

**Washtenaw County Sheriff's Office**  
**General Order – Immigration Enforcement**  
**Reference Number: 1.14 GO**



Jerry L. Clayton, Sheriff

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**Subject:** Immigration Enforcement  
**Chapter:** Professional Standards  
**Status:** Revised  
**Compliance:** Class 2  
**Supersedes:** All Previous Directives  
**Standards Reference:** CALEA 1.1.4, 1.2.7, 1.2.9  
**Prepared by:** Eric Kunath, Corrections Commander  
**Issued by:** Greg Bazick, Chief Deputy  
**Issuing Authority:** Jerry L. Clayton, Sheriff  
**Date of Issue:** September 10, 2017  
**Public Facing:** Yes

**I. PURPOSE**

- A. To provide the Sheriff's Office policy position and basic procedures regarding immigration enforcement.

**II. SCOPE**

- A. This General Order applies to all full and part-time Sheriff's Office employees who make or have investigative, enforcement or custodial contact with individuals and inmates as a part of their assigned duties.

**III. POLICY**

It is the policy of the Sheriff's Office that:

- A. The Office will comply with all requirements of federal immigration law that apply to local law enforcement agencies including but not limited to the treatment and rights of foreign nationals. (See [4.03RR Detention of Foreign Nationals](#))
- B. The enforcement of federal immigration law is a federal law enforcement function. It is not a primary investigative or enforcement role or activity of the Sheriff's Office.
- C. Employees shall not profile individuals when deciding to initiate or in the process of conducting investigative or enforcement activity. Suspicion of undocumented immigration status is not a reason to initiate investigative action. Any initiated investigative or enforcement activity shall be based upon reasonable suspicion or probable cause supported by clearly articulated facts and circumstances. (See [2.03PG Biased Police Practices](#))

**IV. PROCEDURE**

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A. Police Services:

1. Individuals who make complaints to the Sheriff's Office solely regarding the legal status of an individual, i.e., no other state crime or local ordinance violation within the jurisdiction of a Deputy Sheriff is alleged, shall be referred to Immigration Control Enforcement (ICE).
2. As a general practice, Police Services staff will not inquire as to the immigration status of individuals encountered in the normal course of investigative or enforcement activity. (See [2.03PG Biased Police Practices](#))
3. Police Services staff will respond as they would in any event or circumstance when a local, state or federal law enforcement agency requests assistance, back-up or support within Washtenaw County.
4. When requested, Police Services staff will accompany Immigration Control Enforcement (ICE) Agents when taking immigration enforcement action(s) in the County for the purposes of:
  - a) keeping the peace,
  - b) addressing violations of State law or local ordinances as may be applicable, and
  - c) providing support or services appropriate to the circumstances, e.g., support or services for affected families or community members.

B. Corrections:

1. United States Immigration and Customs Enforcement (ICE)
  - a) ICE Immigration Detainers (see Appendix A, Form I-247 at the end of this document) – are advisory requests to detain an individual.
  - b) The Sheriff's Office will not detain an individual under the sole justification of an Immigration Detainer issued by ICE.
    - (1) Sheriff's Office will only detain an individual if the Immigration Detainer is accompanied by a federal court order or warrant for that named individual.
  - c) If there is an Immigration Detainer not accompanied by a federal court order or warrant but clear, compelling, and verified information that the named individual may reasonably be considered a risk to public safety, the Sheriff's Office may hold the individual under the public safety exception.

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**V. Public Safety Exception**

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- A. Following consultation with and at the sole discretion of the Division Commander or above, the Office may elect to temporarily detain subjects named on ICE detainer requests if releasing would present a risk to public safety – this consideration is not based on the individual's immigration status unless the individual's immigration status directly creates risk to the public.
  - B. If a detainer request is honored under the public safety risk exception, the Sheriff's Office will hold the individual for a reasonable period of time in which ICE may acquire and produce a judicial order for the named individual. The Sheriff's Office may modify the duration that a detainer request is honored.

1. DEFINITIONS

- a) Assaultive Crime – The unlawful and intentional threat of bodily harm to another attached with the ability to carry out the act.
- b) Public Safety Risk – A person is considered a public safety risk if they demonstrated actions and /or statements that would lead an employee to reasonably believe that they pose a threat if not apprehended without delay. I.e., the person has the intent, means, opportunity, and ability to complete a threat regardless of whether the threatened action has been initiated.
- c) Official Documented Pattern – An official documented pattern includes but may not be limited to a criminal history, sworn affidavits, or other documents produced by a government organization that clearly and reasonably establish an individual's involvement in violent crime. Hearsay and/or an officer's unsubstantiated beliefs or opinions do not meet the threshold of an official documented pattern.  

