



# Immigration and Customs Enforcement (ICE)

## Secure Communities (SC)

## Standard Operating Procedures (SOP)

**Distributed for adoption by participating county and local  
law enforcement agencies**

**Table of Contents**

**1.0 INTRODUCTION** ..... 3

**2.0 STANDARD OPERATING PROCEDURES** ..... 3

**2.1 The Secure Communities Process** ..... 3

2.1.1 Local LEA submits fingerprints to the FBI CJIS Division through their SIB ..... 4

2.1.2 National Fingerprint File (NFF) ..... 4

2.1.3 FBI CJIS Division returns IAFIS search results on fingerprint submissions ..... 4

2.1.4 FBI CJIS Division returns a second response to the SIB ..... 4

2.1.5 ICE issues Immigration Detainer ..... 5

**2.2 Requested Local LEA Cooperative Actions** ..... 6

2.2.1 Abide by Immigration Detainer conditions ..... 6

2.2.2 Place detainer in subject’s file/record ..... 6

2.2.3 Inform ICE if subject is transferred or released ..... 6

2.2.4 Allow access to detainees ..... 6

2.2.5 Assist ICE in acquiring information about detainees ..... 6

2.2.6 Process IDR/IARs according to FBI CJIS and US-VISIT policy ..... 6

2.2.7 If authorized, discontinue automated IAQ transmissions ..... 6

2.2.8 Outreach to Community ..... 6

**3.0 SECURE COMMUNITIES IDENTIFICATION PROCESS** ..... 7

**3.1 Fingerprint Submission and Response Details** ..... 7

3.1.1 Preferred method for submitting fingerprints by the local LEA ..... 7

3.1.2 FBI CJIS receives fingerprints and sends a copy to DHS US-VISIT ..... 7

3.1.3 Fingerprints are searched against the FBI IAFIS and the DHS IDENT fingerprint system ..... 7

3.1.4 IAFIS and IDENT search results are processed ..... 7

3.1.5 LESC receives IAQ and conducts a status determination ..... 7

3.1.6 LESC sends an IAR to FBI CJIS Division and the ICE Detention and Removal Operations (DRO) Field Office ..... 7

3.1.7 ICE DRO Field Office issues Detainer (Form I-247) ..... 7

**3.2 ICE Actions upon Receipt of IAR** ..... 8

3.2.1 Determine subject’s alienage and removability ..... 8

3.2.2 Interview subject (if necessary) ..... 8

3.2.3 Issue detainer if subject is charged with a Level 1 offense ..... 8

3.2.4 Take custody of subject ..... 8

3.2.5 Removal of subject with pending charges ..... 8

**4.0 APPENDIX A Secure Communities Levels and Offense Categories by NCIC Code** ..... 9

**5.0 APPENDIX B Acronyms and Abbreviations** ..... 10

**6.0 APPENDIX C Sample Immigration Detainer, Form I-247** ..... 11

## 1.0 INTRODUCTION

The Secure Communities (SC) initiative makes the removal of aliens convicted of serious criminal offenses from the United States a priority. The SC initiative's three main objectives are: (1) identify aliens in federal, state, and local custody charged with or convicted of serious criminal offenses who are subject to removal and at large aliens convicted of a serious criminal offense who are subject to removal; (2) prioritize enforcement actions to ensure apprehension and removal of aliens convicted of serious criminal offenses; and (3) transform criminal alien enforcement processes and systems to achieve lasting results.

The premise behind SC technology is biometric interoperability between the Department of Justice (DOJ) Federal Bureau of Investigation's (FBI) Criminal Justice Information Services Division (CJIS) Integrated Automated Fingerprint Identification System (IAFIS) and the Department of Homeland Security's (DHS) United States Visitor and Immigrant Status Indicator Technology's (US-VISIT) Automated Biometric Identification System (IDENT). The IDENT/IAFIS Interoperability interface connects the FBI fingerprint system housed in the FBI's CJIS Division with a DHS fingerprint system maintained by the US-VISIT program. Through IDENT/IAFIS Interoperability, a single query by a participating local law enforcement agency (LEA) checks both systems and confirms the identity and immigration status of a subject being processed during incarceration booking.

This Standard Operating Procedures (SOP) document details SC processes that enable response messages to be routed to the FBI CJIS Division and individual State Identification Bureaus (SIBs). The SOP also documents ICE's roles and responsibilities as an SC partner.

Participation in SC at the state level is predicated on a Memorandum of Agreement (MOA), signed by ICE and the participating SIB or other state authorized agency. SC is separate from the ICE 287(g) program and, as such, participation in SC will not adversely affect local agency participation in ICE 287(g) activities.<sup>1</sup>

Use of IDENT/IAFIS for the purposes of racial and/or ethnic profiling or other activity in violation of the Fourth Amendment of the United States Constitution is not permitted and may result in the suspension of the local jurisdiction engaged in the improper activity. ICE reserves the right to take appropriate remedial action if necessary.

