

<b>Stanislaus County Sheriff's Department</b>		<b>2-01.07 GDP</b>
<b>Policy &amp; Procedure Manual - Adult Detention Division</b>		
<b>CHAPTER 2:</b> Receiving & Release, Classification, & Jail Alternatives	<b>ISSUE DATE:</b> 03/10/14	
<b>SECTION:</b> Compliance with the California Values Act SB 54 and Related I.C.E. Laws and Regulations	<b>REVISION DATE:</b> 05/28/19	
<b>RELATED ORDERS:</b> PC: 1192.7, 457.1, 872, 667.5, 290, 667(d) W&I: 707 (b) CVC: 20001 (c) Title 8: 287.7 GOV: 7283, 7283.1, 7283.2, 7284.6 SCSO Policy Manual: 428	<b>ADMINISTRATIVELY APPROVED ANNUALLY</b>	

## PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for compliance with the California Values Act SB 54 and related statutes, concerning responsibilities associated with immigration law, including cooperation with Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE) or other federal agencies, regarding persons arrested and booked into the custody of the Stanislaus County Sheriff and other departmental operations.

## POLICY

It is the policy of the Stanislaus County Sheriff's Department to comply with California law governing law enforcement's ability to interact and cooperate with federal immigration officers.

The discretion of California law enforcement agencies to participate in immigration-related activities is limited by SB 54 in the following ways:

Prohibits the use of resources to investigate, interrogate, detain, detect or arrest persons for immigration enforcement purposes, including:

- (a) Inquire into an individual's immigration status.
- (b) Detain an individual on the basis of a hold request.
- (c) Provide information on a person's release date, unless that information is available to the public or in accordance with the provisions of California law.
- (d) Provide personal information as defined in Section 1798.3 of the Civil Code, including home or work address unless that information is available to the public. Personal information means any information that is maintained by the department that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters and medical or employment history including statements made by, or attributed to, the individual.
- (e) Making or intentionally participating in arrests based on civil immigration warrants, which means any warrant for a violation of federal civil immigration law and includes civil immigration warrants entered in the National Crime Information Center database; and
- (f) Assisting immigration authorities in civil immigration enforcement.

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- (g) Perform functions of immigration authorities.
- (h) Place Peace Officers under supervision of immigration authorities or employ them for purposes of immigration enforcement.
- (i) Use immigration authorities as interpreters for law enforcement matters.
- (j) Members of this department may not transfer an individual in department custody to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or as otherwise set forth herein. (See Appendices I, II, III and IV).
- (k) Provide office space exclusively dedicated to immigration authorities.
- (l) Contract with the federal government to house detainees for purposes of civil immigration custody except as provided under California law.

Members of the department are not prohibited from the following:

- (a) Responding to a request from immigration authorities about a specific person's criminal history accessed through CLIPS.
- (b) Giving immigration authorities access to interview a person in custody in compliance with the law.

All law enforcement agencies are required to report statistics on all individuals transferred to immigration authorities in accordance with the law; requiring the agency to report to the California Department of Justice the number of transfers it makes in a calendar year, as well as the offense that allowed for the transfer.

The law requires that a person not be held in custody solely on the basis of an immigration detainer if he or she is otherwise eligible for release from criminal custody and the continued detention of the individual on the basis of the immigration detainer or hold would not violate any federal, state, or local law, or any local policy. To place a no-bail hold/detainer one of the following exceptions must apply:

- (a) The individual is arrested and taken before a magistrate on a charge involving a serious or violent felony, as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code, a felony punishable by imprisonment in state prison, or any felony listed in paragraph (2) or (3) other than domestic violence, and the magistrate makes a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code.

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- a. A serious felony is defined as any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code. (See APPENDIX I).
  - b. A violent felony is defined as any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a violent felony as defined by subdivision (c) of Section 667.5 of the Penal Code. (See APPENDIX II).
- (b) The individual has been convicted of a serious or violent felony according to a criminal background check or documentation provided to the law enforcement official by a federal agency. (See APPENDIX I and II).
- (c) Individuals that have any conviction or prior conviction for which the person is required to register as a sex offender pursuant to PC 290 or is currently registered on the California Sex and Arson Registry .
- (d) Other factors as set forth in California law. (See APPENDIX III).
- (e) California law requires the following rules and charges apply when determining qualification for SB54. If the convictions are when the arrestee was a juvenile, at the time he or she committed the offense, the arrestee does not qualify for SB54 unless the following criteria is met:
- a. The juvenile was 16 years of age or older at the time he or she committed the prior offense.
  - b. The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code. (See APPENDIX IV).

