer related to this alien previously submitted to you on _____ (date).

 (Name and title of Immigration Officer) (Signature of Immigration Officer) (Sign in ink)

Notice: If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN WHO IS THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____ .

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the alien on _____, in the following manner:

- in person by inmate mail delivery other (please specify): _____

 (Name and title of Officer) (Signature of Officer) (Sign in ink)

The third box says that ICE is relying on database information to justify the detainer. This practice has been challenged in ongoing litigation because the databases are unreliable.

When the fourth box is checked, ICE is alleging that your client admitted something at some point about their legal status to an immigration official.

The ICE detainer form includes two primary requests: 1) notice of release, and 2) hold for an extra 48 hours.

An ICE detainer does not provide legal authority to make an arrest or detain someone, because it is up to state law to define the arrest and detention powers of state and local law enforcement.

There is no process for the immigrant to contest the information or allegations made on the form.

ICE requests the local agency to sign that the detainer was served on the detainee. It is not clear what, if anything, ICE will do if this is not complied with.

The fact that ICE has checked one of these boxes does not necessarily meet the requirements for a legal arrest under the Fourth Amendment.

Foreign birth plus a lack of any other information in immigration databases is not sufficient probable cause to issue a detainer.

48 hours is the maximum time ICE requests a person be held on a detainer. In contrast to prior policy, the 48 hours includes nights and weekends.

The form says it must be served on the immigrant for it to take effect.

ICE says this form should not affect bail or other custody decisions. In practice, however, courts and jails often use detainers against people.

For more ILRC resources on ICE detainers, see:

<https://www.ilrc.org/ice-detainers-are-illegal-so-what-does-really-mean>

<https://www.ilrc.org/explaining-gonzalez-v-ice-injunction>