## 2.0 STANDARD OPERATING PROCEDURES

### 2.1 The Secure Communities Process

The SC process leverages existing FBI CJIS Division business practices to identify aliens convicted of a serious criminal offense. At the time of each booking, participating LEAs submit fingerprints to their SIB. The SIB electronically transmits the fingerprints to the FBI CJIS Division. However, National Fingerprint File (NFF) states send fingerprints to the FBI CJIS Division only at the time of the subject's initial arrest. Thereafter, criminal bookings occurring subsequent to an initial arrest in NFF states result in transmission of a Criminal Print IDENT (CPI) file maintenance message to the FBI CJIS Division. The following sub-

---

<sup>1</sup> If future clarification becomes necessary, SC may make enhancements to this SOP.

sections of the SOP describe the process used to confirm the identities of aliens convicted of a serious criminal offense who are subject to removal.

**2.1.1 Local LEA submits fingerprints to the FBI CJIS Division through their SIB:**

As appropriate, the local LEA will submit a Criminal Ten-Print Submission (Answer Required) (CAR) transaction, in accordance with FBI CJIS Division procedures, to its SIB. SIB will electronically send the fingerprints to the FBI CJIS Division. FBI CJIS' receipt of the CAR will initiate both IAFIS and IDENT searches. There is no change in IAFIS processing.

**2.1.2 National Fingerprint File (NFF):** The FBI maintains only one criminal fingerprint card per individual per NFF state in which there has been an arrest. Subsequent arrest fingerprint cards from a state where the individual was previously arrested are retained at the state level. When there is a subsequent arrest of a subject in an NFF state, rather than forwarding a CAR, SIB will send a CPI file maintenance message to FBI CJIS. FBI CJIS' receipt of the CPI file maintenance message will initiate an IDENT.

**2.1.2.1** The process for an initial arrest in an NFF state is described in 2.1.1 above.

**2.1.2.2** The process for the CPI message is as follows:

- FBI CJIS receives CPI notification via National Crime Information Center (NCIC)/Interstate Identification Index (III). The CPI message contains the instant charge(s) for which the subject is being booked
- FBI CJIS utilizes the FBI number included in the CPI message to retrieve fingerprint images from the master record
- FBI CJIS forwards the fingerprint images to the IDENT repository

**2.1.3 FBI CJIS Division returns IAFIS search results on fingerprint submissions:**

SC's IDENT/IAFIS Interoperability component will not interfere with the current processes used by FBI CJIS to return IAFIS' Submissions Results-Electronic (SRE) responses to the requesting state. The originating local LEA will continue to receive FBI IAFIS responses to fingerprint submissions through its SIB.

**2.1.4 FBI CJIS Division returns a second response to the SIB:**

If there is a positive fingerprint match in IDENT, FBI CJIS will send an automatic Immigration Alien Query (IAQ) to the ICE Law Enforcement Support Center (LESC). LESL then makes an immigration status determination on the subject and simultaneously sends that status determination, known as an Immigration Alien Response (IAR), to FBI CJIS Division and to the ICE Field Office responsible for the contributing LEA. FBI CJIS will then return the IAR, along with an IDENT Data Response (IDR), to the SIB via the CJIS Wide Area Network (WAN) using the same channel as the current IAFIS SRE. This response is known as the "match IDR/IAR" message. If the state employs message routing, the SIB will route this additional message to the local LEA.

The first portion of the match IDR/IAR message contains biographic information on up to five DHS encounters with that individual, and may include: full name, date of birth (DOB), place of birth (POB), gender, system record locator, and photograph (if

available). The second portion of the IDR/IAR message is the IAR. The IAR is the LESC status determination regarding the subject's alienage as well as the subject's possible removability.

If there has been a fingerprint match, and the state has implemented message routing to local LEAs, and IDR/IAR message will be sent to the SIB within four hours of FBI CJIS receiving the subject's fingerprints. If there is no fingerprint match, no IAQ is generated by the FBI CJIS Division, and if the state has implemented message routing, a no match IFR will automatically be sent to the originating local LEA through the SIB within 24 hours of the fingerprint submission.

Initial CAR transactions from NFF states will receive an additional SRE from FBI CJIS through the same channel as the current IAFIS SRE. If there is a match, the SRE will consist of the joint IDR/IAR. If there is no match, the SRE will consist of a "no match" IDR. **Note:** NFF states will also receive an additional SRE response to CPI messages. Ordinarily, CPI messages submitted by NFF states would not result in an SRE from the FBI CJIS Division.