**DEFINITIONS**

- (1) Civil immigration warrant: means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.
- (2) Conviction: shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.

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- (3) Eligible for Release from Criminal Custody: an inmate may be released from criminal custody because one of the following conditions has occurred:
- a. All criminal charges against the inmate have been dropped or dismissed.
  - b. The inmate has been acquitted of all criminal charges filed against him or her.
  - c. The inmate has served all the time required for his or her sentence.
  - d. The inmate has posted a bond.
  - e. The inmate is otherwise eligible for release under state or local law, or local policy.
- (4) 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.
- (5) Local Agency: any city, county, city and county, special district, or other political subdivision of the state.
- (6) No Bail Hold: indicates an inmate has an SB 54 exception due to prior conviction or that a judge has determined the inmate will be held to answer or becomes convicted on current SB 54 exception charges.
- (7) Zero Bail Hold: indicates an inmate has SB 54 exception charges pending while waiting for a judge to determine if the inmate will be held to answer. (Preliminary Hearing)
- (8) Hold Request, Notification Request, and Transfer Request: have the same meanings as provided in Section 7283 of the Government Code.
- (9) Hold Request: means a federal Immigration and Customs Enforcement (ICE) request that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to ICE and includes, but is not limited to, Department of Homeland Security (DHS) Form I-247D.
- a. Notification Request: means an Immigration and Customs Enforcement request that a local law enforcement agency inform ICE of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N.
  - b. Transfer Request: means an Immigration and Customs Enforcement request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X.

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c. Hold, Notification, and Transfer Requests: include requests issued by the United States Immigration and Customs Enforcement or the United States Customs and Border Protection as well as any other immigration authorities.

(10)Joint Law Enforcement Task Force: means at least one California law enforcement agency collaborating, engaging, or partnering with at least one federal law enforcement agency in investigating federal or state crimes.

(11)Immigration Enforcement: includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.

(12)Judicial Warrant: means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

(13)Judicial Probable Cause Determination: means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.

## PROCEDURE

Members of the department shall not restrict access to any educational or rehabilitative programming or credit-earning opportunity on the sole basis of citizenship or immigration status to include, but not limited to:

- (a) Whether the person is in removal proceedings; or
- (b) Immigration authorities have issued a hold request, transfer request, notification request or civil immigration warrant against the individual.

Members of the department shall not consider citizenship and immigration status as a factor in determining a person's custodial classification level to include, but not limited to:

- (a) whether the person is in removal proceedings; or
- (b) Immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

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Release of information:

All Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE) inquiries will be subject to guidelines outlined in California law. To ensure uniform compliance with these laws, all DHS and ICE inquiries will be directed to the on duty shift sergeant. The shift sergeant will ensure the criteria specified in the California Values Act are met prior to disclosing information to DHS or ICE agents.

Receipt of a DHS, Voluntary Notification of Release of Suspected Priority Alien (Form I-247N), or Immigration Detainer Notice of Action (Form I-247A), provided by federal authorities, shall be treated as a request to inform DHS/ICE when a person is imminently going to be released from custody. Such information may be provided to federal authorities if made available to the public on the department's web page and/or as public information. If the information has not been made publically available, the information may only be released to federal authorities if it complies with the California Values Act, which requires a conviction for the crimes and under the criteria set forth in Appendices I, II, III and IV.

Inmate release date information may be provided if that information is available to the public. Responding to requests for notifications or providing other information may be provided including, but not limited to:

- (a) Cases in which the individual has been convicted of a felony punishable by imprisonment in state prison.
- (b) Conviction of a serious or violent felony as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code.
- (c) In cases in which the individual is arrested and taken before a magistrate on a charge involving a serious or violent felony, as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code.
- (d) The magistrate makes a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code and the remaining factors set forth in Appendix III.

