

**COMMAND ORDER #05-2014 (JAIL)**

**May 6, 2014**

**To:** Jail Staff

**From:** Captain Dave Samson Jail Division Commander

**Subject:** ICE Holds

**Effective Immediately,** The Sutter County Sheriff's Office will no longer hold inmates or Intakes based solely on Immigration Customs Enforcement (ICE) holds or detainers. The Sutter Sheriff's Office will continue to notify ICE when we have a possible immigration violation, however we will not hold someone past the time their local charges would otherwise cause them to be released.

By Order Of,

Dave Samson  
Jail Division Commander

## J150.90 – PROCESSING FOREIGN BORN INMATES/ICE POLICY

A percentage of persons who commit crimes in Sutter County and who are arrested/serving commitments are foreign born, are in the United States illegally or have been convicted on deportable charges. These foreign-born criminals affect crime and public safety in our community. Immigration officials will screen foreign-born arrestees for immigration status and may place immigration holds on those arrestees.

The regulatory authorization for a jail to detain the person based on the immigration hold comes from the Code of Federal Regulations (8 C.F.R. §287.7(d)).

This policy identifies those prisoners who are under arrest or returning to serve sentences and who are foreign born and to notify the arrest to Immigration and Customs Enforcement (ICE) within a timely manner.

- A. Identification at Booking/Commitment: During the booking/commitment process the officer will determine the country in which the person was born and if it is outside of the United States an ICE questionnaire will be completed.

If applying for Outside Work Release (OWR), the jail will contact ICE to determine the inmate's immigration status when they arrive for final processing; which includes an updated photo, fingerprints and to pay any fees for the program.

If it's determined the inmate is illegal or convicted of a deportable charge; OWR will not be approved, the inmate will stay in-custody for their court ordered time and any monies will be credited to their account.

- B. Foreign Born – ICE questionnaire: When the arrested/committed person is identified as foreign born, the booking officer will have the inmate complete an ICE questionnaire.
- C. Foreign Born – Contacting ICE: The officer will call the ICE agent assigned to Sutter County or if it is after hours or a weekend, officers will contact the on-duty agent, for the inmate to be interviewed. If the inmate will be released under 849(b) pc, (no complaint filed), can be released on their own recognizance (O/R) or states they wish to post bail and an agent is not readily available, a message will be left and the inmate will be held for 4 to 6 hours pending a return call for an interview to be conducted.

The officer will also place a copy of the questionnaire and the booking sheet in the "Foreign Born" file, with the notation containing the date, time, which ICE agent was contacted. If a detainer was placed, a copy of the detainer will also be placed in the "Foreign Born" file.

- D. Foreign Born – Ready to Be Released after Serving Sentence: When the foreign born inmate has completed their court ordered sentence, an officer will contact ICE transport by fax or telephone to schedule pickup arrangements. The officer will fax the detainer to ICE noting the inmate's charges, conviction date and projected release date.

ICE should be notified if an inmate is in custody and has an ICE detainer, and is sentenced to state prison, extradited, booked in from another county and he/she has an ICE detainer.

- E. Foreign Born – Released on Local Charges Other Than Completing Sentence: The inmate will stay in-custody until all charges are completed unless the courts release them on their O/R or if the inmate posts bail. If the inmate is released on local charges due to O/R or bail, the inmate will remain in-custody on the ICE detainer and an officer is to contact ICE transport by fax or telephone to schedule pickup arrangements.

The officer will fax the detainer to ICE noting the inmate's charges, also noting why the inmate was released so arrangements can attempt to be made for future court dates on the local charges, (ei: local housing, Order for Removal paperwork (OFR) and transportation).

#### F. ICE Detainer

If Immigration and Customs Enforcement (ICE) identifies an individual in the custody of Sutter County Jail as someone they want to take into custody to place into removal proceedings, they can place a detainer on the person

When an Ice Detainer, DHS Form I-247 (referred to as an immigration hold), is received on an individual in custody, the bottom portion of the form will be completed by a booking officer and a copy made and provided to the inmate in custody without delay.

The Notice to the Detainee advises individuals that if ICE does not take them into custody during the 48 hours, they should contact the Sutter County Jail to inquire about their release from local custody.

If the individual has a complaint regarding the detainer or violations of civil rights or civil liberties connected to DHS activities, he or she should contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253).

The booking officer will add the detainer and an "ICE hold" event in the inmate's computer record for classification. The booking officer will attach the detainer on the left inside of the inmate's jail file.

ICE has 48 hours to pick up the inmate, after they receive notification from the jail that the inmate is ready for pick up. The 48 hour time frame begins when the Sutter County Jail would normally release the inmate. Sutter County Jail has established their normal time of release is at 1900 hours each day or such as when they pay their bond. So in essence, the 48 hours starts the next day and ICE does have a full 48 hours to pick the alien up from that point.

Transport scheduling hours are from 0800-1700 hours, Monday thru Fridays, not including weekends and holidays. If a notice for pick up is sent after 1700, the 48 hours begins at 0800 hours on the next business day.

ICE can serve a Warrant of Arrest in person, which will extend pick up time to five days. Sutter County jail employees cannot serve ICE Warrants

When the individual that is the subject of the detainer would not otherwise be detained by the jail (for example, because they paid a bond, completed a sentence or their case was dismissed), ICE has forty-eight (48) hours (not including Saturdays, Sundays or holidays) to take the individual into custody. If ICE does not take the person into custody, the Sutter County Jail is no longer authorized to detain the individual and "hold" them for ICE. The jail may not lawfully hold an individual beyond the 48-hour period and should advise ICE of the release process and reason for release.

When an inmate has an Immigration detainer and gets sentenced to prison, an officer will notify ICE as soon the inmate is sentenced so ICE can complete their paperwork.

If an inmate is time served on local charges and has or will be transferred to another facility, ICE needs to be notified for their tracking purposes.

**Jail Immigration Officer's Duty:** A jail officer/s will check the daily release list and make additional notifications to ICE as becomes necessary. A designated officer will monitor holds and prepare the foreign-born statistics for the jail.

If an inmate arrives into Sutter County Jail from another facility and has an ICE detainer, the officer will notify ICE as soon as they arrive for tracking purposes.

Additionally, this policy is in accordance with Penal Code 834b(a) which states: Every law enforcement agency in California shall fully cooperate with the United States Immigration and Customs Enforcement" (ICE) regarding any person who is arrested if he or she is suspected of being present in the United States in violation of Federal Immigration laws.