### **2.1.5 ICE issues Immigration Detainer:**

For SC purposes, Level 1 offenses include the following state or federal crimes: national security violations, homicide, kidnapping, sexual assault, robbery, aggravated assault, threats of bodily harm, extortion or threat to injure a person, sex offenses, cruelty toward child or spouse, resisting an officer, weapons violations, hit and run involving injury or death, and drug offenses involving a sentencing to a term of imprisonment greater than one year. Level 2 offenses are primarily property crimes and Level 3 offenses are other crimes, primarily misdemeanors. Offenses that comprise Levels 1, 2 and 3 are included in Appendix A.

When ICE determines an alien has been charged or convicted of a Level 1 offense that could result in removal, or when an alien who is already subject to removal is charged with a Level 1 offense, ICE will file an Immigration Detainer (Form I-247) at the time of booking with the local LEA that has custody of the alien. Appendix C contains a sample Form I-247. ICE recognizes the arrested alien may be released before the detainer is issued. In such instances, ICE may request the local LEA's provide information on the alien's identification and location.

## **2.2 Requested Local LEA Cooperative Actions**

The local LEAs cooperation is vital to completing the processes of identifying, detaining and removing aliens convicted of serious criminal offenses. The LEAs cooperative actions will help ensure the identification, detention and removal process is effective and efficient. ICE requests that the LEAs:

### **2.2.1 Abide by Immigration Detainer conditions:**

The local LEA will abide by the conditions stated in the Immigration Detainer, Form I-247.

### **2.2.2 Place detainer in subject's file/record:**

The local LEA will ensure the detainer is placed in the alien's file/record.

### **2.2.3 Inform ICE if subject is transferred or released:**

The local LEA will notify ICE when an alien's release or transfer to another location is imminent. This notification should occur thirty days in advance of any release or transfer, or as soon as known, if less than thirty days.

### **2.2.4 Allow access to detainees:**

The local LEA will allow ICE Agents and Officers access to detainees to conduct interviews and serve documents.

### **2.2.5 Assist ICE in acquiring information about detainees:**

The local LEA will locate and identify the booking and/or detention information on any alien against whom ICE has lodged a detainer.

### **2.2.6 Process IDR/IARs according to FBI CJIS and US-VISIT policy:**

The local LEA will comply with FBI CJIS and US-VISIT rules and regulations when processing IDR/IAR message transmissions.

### **2.2.7 If authorized, discontinue automated IAQ transmissions:**

In some jurisdictions, an automated IAQ message is transmitted to LESC when a subject's POB is entered as "unknown" or "other than United States" during the booking process. Where the local LEA has the authority and discretion to do so, upon deployment of IDENT-IAFIS Interoperability, the local LEA will discontinue such automated IAQ processing. IDENT-IAFIS Interoperability automatically performs a function similar to the automated process, making blind booking an unnecessary duplication. However, if a "no match" IDR is received, the LEA has the option of initiating a name-based query to the LESC through the National Law Enforcement Telecommunications System (NLETS).

### **2.2.8 Outreach to Community:**

Participating LEAs are encouraged to include SC in community policing and other citizen outreach activities. Where possible, LEAs, in coordination with the local ICE DRO office, are encouraged to explain this initiative to civic and other non-governmental organizations through departmental engagement channels.

### 3.0 SECURE COMMUNITIES IDENTIFICATION PROCESS

#### **3.1 Fingerprint Submission and Response Details**

This section of the SOP describes the process ICE will use to confirm the identities of removable aliens who have been charged with, or convicted of, serious criminal offenses.

##### **3.1.1 Preferred method for submitting fingerprints by the local LEA:**

Fingerprints from the LEA are electronically submitted to IAFIS. This fingerprint submission should occur at the earliest possible point in the booking process.

##### **3.1.2 FBI CJIS receives fingerprints and sends a copy to DHS US-VISIT:**

When FBI CJIS receives fingerprints submitted by the local LEA, and a copy is automatically forwarded to US-VISIT. CAR and CPI file maintenance messages will be forwarded to US-VISIT for fingerprint searches in IDENT.

##### **3.1.3 Fingerprints are searched against the FBI IAFIS and the DHS IDENT fingerprint systems:**

Fingerprints are simultaneously searched against IAFIS and IDENT fingerprint repositories. The process for routing IAFIS fingerprint submissions and responses remains unchanged, and the same process will continue under SC.

##### **3.1.4 IAFIS and IDENT search results are processed:**

If there is a positive fingerprint match in IDENT, FBI CJIS generates an IAQ that is sent to the LESC. In states where the SIB has implemented message routing to local LEAs, a “no match” in IDENT will result in FBI CJIS sending of a “No Match” IDR message to the originating local LEA through its SIB. No IAQ will be generated or sent to the LESC in the case of an IDENT “no match” response. Please refer to Section 2.2.7 to initiate an IAQ if a “no match” IDR response is received.

##### **3.1.5 LESC receives IAQ and conducts status determination:**

The LESC receives the IAQ from FBI CJIS and initiates an immigration check to determine both the alien’s immigration status and criminal history.