Requested information cannot be provided to DHS/ICE except as in compliance with this policy. Information cannot be provided to DHS/ICE for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code, unless that information has been made available on the department's web page and or as public information.

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**Release of Inmate:**

An inmate shall not be held in custody after the inmate has become eligible for release solely on the basis of an immigration hold:

- (a) The inmate shall not be held past their release date: including but not limited to, early, calculated, or forecasted release date.
- (b) The inmate shall not be held longer than the reasonable amount of time necessary to prepare release documents, consistent with any other inmate release.
- (c) A federal agency may be notified of the pending release.

The Stanislaus County Sheriff's Department shall prepare a report which shall be sent annually to the Department of Justice, in a manner specified by the Attorney General, listing the number of transfers of inmates to federal custody. The report shall specify the offense that allowed for the transfer, in accordance with the criteria set forth herein.

**Public Records:**

Records relating to federal agency access include, but are not limited to:

- (a) Data maintained by the department regarding the number and demographic characteristics of individuals to whom the department has provided federal agency access.
- (b) The date access was provided.
- (c) Whether access was provided through a hold, transfer, or notification request or through other means.

To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

**Reporting Instructions for Values Act (Form BCIIS-SB54-2):**

The law requires that all law enforcement agencies are required to report statistics on all individuals transferred to federal authorities. All law enforcement agencies are required to report the following information:

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- (a) Date: the date the reporting form was submitted.
- (b) Submitting Agency ORI and Name: provide the ORI and name of the agency.
- (c) Number of Transfers by Offense Code: indicate the number of transfers to federal authorities by offense code that allowed for the transfer. This is a summary count by offense, not individual records.
  - a. For example, if two individuals were arrested for arson and were subsequently transferred to ICE for immigration enforcement purposes, the agency should report 2 for the total number of transfers and Penal Code section 451, subdivision (a) for the code section. This is not limited to transfers made in response to transfer requests, as that term is defined in Government Code Section 7283.
- (d) Contact Information: indicate the name, phone number and email of the person completing the form.

Placing a DHS/ICE Hold or Detainer:

Reference Appendices I, II, III and IV

If a federal agency requests that a hold be placed on an inmate, the legal clerk will:

- (a) Run a rap sheet using the CII#. If the rap comes back as %California Record Only,+this is the only rap that needs to be run. If it comes back as a %Multi-Source Record,+run a rap sheet using %108+III NCIC inquiry criminal history, using the FBI#. This rap will include all states.
- (b) Scan through the rap sheets to see if the inmate has ever been convicted of a violent or serious crime as defined in Section 1192.7(c) and Section 667.5(c) of the Penal Code; a conviction in which the inmate is required to register as a sex or arson offender; or any prior conviction of a misdemeanor as specified in the Adult Detention Policy & Procedure Manual Chapter 2, Section 2-04.05 Pre-Trial Release, within the last five years that meet the criteria or any felony conviction that meets the criteria listed in this policy.
- (c) If the inmate does meet SB 54 requirements due to a prior conviction, place a no bail ICE hold and make a notation in the memo section of the DA Charge Screen as to why the hold is being placed.
- (d) If the inmate has no prior convictions that meet SB 54 requirements, but is currently arrested on a



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serious or violent charge as defined in section 1192.7(c) or section 667.5(c) of the Penal Code, place the ICE hold with a zero bail amount and make a notation in the memo section on the DA Charge Screen as to why the hold is being placed.

- (e) After a Judge determines the inmate will be held to answer on new eligible charges, the court clerk will change the zero bail ICE hold to a no bail hold.
- (f) If the inmate has no prior convictions or current charges that meet SB 54 requirements, the ICE detainer will not be added and no hold will be placed. Place the ICE detainer in the Clerical Manager's mailbox.
- (g) Complete an ICE Notification Form for each inmate when it has been determined the hold will be placed as no bail or zero bail. Then fax the ICE Notification Form to ICE at (209)547-3762 and place the original ICE Notification Form in the inmate's pouch.
- (h) If the inmate has a no bail hold due to a prior conviction or SB 54 requirements, the inmate will be allowed to bail on the current charges only. The bail bondsman shall be notified that the inmate has an ICE detainer in accordance with Adult Detention Policy & Procedure Section 2-04.11. Federal authorities will be notified immediately. The inmate shall not be held longer than the reasonable amount of time necessary to prepare release documents, consistent with any other inmate being released on bail.