Special Note: Any information provided another government organization will be investigated to the degree possible to determine accuracy and validity.
- d) Judicial Order – An official proclamation signed by a judge that defines the legal relationships between the parties to a hearing, a trial, an appeal, or other court proceedings.

C. CONSIDERATIONS FOR HONORING ICE DETAINERS

- 1. Considerations for honoring an ICE detainer include but may not be limited to:
  - a) Severity of Pending Charges
  - b) It can be established that the named individual will be:
  - c) Charged with committing an assaultive crime; or

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- d) Charges have been submitted to the Prosecuting Attorney's Office for committing an assaultive crime(s).
  - e) Pending property crimes or civil matters will not be given consideration.
2. Compelling and Articulate Risk
- a) It can be established that the named individual poses a compelling and reasonably verifiable risk to the public if not held in custody prior to receiving a judicial order.
3. Criminal History
- a) An official documented pattern of violent behavior may vary by the nature of an individual's overall circumstances and history. Recent activity, e.g. three (3) to seven (7) years, is more compelling than older activity followed by no further documented allegations of criminal behavior.
  - b) Criminal history should establish that not detaining the named individual presents a compelling and articulable risk to the public.
- D. PROCESS
1. Each detainer request encountered will be:
- a) Reviewed by a sergeant or above.
  - b) Entered with all required detail into the detainer request information system.
  - c) The review process will include but may not be limited to the following:
    - (1) Evaluation of the named individual's pending criminal charges, including any charges submitted to the Prosecuting Attorney's Office.
    - (2) Evaluation of the named individual's Michigan and national criminal history.
    - (3) Evaluation of named individual's demonstrated actions or statements to determine if they pose a threat to public safety.
    - (4) Any other evaluation that ensures the rights of the named individual and the safety of the public.

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Special Note: Detainer requests made on immigration status - where that person's status does not increase risk to the public - will not be given hold consideration.

- d) Detainer requests along with all pertinent information required to evaluate the situation, including any information provided by ICE, will be presented to the Division Commander, or his/her designee, for a 'hold decision' as soon as practical.

2. Hold Decision

- a) If the detainer request is to be honored, the authorizing Division Commander or their designee will:
  - (1) Immediately contact ICE in order to obtain the requisite judicial order.
- b) If the detainer request is not honored, the Division Commander or their designee will contact ICE to advise them of the same.
- c) Verify that all actions taken in the matter are documented in the detainer request information system and the Jail Management System (JMS). Details recorded shall include, but may not be limited to:
  - (1) Pertinent dates
  - (2) Times
  - (3) Titles and names of ICE officials spoken to
  - (4) Criminal charges
  - (5) Criminal history analysis
  - (6) Public safety threat analysis
  - (7) Hold decision
  - (8) Sheriff's Office employee making 'hold decision'

- 3. Upon request, the Sheriff's Office provides a list of all inmates housed in the Jail to the Immigration and Customs Enforcement (ICE) Criminal Alien Program (CAP) for the purpose of assisting in the identification of individuals within the Jail who are foreign nationals, i.e., deportable non-citizens who are alleged to have committed a crime or who have been convicted of a crime.

E. ICE Criminal Alien Program (CAP):

- 1. CAP is a program administered by ICE under the umbrella of ICE ACCESS, Agreements in Cooperation in Communities to Enhance

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Safety and Security. The focus of CAP is to locate and apprehend deportable criminals that are a danger to our community.

2. The information provided to ICE is a list of all persons within our custody at the time and is a matter of public record, i.e., it is information available to anyone in the general public who may request it.

a) In accordance with 4.03RR, Detention of Foreign Nationals, the Office will comply with the law by asking citizenship and notifying the appropriate consulate of any individual who is arrested and detained in the Jail who is a citizen of that country.

F. Metro-Dispatch staff shall not inquire about a caller's immigration status or dispatch a Deputy Sheriff or Police Officer to a location when the complaint is based solely upon the caller's suspicion of an individual's immigration status.

**VI. MODIFICATION**

The Sheriff or Under Sheriff may modify the provisions of this general order.