##### **3.1.6 LESC sends an IAR to FBI CJIS Division and the ICE Detention and Removal Operations (DRO) Field Office:**

LESC creates an IAR denoting the alien’s immigration status, criminal conviction history and pending criminal charges. In case of a fingerprint match in IDENT, within four hours of submitting fingerprints to IAFIS and IDENT, LESC returns the IAR to FBI CJIS. The LESC concurrently sends an IAR to the local ICE DRO Office.

##### **3.1.7 ICE DRO Field Office issues Detainer (Form I-247):**

Upon receipt of the IAR from the LESC, ICE will determine whether a detainer (Form I-247) should be lodged against the alien. If a detainer is determined to be appropriate, the ICE Field Office will lodge the detainer with the local LEA.

### **3.2 ICE Actions upon Receipt of IAR**

Actions described in this section are the steps ICE will take after a determination is made regarding the alien's immigration status and criminal charge.

#### **3.2.1 Determine subject's alienage and removability:**

ICE alone will determine the subject's alienage and removability. When necessary, ICE will interview the subject to determine or validate alienage, criminal history and removability.

#### **3.2.2 Interview subject (if necessary):**

Subject interviews may be conducted in person, telephonically, or through video teleconferencing (VTC).

#### **3.2.3 Issue detainer if subject is charged with a Level 1 offense:**

Once ICE determines the subject has previous serious criminal convictions, or is currently charged with a serious criminal offense considered to be a Level 1 offense and is removable, ICE will lodge an Immigration Detainer (Form I-247).

#### **3.2.4 Take custody of subject:**

In accordance with the language in the ICE Immigration Detainer (Form I-247), ICE will assume custody of the alien within 48 hours (not counting Saturdays, Sundays, or federal holidays) of notification of the subject's release. Upon taking an alien convicted of a serious criminal offense into custody, ICE will take immediate action to remove such aliens.

#### **3.2.5 Removal of subject with pending charges:**

Normally, ICE will not remove an alien until pending criminal charges are adjudicated. If ICE desires to remove an alien whose charges have not been adjudicated, ICE will make all efforts to inform the local LEA, the prosecutor and the court with jurisdiction over the criminal offense on the status of the subject's removal proceedings.



**4.0 APPENDIX A****Secure Communities Levels and Offense Categories by NCIC Code**

<b>Level 1 Crimes (NCIC Code)</b>	<b>Level 2 Crimes (NCIC Code)</b>	<b>Level 3 Crimes (NCIC Code)</b>
National Security* (0101-0199, 1602, 5204-5299)	Arson (2001-2099)	Military (0201, 0299)
Homicide (0901-0999)	Burglary (2201-2299)	Immigration (0301-0399)
Kidnapping (1001-1099)	Larceny (2301-2399)	Extortion (2102-2199)
Sexual Assault (1101-1199)	Stolen Vehicles (2401-2411, 2499)	Damage Property (2901-2903)
Robbery (1201-1299)	Forgery (2501-2599)	Family Offenses (3801, 3804-3899)
Aggravated Assault (1301-1399)	Fraud (2601-2699)	Gambling (3901-3999)
Threats (1601)	Embezzlement (2701-2799)	Commercialized Sex Offenses (4001-4099)
Extortion –Threat to Injure Person (2101)	Stolen Property (2801-2899)	Liquor (4101-4199)
Sex Offenses (3601-3699)	Damage Property w/Explosive (2904-2906)	Obstructing the Police (4802-4899)
Cruelty Toward Child, Wife (3802,3803)	Traffic Offenses (5402-5499)	Bribery (5101-5199)
Resisting an Officer (4801)	Smuggling (5801-5899)	Health and Safety (5501-5599)
Weapon (5201-5203)	Money Laundering (6300)	Civil Rights (5699)
Hit and Run (5401)	Property Crimes (7199)	Invasion of Privacy (5701-5799)
Drugs (Sentence >1 year)	Drugs (Sentence < 1 year)	Elections Laws (5999)
		Conservation (6201-6299)
		Public Order Crimes (7399)

\***National Security** violations include the NCIC coded offenses of Sabotage, Sedition, Espionage, and Treason (0101-0199); Terrorist Threats (1602); and Weapons, Arson/Incendiary Devices, and Bombing offenses (5204-5299).