**Court Proceedings:**

- (a) If the inmate has a no bail ICE hold placed due to a prior conviction, and the current charges are dismissed or the inmate is released on own recognizance, time served, etc., federal authorities will be notified immediately. The inmate shall not be held longer than the reasonable amount of time necessary to prepare release documents, consistent with any other inmate release.
- (b) If the inmate has a zero bail ICE hold due to current SB 54 requirements and is convicted on these charges or has been held to answer by a judge, the zero bail will be changed to a no bail ICE hold and a notation will be made on the DA Screen by the court clerk as to why the ICE hold bail amount has changed.
- (c) If the inmate has a zero bail ICE hold due to current SB 54 requirements only and the charges are dropped (discharged, dismissed, released OR), the ICE hold will be dropped and the inmate will be released in accordance with current release procedures.
- (d) If the inmate has a no bail ICE hold due to current SB 54 requirements only and these charges are dropped (discharged or dismissed), the ICE hold will be dropped and the inmate will be

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released in accordance with current release procedures.

- (e) If the inmate has a no bail ICE hold due to current SB 54 requirements only and the inmate is released on own recognizance or bails out, the ICE hold will remain and federal authorities will be notified immediately. The inmate shall not be held longer than the reasonable amount of time necessary to prepare release documents, consistent with any other inmate release.

**Notification Requests:**

Providing information regarding a person's release date or responding to notification requests from federal authorities, by providing an individual's release date or other information is permitted only if:

- (a) The information is available to the public; or
- (b) The individual is subject to:
  - a. The qualifying conditions in the TRUST Act, Government Code section 7282.5, subdivision (a) described above with respect to transfer requests; or
  - b. The individual has been arrested and taken before a magistrate judge on the following types of charges, and the magistrate makes a probable cause determination for the charge: a serious or violent felony or a felony that is punishable by imprisonment in state prison. (See APPENDIX I and II).

A conviction for a straight misdemeanor, i.e., a crime that is presently punishable only as a misdemeanor, is not listed in section 7285, subdivision (a), and therefore is not a valid justification for honoring a transfer or notification request. Misdemeanor convictions for crimes affected by Proposition 47 (2014), the Safe Neighborhoods and Schools Act, including felony convictions that were reduced to misdemeanors or re-designated as misdemeanors by a court as a result of Proposition 47, cannot serve as the basis for transfers or providing release date information to immigration authorities. The crimes affected by Proposition 47 include, but are not limited to: simple drug possession for personal use, shoplifting, and forgery, writing a bad check, petty theft and receiving stolen property.

Before honoring a transfer or notification request on the basis of a qualifying conviction carefully review the individual's record of arrests and prosecutions to determine whether a listed felony conviction was reduced to a misdemeanor, or re-designated as a misdemeanor, by a court under Proposition 47. If so, cooperation with federal authorities is prohibited unless there is another valid basis for cooperation (for transfers, a judicial warrant; for notifications, only if the information is publicly available).

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- (c) Federal authorities request notification as soon as possible when an inmate is ready for pick-up or has an expected release date. Notification is to be made by fax.
- (d) Upon sentencing, a copy of the detainer will be faxed to federal authorities with the inmates release date and last day for pick-up information.

Inmate Ready for Pick-up by federal authorities:

In order to provide adequate time for federal authorities to pick-up inmates on their detainers; sentenced inmates may be released to federal authorities up to 1 year or 365 days prior to their release date.

Hold dropped by federal authorities:

Should federal authorities desire to drop their hold; they may do so and will advise our agency by fax.

