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Immigration and Customs Enforcement	Reviewed: 05/08
I.C.E.	Reviewed: 07/11
Immigration Detainers	Revised: 01/14
Assembly Bill 4 (Trust Act)	Revised: 8/14
SB 54 or the California Sanctuary State Bill	Revised: 2/17
Assembly Bill 2792 (TRUTH Act)	Revised: 4/18

Immigration and Customs Enforcement (ICE)

I. PURPOSE:

- A. To establish the procedures for contacting and placing holds at the request of the Immigration and Customs Enforcement Agency (I.C.E.) a division of Department of Homeland Security (D.H.S.),

II. POLICY:

- A. The Mendocino County Sheriff's Office will equally enforce the laws and serve the public without regard to immigration status. No person shall be held solely on the basis of their immigration status, unless a judicial warrant is issued by a magistrate ordering such a hold. The immigration status of a person, and the lack of immigration documentation, should have no bearing on the manner in which Sheriff's Office personnel execute their duties.
- B. Immigration and Customs Enforcement (ICE) inquiries will be subject to the guidelines as outlined in the California Values Act, the Truth Act, and the Trust Act.
- C. This Policy shall be carried out in compliance with all applicable Federal and States laws.

III. DEFINITIONS:

- A. **"Conviction"** shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.
- B. **"Eligible for Release from Criminal Custody"** - the individual may be released

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from criminal custody because one of the following conditions has occurred:

1. All criminal charges against the individual have been dropped or dismissed.
 2. The individual has been acquitted of all criminal charges filed against him or her.
 3. The individual has served all the time required for his or her sentence.
 4. The individual has posted a bond.
 5. The individual is otherwise eligible for release under state or local law, or local policy.
- C. **“ICE”** - Immigration and Customs Enforcement
- D. **“Immigration Detainer Request”** - An advisement from ICE seeking custody of an individual currently in custody for the purposes of deportation.
- E. **“Immigration Hold”** - an immigration detainer (Form I-247) issued by an authorized immigration officer, pursuant to Section 287.7 of Title 8 of the Code of Federal Regulations, that requests that the law enforcement official to maintain custody of the individual for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, and to advise the authorized immigration officer prior to the release of that individual.
- F. **“Law Enforcement Official”** - any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.
- G. **“Local Agency”** - any city, county, city and county, special district, or other political subdivision of the state.
- H. **“Judicial Warrant”** - A criminal warrant based on probable cause and signed by a federal judge or a federal magistrate judge.

IV. PROCEDURE

- A. The Immigration and Customs Enforcement agency (ICE) has primary

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responsibility to investigate and enforce federal immigration laws. Sheriff's Office and ICE will collaborate in the enforcement of federal immigration laws upon its specific request and in those situations where ICE-initiated investigations have led to the discovery of criminal violations of California law. Assistance to ICE will also be provided in response to officer safety issues.

- B. Booking staff will review all immigration detainers to determine if the Sheriff's Office will honor or deny the hold. (ICE Detainer form)
- C. Holds for Immigration detainers will not be entered into the computer system until they have been reviewed and approved by a sergeant.
- D. The Mendocino County Sheriff's Office will not honor ICE Immigration Detainers unless ICE presents with the detainer and a judicial warrant authorizing the individual's continued detention.
- E. Immigration Violations Complaints:
 - 1. If members of the public contact the Sheriff's Office to report suspected immigration violations, such person should be directed to ICE.
- F. Notification to ICE:
 - 1. The Corrections Division generates notification to ICE through the taking of fingerprints. If ICE wishes to take action, they will notify the Sheriff's Office.
- G. **ICE Immigration Detainees**
 - 1. The Sheriff's Office regularly receives Immigration Detainer requests (Form I-247) from ICE. The detainer is a request that the law enforcement agency advise ICE, prior to releasing the individual, in order for ICE to arrange to assume custody. These detainer requests will be honored only as provided in this Policy.
 - a. **TRUST ACT.** The Trust Act (AB 4) provides that a person may not be held in custody solely on the basis of an immigration detainer if they are otherwise eligible to be released from custody. "Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:

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- (1) All criminal charges against the individual have been dropped or dismissed; or
- (2) The individual has been acquitted of all criminal charges filed against them; or
- (3) The individual has served all the time required for their sentence; or
- (4) The individual has posted bond; or
- (5) The individual is otherwise eligible for release under state or local law, or local policy.

H. Immigration Detainers

1. Inmates who are eligible for release from custody shall not be held, pursuant to an immigration hold, if otherwise eligible for release, unless the Sheriff's Office is presented with a valid judicial warrant or judicial probable cause determination.
2. Equality of Access:
 - a. All persons arrested for a criminal offense and held in our custody pursuant to an ICE Detainer will have equal access to custody programs if program eligible.

I. The Mendocino County Sheriff's Office complies with the TRUTH ACT (Transparent Review of Unjust Transfers and Holds Act) by:

1. When an Immigration Detainer is received and prior to any interview by an agent of ICE, staff shall provide all effected inmates with a written consent form (**ICE Interview Consent Form**) that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form is available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean.
2. Upon receiving any ICE hold, notification, or transfer request, the Sheriff's Office shall provide a copy of the request to the inmate and inform them on an **Immigration Notification Form** whether the Sheriff's Office intends to comply with the request.

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3. If the Office provides ICE with notification that an inmate is being, or will be, released on a certain date, the Sheriff's Office shall promptly provide the same notification in writing to the inmate and to his attorney of record or to one additional person who the inmate shall be permitted to designate using the **Immigration Notification Form**.
 - a. Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

4. All records relating to ICE access provided by the Sheriff's Office, including all communication with ICE, shall be public records for the purposes of the California Public Records Act, including the exemptions provided by that act, as permitted under that act all personal identifying information will be redacted prior to public disclosure. Records relating to ICE access include, but not limited to, data maintained by the Sheriff's Office regarding the number and demographic characteristics of inmates to whom the Sheriff's Office has provided ICE access, the date ICE access was provided, and whether the ICE access was provided through a hold, transfer, or notification request or through other means.

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