**5.0 APPENDIX B****Acronyms and Abbreviations**

<b>Acronym/Abbreviation</b>	<b>Definition</b>
CAR	Criminal Answer Required
CJIS	Criminal Justice Information Services
CPI	Criminal Print Identification
DHS	Department of Homeland Security
DOJ	Department of Justice
DRO	Detention and Removal Operations
FBI	Federal Bureau of Investigation
IAFIS	Integrated Automated Fingerprint Identification System
IAQ	Immigration Alien Query
IAR	Immigration Alien Response
ICE	Immigration and Customs Enforcement
IDENT	US-VISIT Automated Biometric Identification System
IDR	IDENT Data Response
III	Interstate Identification Index
LEA	Law Enforcement Agency
LESC	Law Enforcement Support Center
MOA	Memorandum of Agreement
NCIC	National Crime Information Center
NLETS	National Law Enforcement Telecommunications System
SC	Secure Communities
SIB	State Identification Bureau
SOP	Standard Operating Procedures
SRE	Submission Results Electronic
US-VISIT	United States Visitor and Immigrant Status Indicator Technology

6.0 APPENDIX C

<b>U.S. Department of Homeland Security</b>		<b>Immigration Detainer – Notice of Action</b>	
		Subject ID :	
		Event No:	
		File No. A	
		Date: September 4, 2009	
TO: (Name and title of institution) <p style="text-align: center;"><b>JAIL</b></p>	From: (Office address) WASHINGTON, DC, (HQ) DOCKET CONTROL OFFICE DOCKET CONTROL OFFICE HEADQUARTERS 425 I STREET NW WASHINGTON, DC 20535		
Name of alien: _____			
Date of birth: _____ Nationality: _____ Sex: _____			
<b>You are advised that the action noted below has been taken by the U.S. Department of Homeland Security concerning the above-named inmate of your institution:</b>			
<input type="checkbox"/> Investigation has been initiated to determine whether this person is subject to removal from the United States.			
<input type="checkbox"/> A Notice to Appear or other charging document initiating removal proceedings, a copy of which is attached, was served on _____ (Date)			
<input type="checkbox"/> A warrant of arrest in removal proceedings, a copy of which is attached, was served on _____ (Date)			
<input type="checkbox"/> Deportation or removal from the United States has been ordered.			
<b>It is requested that you:</b>			
Please accept this notice as a detainer. This is for notification purposes only and does not limit your discretion in any decision affecting the offender's classification, work, and quarters assignments, or other treatment which he or she would otherwise receive.			
<input type="checkbox"/> Federal regulations (8 CFR 237.7) require that you detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sunday's and Federal holidays) to provide adequate time for DHS to assume custody of the alien. You may notify DHS by calling _____ during business hours or _____ after hours in an emergency.			
<input type="checkbox"/> Please complete and sign the bottom block of the duplicate of this form and return it to this office. <input type="checkbox"/> A self-addressed stamped envelope is enclosed for your convenience. <input type="checkbox"/> Please return a signed copy via facsimile to _____ (Area code and facsimile number)			
Return fax to the attention of _____ of _____ (Name of office handling case) (Area code and phone number)			
<input type="checkbox"/> Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.			
<input type="checkbox"/> Notify this office in the event of the inmate's death or transfer to another institution.			
<input type="checkbox"/> Please cancel the detainer previously placed by this Office on _____			
_____ (Signature of Immigration Officer)		_____ DETENTION AND DEPORTATION OFFICER (Title of Immigration Officer)	
<b>Receipt acknowledged:</b>			
Date of last conviction: _____ Latest conviction charge: _____			
Estimated release date: _____			
Signature and title of official: _____			

Form I-247 (Rev. 03/01/07)



Enforcement & Removal » Detention Reform (<http://www.ice.gov/detention-reform/>)

## ICE Detainers: Frequently Asked Questions



### Q: What is an immigration detainer?

A: An immigration detainer (Form I-247 (<http://www.ice.gov/doelibr/secure-communities/pdf/immigration-detainer-form.pdf>)) is a notice that DHS issues to federal, state and local law enforcement agencies (LEAs) to inform the LEA that ICE intends to assume custody of an individual in the LEA's custody.

An immigration detainer serves three key functions: 1) to notify an LEA that ICE intends to assume custody of an alien in the LEA's custody once the alien is no longer subject to the LEA's detention; 2) to request information from an LEA about an alien's impending release so ICE may assume custody before the alien is released from the LEA's custody; and 3) to request that the LEA maintain custody of an alien who would otherwise be released for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays) to provide ICE time to assume custody.

### Q: Why does ICE issue detainers?

A: Detainers are critical for ICE to be able to identify and ultimately remove criminal aliens who are currently in federal, state or local custody.

ICE relies on the cooperation of our state and local law enforcement partners in this effort.

### Q: What if the LEA needs the individual to remain in the United States for prosecution or other law enforcement purposes?

A: Local law enforcement agencies (LEAs) are advised that once individuals are in ICE custody, they may be removed from the United States. If the LEA wants an individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, the agency should notify the local Field Office or the ICE Law Enforcement Support Center at (802) 872-6020.