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**APPENDICES:**

APPENDIX I . 1192.7(c) PC SERIOUS FELONIES:

- (1) Murder or voluntary manslaughter;
- (2) Mayhem;
- (3) Rape;
- (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
- (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
- (6) Lewd or lascivious act on a child under 14 years of age;
- (7) Any felony punishable by death or imprisonment in the state prison for life;
- (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm;
- (9) Attempted murder;
- (10) Assault with intent to commit rape or robbery;
- (11) Assault with a deadly weapon or instrument on a peace officer;
- (12) Assault by a life prisoner on a non-inmate;
- (13) Assault with a deadly weapon by an inmate;
- (14) Arson;
- (15) Exploding a destructive device or any explosive with intent to injure;
- (16) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;
- (17) Exploding a destructive device or any explosive with intent to murder;
- (18) Any burglary of the first degree;
- (19) Robbery or bank robbery;
- (20) Kidnapping;
- (21) Holding of a hostage by a person confined in a state prison;
- (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life;
- (23) Any felony in which the defendant personally used a dangerous or deadly weapon;
- (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (I) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code;
- (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person;
- (26) Grand theft involving a firearm;
- (27) Carjacking;

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- (28) Any felony offense, which would also constitute a felony violation of Section 186.22;
- (29) Assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220;
- (30) Throwing acid or flammable substances, in violation of Section 244;
- (31) Assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245;
- (32) Assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Section 245.2, 245.3, or 245.5;
- (33) Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246;
- (34) Commission of rape or sexual penetration in concert with another person, in violation of Section 264.1;
- (35) Continuous sexual abuse of a child, in violation of Section 288.5;
- (36) Shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100;
- (37) Intimidation of victims or witnesses, in violation of Section 136.1;
- (38) Criminal threats, in violation of Section 422;
- (39) Any attempt to commit a crime listed in this subdivision other than an assault;
- (40) Any violation of Section 12022.53;
- (41) A violation of subdivision (b) or (c) of Section 11418; and
- (42) Any conspiracy to commit an offense described in this subdivision.

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APPENDIX II . 667.5(c) PC VIOLENT FELONIES:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) Violation of subdivision (b) or (c) of Section 11418, legislature finds and declares these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

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APPENDIX III . CONVICTION CRITERIA FOR PROVISIONS OF NON-PUBLICALLY AVAILABLE INFORMATION TO DHS/ICS OFFICIALS AND TRANSFER OF CUSTODY TO DHS/ICE OFFICIALS:

- (1) The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code. See Appendices I and II above.
- (2) The individual has been convicted of a felony punishable by imprisonment in the state prison.
- (3) The individual has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony for, or has been convicted within the last 15 years of a felony for, any of the following offenses:
  - (A) Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.
  - (B) Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.
  - (C) Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.
  - (D) Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.
  - (E) Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.
  - (F) Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.
  - (G) Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.
  - (H) Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.
  - (I) Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

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- (J) Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.
- (K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.
- (L) Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).
- (M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.
- (N) Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.
- (O) Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.
- (P) An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.
- (Q) A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.
- (R) Possession or use of a firearm in the commission of an offense.
- (S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.
- (T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.
- (U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.



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- (V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.
- (W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.
- (X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.
- (Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.
- (Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.
- (AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.
- (BB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.
- (CC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs(2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.
- (DD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code. (AE) A violation of subdivision (c) of Section 20001 of the Vehicle Code.
- (4) The individual is a current registrant on the California Sex and Arson Registry.
- (5) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

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APPENDIX IV . 707(b) W&I JUVENILE QUALIFYING CHARGES:

- (1) Murder.
- (2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.
- (3) Robbery.
- (4) Rape with force, violence, or threat of great bodily harm.
- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.
- (7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (8) An offense specified in subdivision (a) of Section 289 of the Penal Code.
- (9) Kidnapping for ransom.
- (10) Kidnapping for purposes of robbery.
- (11) Kidnapping with bodily harm.
- (12) Attempted murder.
- (13) Assault with a firearm or destructive device.
- (14) Assault by any means of force likely to produce great bodily injury.
- (15) Discharge of a firearm into an inhabited or occupied building.
- (16) An offense described in Section 1203.09 of the Penal Code.
- (17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.
- (18) A felony offense in which the minor personally used a weapon described in any provision listed in Section 16590 of the Penal Code.
- (19) A felony offense described in Section 136.1 or 137 of the Penal Code.
- (20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.
- (21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.
- (22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.
- (23) Torture as described in Sections 206 and 206.1 of the Penal Code.

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(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 26100 of the Penal Code.

(29) The offense described in Section 18745 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code. (Amended November 8, 2016, by initiative Proposition 57, Sec. 4.2 Note: This section was amended on March 7, 2000, by initiative Prop. 21.)