**VII. COMPLIANCE**

All employees shall comply with all provisions of this policy and procedure. A violation of any section of this policy and procedure is a Class 2 offense and may result in corrective discipline.

A violation of this policy and procedure may also be a violation of other Sheriff's Office professional conduct standards which may result in corrective disciplinary action up to and including discharge.

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**Appendix "A"**  
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DEPARTMENT OF HOMELAND SECURITY  
**IMMIGRATION DETAINER - NOTICE OF ACTION**

Subject ID: Event #:	File No: Date:
TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)	FROM: (Department of Homeland Security Office Address)

**MAINTAIN CUSTODY OF ALIEN FOR A PERIOD NOT TO EXCEED 48 HOURS**

Name of Alien: \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ Nationality: \_\_\_\_\_ Sex: \_\_\_\_\_

**THE U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) HAS TAKEN THE FOLLOWING ACTION RELATED TO THE PERSON IDENTIFIED ABOVE, CURRENTLY IN YOUR CUSTODY:**

- Determined that there is reason to believe the individual is an alien subject to removal from the United States. The individual (check all that apply):
  - has a prior a felony conviction or has been charged with a felony offense;
  - has three or more prior misdemeanor convictions;
  - has a prior misdemeanor conviction or has been charged with a misdemeanor for an offense that involves violence, threats, or assaults; sexual abuse or exploitation; driving under the influence of alcohol or a controlled substance; unlawful flight from the scene of an accident; the unlawful possession or use of a firearm or other deadly weapon, the distribution or trafficking of a controlled substance; or other significant threat to public safety;
  - has been convicted of illegal entry pursuant to 8 U.S.C. § 1325;
  - has illegally re-entered the country after a previous removal or return;
  - has been found by an immigration officer or an immigration judge to have knowingly committed immigration fraud;
  - otherwise poses a significant risk to national security, border security, or public safety; and/or
  - other (specify): \_\_\_\_\_
- Initiated removal proceedings and served a Notice to Appear or other charging document. A copy of the charging document is attached and was served on \_\_\_\_\_ (date).
- Served a warrant of arrest for removal proceedings. A copy of the warrant is attached and was served on \_\_\_\_\_ (date).
- Obtained an order of deportation or removal from the United States for this person.

*This action does not limit your discretion to make decisions related to this person's custody classification, work, quarter assignments, or other matters. DHS discourages dismissing criminal charges based on the existence of a detainer.*

**IT IS REQUESTED THAT YOU:**

- Maintain custody of the subject for a period **NOT TO EXCEED 48 HOURS**, excluding Saturdays, Sundays, and holidays, beyond the time when the subject would have otherwise been released from your custody to allow DHS to take custody of the subject. This request derives from federal regulation 8 C.F.R. § 287.7. For purposes of this immigration detainer, you are not authorized to hold the subject beyond these 48 hours. As early as possible prior to the time you otherwise would release the subject, please notify DHS by calling \_\_\_\_\_ during business hours or \_\_\_\_\_ after hours or in an emergency. If you cannot reach a DHS Official at these numbers, please contact the ICE Law Enforcement Support Center in Burlington, Vermont at: (802) 872-6020.
- Provide a copy to the subject of this detainer.
- Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.
- Notify this office in the event of the inmate's death, hospitalization or transfer to another institution.
- Consider this request for a detainer operative only upon the subject's conviction.
- Cancel the detainer previously placed by this Office on \_\_\_\_\_ (date).

\_\_\_\_\_  
 (Name and title of Immigration Officer) (Signature of Immigration Officer)

**TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE SUBJECT OF THIS NOTICE:**

Please provide the information below, sign, and return to DHS using the envelope enclosed for your convenience or by faxing a copy to \_\_\_\_\_. You should maintain a copy for your own records so you may track the case and not hold the subject beyond the 48-hour period.

Local Booking/Inmate #: \_\_\_\_\_ Latest criminal charge/conviction: \_\_\_\_\_ (date) Estimated release: \_\_\_\_\_ (date)  
 Last criminal charge/conviction: \_\_\_\_\_

**Notice:** Once in our custody, the subject of this detainer may be removed from the United States. If the individual may be the victim of a crime, or if you want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, please notify the ICE Law Enforcement Support Center at (802) 872-6020.

\_\_\_\_\_  
 (Name and title of Officer) (Signature of Officer)