### Q: Where does ICE's authority to issue a detainer stem from?

A: By issuing a detainer, ICE requests that a law enforcement agency notify ICE before releasing an alien and maintain custody of the subject for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, to allow ICE to assume custody. This request flows from federal regulations at 8 C.F.R. § 287.7, which arises from the Secretary's power under the Immigration and Nationality Act § 103(a)(3), 8 U.S.C. 1103(a)(3), to issue "regulations . . . necessary to carry out [her] authority" under the INA, and from ICE's general authority to detain individuals who are subject to removal or removal proceedings.

### Q: What has been changed on the I-247 form?

A: The new I-247 form requests that the LEA provide to the subject of the detainer a copy of the detainer form and a notice advising him or her that ICE intends to assume custody. The notice informs these individuals that ICE has requested the LEA to maintain custody beyond the time when they would have been released by the state or local law enforcement authorities based on their criminal charges or convictions. The notice contains translations into Spanish, French, Portuguese, Chinese, and Vietnamese.

The new I-247 form also emphasizes that local law enforcement agencies (LEAs) may only hold an alien for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays).

### Q: What happens if ICE does not assume custody of the individual after 48 hours?

A: If ICE does not assume custody after 48 hours (excluding weekends and holidays), the local law enforcement agency (LEA) is required to release the individual. The LEA may not lawfully hold an individual beyond the 48-hour period.

### Q: What if the subject of the detainer believes that he or she has been held beyond the 48 hours, or has a complaint?

A: The Notice to the Detainee advises individuals that if ICE does not take them into custody during the 48 hours, they should contact the LEA or entity that is holding them to inquire about their release from state or 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).

### Q: What happens if a detainer is placed on a victim of a crime or a U.S. citizen?

A: If the local law enforcement agency (LEA) believes the individual may be the victim of a crime or a U.S. citizen, the LEA should notify the ICE Law Enforcement Support Center at (802) 872-6020.

If the subject of the detainer believes that he or she is a victim of a crime or a U.S. citizen, that individual should advise DHS by calling the ICE Law Enforcement Support Center at the following toll-free number (855) 448-6903.

U.S. Department of Homeland Security  
500 12th Street, SW  
Washington, D.C. 20536



U.S. Immigration  
and Customs  
Enforcement

FEB 25 2014

The Honorable Mike Thompson  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Thompson:

Thank you for your recent letter to the Department of Homeland Security (DHS) regarding immigration detainees.

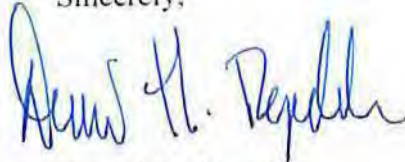
As you know, Form I-247, Immigration Detainer–Notice of Action, is a notice that U.S. Immigration and Customs Enforcement (ICE), within DHS, has reason to believe that an alien may be subject to removal from the United States. By issuing a detainer, ICE requests that an LEA maintain custody of an alien for a period not to exceed 48 hours (excluding Saturdays, Sundays, and federal holidays) after he or she would otherwise be released by an LEA, to provide time for ICE to assume custody. While immigration detainers are an important part of ICE's effort to remove criminal aliens who are in federal, state, or local custody, they are not mandatory as a matter of law. As such, ICE relies on the cooperation of its law enforcement partners in this effort to promote public safety.

ICE uses detainers to help focus its limited resources on its public safety, national security, and border security missions. ICE's use of detainers is focused on the most serious criminal offenders. ICE limits the use of detainers against individuals arrested for minor misdemeanor offenses (e.g., traffic offenses and other petty crimes) who are not otherwise ICE priorities, helping to ensure that limited available resources are focused on apprehending felons, repeat offenders, and immigration violators who fall under other ICE priorities.

To ensure clarity with law enforcement partners and the public, information about immigration detainers is publically available online at <http://www.ice.gov/news/library/factsheet/s/detainer-faqs/htm>. The site also provides a link to Form I-247. Additionally, a short video briefing for front-line state and local law enforcement personnel describing ICE's use of immigration detainers and extensive supporting materials for law enforcement leadership are available at [http://www.ice.gov/secure\\_communities/crcl.htm](http://www.ice.gov/secure_communities/crcl.htm).

Thank you once again for your letter. The co-signers of your letter will each receive a separate, identical response. Should you need additional assistance, please do not hesitate to contact me at (202) 732-5907.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel H. Ragsdale". The signature is fluid and cursive, with the first name "Daniel" being the most prominent.