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<b>SECTION:</b> ICE Hold Notification (TRUTH ACT)	<b>REVISION DATE:</b> 05/28/19
<b>RELATED ORDERS:</b> AB: 2792 H&S: 128552(d) GOV: 7283, 7283.1, 7283.2 SCSO Policy Manual: 428	<b>ADMINISTRATIVELY APPROVED ANNUALLY</b>

**PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance to members of the Stanislaus County Sheriff's Department regarding notification to arrestees of Immigration and Customs Enforcement (ICE) holds, interview requests and any required notifications to federal authorities.

**POLICY**

The law provides individuals who are in the custody of local law enforcement agencies with information about their procedural and legal rights should a federal agencies wish to contact them.

All records relating to immigration holds on all individuals held in Stanislaus County detention facilities shall be made available for California Public Records Act requests, including all communication with immigration and customs enforcement authorities.

- (a) The law explicitly provides that personal identifying information may be redacted prior to public disclosure as provided under the California Public Records Act.
- (b) When responding to such requests, law enforcement agencies should therefore keep in mind California's privacy laws and all applicable exemptions under the California Public Records Act that protect such personal information from disclosure.
- (c) This information shall include, but not be limited to:
  - a. The data maintained by the detention facility regarding the number and demographic characteristics of the individuals who had an immigration hold placed and when immigration authorities were provided access to these records (personal identifying information may be excluded).
  - b. The date federal authorities were provided access to the individual's record.
  - c. The date federal authorities were notified that the individual was ready for release and the manner in which the federal agency was notified of this information.
    - i. Our notifications consist of faxing all information regarding the holds being placed and when individuals are ready for release to federal authorities.

The law requires that all forms discussed in this policy are made available in Korean, Spanish, Tagalog, Chinese, and Vietnamese.

**DEFINITIONS**

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(1) Truth Act-Form 1 - Immigration and Customs Enforcement Request to Interview

- a. Before any interview between federal authorities and an individual in-custody takes place; law requires that the Sheriff's Department provide a written consent form (Form 1) advising the individual that federal authorities wish to interview them. The form must include the options to be interviewed, decline the interview, or agree to interview only with their attorney present.
  - i. The purpose of the interview;
  - ii. That the interview is voluntary; and
  - iii. That the individual may decline the interview or may choose to be interviewed with only their attorney present.

(2) Truth Act-Form 2 - Immigration and Customs Enforcement Request

- a. Anytime the Sheriff's Department receives any immigration hold, notification, or transfer request:
  - i. Provide a copy of the request (immigration detainer) to the named individual.
  - ii. Inform the individual whether the Sheriff's Department intends to comply with the request or not. However, with respect to ICE hold requests, we may not hold an individual past the time that he or she normally would be released.
  - iii. That individual shall also be provided with an Immigration and Customs Enforcement Request Form (Form 2).

(3) Truth Act-Form 3 - Immigration and Customs Enforcement Notified of Your Release

- a. At any time an individual has a no bail immigration hold, due to qualifying charges or convictions and the individual is given a release date for any reason, federal authorities are to be notified of the release date. The Sheriff's Department will provide the same information to the affected individual and their attorney or one additional person designated by the individual (Form 3).

**PROCEDURE**

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To complete Truth Act-Form 1 follow the steps below:

This form is located in Receiving and Release (R & R) at the Sheriff's Detention Center.

- (a) Form 1 shall be provided to the individual in the appropriate language.
  - a. The individual will write his or her name, booking number, sign the form and mark one of the three boxes. If the individual declines, no interview will take place.
  - b. The bottom of the form will then be signed and dated by staff.
  - c. If the individual agrees to speak to federal authorities or wants his or her attorney present, the legal clerk will notify the federal agency. If the attorney is required to be present, the individual must list the attorney's name and contact information on the form. Federal authorities are responsible for coordinating the attorney's presence at the interview.
    - i. Interviews are to be conducted in interview rooms or non-contact visiting booths.
  - d. A copy of the completed form will be given to the inmate and the original will be distributed accordingly.
  - e. A new form must be completed for each interview request.

To complete Truth Act-Form 2 follow the steps below:

This form is located in Receiving and Release (R & R) at the Sheriff's Detention Center.

- (a) Form 2 shall be provided to the individual in the appropriate language.
  - a. The legal clerk will enter the hold request.
  - b. Mark  to notify Immigration and Customs Enforcement of your release date; and/or
  - c. Mark  to request for transfer to immigration detention;
  - d. Check the appropriate blank indicating if we  do or  do not intend to comply with the request from federal authorities.

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- e. Write the name of the inmate and cell location if already housed in a unit.
- f. Have the individual list the attorney's name and contact information on the form.
- g. Sign the form and list your identification number to indicate you have served the form.
  - i. If the individual is in booking, the clerk will serve the notice and sign it. If the individual is housed in a unit, the form will be given to a deputy to serve and sign.
- h. Once the individual has completed this form, a copy will be made and given to the individual. The original will be distributed accordingly.

To complete Truth Act form 3 follow the steps below:

This form is located in Receiving and Release (R & R) at the Sheriff's Detention Center.

- (a) Form 3 shall be provided to the individual in the appropriate language:
  - a. Date, inmate's name, the date and time federal authorities were notified, the date of the inmate's calculated release date and time, which will be unknown (UK). If an attorney or designee was provided, the box will be marked and the name and email for this person will be listed.
  - b. Sign and list your identification number.
  - c. Make a copy and send to the inmate; forward a copy to the attorney or designee and distribute the original accordingly.

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<b>CHAPTER 2:</b> Receiving & Release, Classification, & Jail Alternatives	<b>ISSUE DATE:</b> 06/08/11
<b>SECTION:</b> Bail Bondsman Notice for an Inmate with an ICE Detainer . Hold	<b>REVISION DATE:</b> 07/01/19
<b>RELATED ORDERS:</b> PC: 1269	<b>ADMINISTRATIVELY APPROVED ANNUALLY</b>

## PURPOSE AND SCOPE

This policy establishes procedures which provide bail bondsmen with written notice in regards to posting a bail bond for an inmate who has a current Immigration and Customs Enforcement (ICE) detainer or hold. Stanislaus County Counsel or the Stanislaus County District Attorney's Office may likely use this proof of service notice in subsequent court proceedings.

## POLICY

If a bondsman makes an inquiry regarding the bail amount for an inmate with a no bail immigration detainer or hold; custodial personnel will immediately advise the bondsmen of the inmate's status regarding the immigration hold or detainer.

- (a) If after being advised the bondsman persists, demanding to post a bond for local charges only; custodial personnel will give the bondsman a Bondsman ICE Notice Form and instruct the bondsman to complete the form.
  - a. The Bondsman ICE Notice form is available at the following location: G: Custodial/AD Forms/R&R Forms/Bail Bond Documents/Bondsman ICE Notice
  - b. After the bondsman completes the form; keep the original in the inmate's booking pouch for use in any subsequent legal proceedings. Send a copy of the completed notice to the District Attorney's Office.
- (b) The Bondsman ICE Notice Form shall serve as official notice to the bail bondsman.
- (c) When a bail bond is accepted for local charges, for an inmate with a no bail detainer or hold; ICE should be notified for immediate pick-up of the inmate. The inmate shall not be held longer than the reasonable amount of time necessary to prepare release documents, consistent with any other inmate being released on bail.

## DEFINITIONS

## PROCEDURE

If the bail bondsman refuses to complete and sign the notice form:

- (a) Read the notice form to the bondsman.
  - a. Complete the section on the bottom of the form.



<b>Stanislaus County Sheriff's Department</b> <b>Policy &amp; Procedure Manual - Adult Detention Division</b>	<b>2-04.11 GDP</b>
<b>CHAPTER 2:</b> Receiving & Release, Classification, & Jail Alternatives	<b>ISSUE DATE:</b> 06/08/11
<b>SECTION:</b> Bail Bondsman Notice for an Inmate with an ICE Detainer . Hold	<b>REVISION DATE:</b> 07/01/19
<b>RELATED ORDERS:</b> PC: 1269	<b>ADMINISTRATIVELY APPROVED  ANNUALLY</b>

- b. Sign on the witness line and place the date and time in the appropriate spaces.
- c. Make a copy of the notice with your notation and give it to the bondsman.
- d. Place the original in the inmate's booking pouch.
- e. Send a copy of the completed notice to the District Attorney's Office.