Daniel H. Ragsdale  
Acting Director

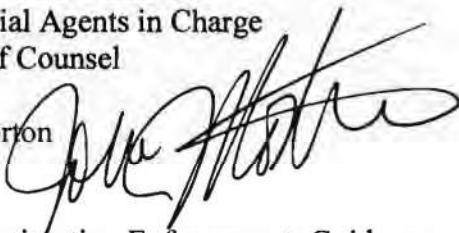
U.S. Department of Homeland Security  
500 12th Street, SW  
Washington, D.C. 20536



U.S. Immigration  
and Customs  
Enforcement

DEC 21 2012

MEMORANDUM FOR: All Field Office Directors  
All Special Agents in Charge  
All Chief Counsel

FROM: John Morton  
Director 

SUBJECT: Civil Immigration Enforcement: Guidance on the Use of Detainers  
in the Federal, State, Local, and Tribal Criminal Justice Systems

#### Purpose

This memorandum provides guidance on the use of U.S. Immigration and Customs Enforcement (ICE) detainers in the federal, state, local, and tribal criminal justice systems. This guidance applies to all uses of ICE detainers regardless of whether the contemplated use arises out of the Criminal Alien Program, Secure Communities, a 287(g) agreement, or any other ICE enforcement effort. This guidance does not govern the use of detainers by U.S. Customs and Border Protection (CBP). This guidance replaces Sections 4.2 and 4.5 of the August 2010 *Interim Guidance on Detainers* (Policy Number 10074.1) and otherwise supplements the remaining sections of that same guidance.

#### Background

In the memorandum entitled *Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, issued in June 2010,<sup>1</sup> ICE set forth clear priorities that guide its civil immigration enforcement. These priorities ensure that ICE's finite enforcement resources are dedicated, to the greatest extent possible, to individuals whose removal promotes public safety, national security, border security, and the integrity of the immigration system.

As ICE's implementation of these priorities continues, it is of critical importance that ICE remain focused on ensuring that the priorities are uniformly, transparently, and effectively pursued. To that end, ICE issues the following guidance governing the use of detainers in the nation's criminal justice system at the federal, state, local, and tribal levels. This guidance will ensure that the agency's use of detainers in the criminal justice system uniformly applies the

---

<sup>1</sup> As amended and updated by the memorandum of the same title issued March 2, 2011.

principles set forth in the June 2010 memorandum and is consistent with the agency's enforcement priorities.

### National Detainer Guidance

Consistent with ICE's civil enforcement priorities and absent extraordinary circumstances, ICE agents and officers should issue a detainer in the federal, state, local, or tribal criminal justice systems against an individual only where (1) they have reason to believe the individual is an alien subject to removal from the United States and (2) one or more of the following conditions apply:

- the individual has a prior felony conviction or has been charged with a felony offense;
- the individual has three or more prior misdemeanor convictions;<sup>2</sup>
- the individual has a prior misdemeanor conviction or has been charged with a misdemeanor offense if the misdemeanor conviction or pending charge involves—
  - violence, threats, or assault;
  - sexual abuse or exploitation;
  - driving under the influence of alcohol or a controlled substance;
  - unlawful flight from the scene of an accident;
  - 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;<sup>3</sup>
- the individual has been convicted of illegal entry pursuant to 8 U.S.C. § 1325;
- the individual has illegally re-entered the country after a previous removal or return;
- the individual has an outstanding order of removal;
- the individual has been found by an immigration officer or an immigration judge to have knowingly committed immigration fraud; or
- the individual otherwise poses a significant risk to national security, border security, or public safety.<sup>4</sup>

---

<sup>2</sup> Given limited enforcement resources, three or more convictions for minor traffic misdemeanors or other relatively minor misdemeanors alone should not trigger a detainer unless the convictions reflect a clear and continuing danger to others or disregard for the law.

<sup>3</sup> A significant threat to public safety is one which poses a significant risk of harm or injury to a person or property.

<sup>4</sup> For example, the individual is a suspected terrorist, a known gang member, or the subject of an outstanding felony arrest warrant; or the detainer is issued in furtherance of an ongoing felony criminal or national security investigation.



### Revised Detainer Form

To ensure consistent application of this guidance, ICE will revise the DHS detainer form, Form I-247. The revised detainer form, which should be used in all cases once it is issued, will specifically list the grounds above and require the issuing officer or agent to identify those that apply so that the receiving agency and alien will know the specific basis for the detainer. The changes to the form will make it easy for officers and agents to document the immigration enforcement priorities and prosecutorial discretion analysis they have completed leading to the issuance of the detainer.

### Prosecutorial Discretion

This guidance identifies those removable aliens in the federal, state, local, and tribal criminal justice systems for whom a detainer may be considered. It does not require a detainer in each case, and all ICE officers, agents, and attorneys should continue to evaluate the merits of each case based on the June 2011 memorandum entitled *Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens* and other applicable agency policies.

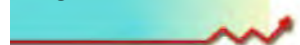
### Six-Month Review

ICE Field Office Directors, Chief Counsel, and Special Agents in Charge should closely evaluate the implementation and effect of this guidance in their respective jurisdictions for a period of six months from the date of this memorandum. Based on the results of this evaluation, ICE will consider whether modifications, if any, are needed.

### Disclaimer

This guidance does not create or confer any right or benefit on any person or party, public or private. Nothing in this guidance should be construed to limit ICE's power to apprehend, charge, detain, administratively prosecute, or remove any alien unlawfully in the United States or to limit the legal authority of ICE or its personnel to enforce federal immigration law. Similarly, this guidance, which may be modified, superseded, or rescinded at any time, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

This guidance does not cover or control those detainers issued by officers and agents of CBP. Detainers issued by CBP officers and agents shall remain governed by existing CBP policy, and nothing in this guidance is intended to limit CBP's power to apprehend, charge, detain, or remove any alien unlawfully in the United States.



# Further Decrease in ICE Detainer Use Still Not Targeting Serious Criminals

Immigration and Customs Enforcement (ICE) issued 7,993 detainers during April 2015, according to the latest data available from the agency. This is 30 percent fewer than the 11,355 detainers ICE issued in October 2014 — the month prior to the [November 20, 2014 announcement of a new DHS policy](#) restricting detainer use and discontinuing its Secure Communities (SC) program.

A detainer, often called an "immigration hold," had been a primary tool that ICE used in apprehending the suspects it sought. With these official notices, ICE asks local, state and federal law enforcement agencies not to release suspected non-citizens held at their facilities in order to give ICE an opportunity to take them into its custody<sup>[1]</sup>.

Detainer usage, however, had been dropping steadily even prior to last November's directive. In the eighteen month period from the start of FY 2013 through the first half of FY 2014, [TRAC previously found](#) a 39 percent decrease in the number of ICE detainers sent to local, state and federal law enforcement officials. Data more recently obtained by TRAC through FOIA requests to ICE show that the decline in detainer use actually had started months earlier. An examination of data going back to October 2002 reveals that ICE detainer usage actually peaked in March 2011 when 27,916 detainers were recorded and has since been falling steadily (see Table 1 and Figure 1).

**Table 1. ICE Detainer Usage**

October 2002 - April 2015

*(click title to open in a new window)*

December	2014	8,171
November	2014	n/a
October	2014	11,355
September	2014	11,660
August	2014	n/a
July	2014	n/a
June	2014	12,472
May	2014	12,667
April	2014	n/a
March	2014	14,291
February	2014	13,220
January	2014	13,662
December	2013	13,621



Figure 1. Number of ICE Detainers Issued by Month, October 2002 - April 2015

These data also indicate that ICE's growing reliance on detainer use began in January 2006, well before the launch of the SC program in 2008. Up until 2006, the use of ICE detainers ranged between 400 to 600 per month. But the level of usage doubled during the first six months of calendar 2006; by June 2006 over one thousand detainers were being issued each month.

### TRAC Series on ICE Detainers

- 1: [Number of ICE Detainers Drops by 19 Percent](#)
- 2: [Few ICE Detainers Target Serious Criminals](#)
- 3: [New Guidelines Have Little Impact](#)
- 4: [Variability in Detainer Trends by Gender, Nationality; Differences Also Observed by ICE Office, State and](#)

By October 2007, the monthly number had exceeded 10,000 and continued to climb until it peaked in March 2011, after which it started its long term decline.

- 5: [Targeting Varies Widely by State and by Facility](#)
- 6: [Immigration Detainers Decline 39 Percent](#)
- 7: [Further Decrease in ICE Detainer Use](#)
- 8: [Detainer Use Stabilizes Under Priority Enforcement Program](#)

Thus, while the growth in detainer usage began several years before the SC program began, the decline in the use of detainers does parallel a period of growing criticism of the SC program by state and local law

enforcement agencies, immigration rights groups, and others. By the time DHS Secretary Jeh Charles Johnson abolished the Secure Communities program last November, monthly detainer usage had already fallen 60 percent from its peak of 27,916 in March 2011 — down to 11,355 in October 2014<sup>[2]</sup>.

### Detainer Usage After the Demise of Secure Communities

While Secure Communities has been discontinued, the automatic matching of immigration records with the fingerprint data submitted during bookings by state and local law enforcement agencies to the Federal Bureau of Investigation — continues unabated under a new name, the [Priority Enforcement Program \(PEP\)](#). Given that millions of fingerprint records from state and local law enforcement agencies will continue to be passed onto ICE by the FBI, it remains an open question as to how detainer usage will be affected.

It is the case that Secretary Johnson's announcement also called for ICE to adopt a new "notification only" form that merely asks state and local law enforcement agencies to notify ICE prior to the release of the individual, and does not ask that they be detained or held. Usage of detainer holds instead of this new notification-only form, was to be restricted to "special circumstances."

However, getting a large bureaucracy to change long entrenched practices is usually a challenging undertaking. It remains to be seen whether the shift from Secure Communities to PEP will succeed in changing ICE's employment of detainers. Actual usage patterns bear monitoring; a look at detainers issued by ICE during April 2015 provides an early glimpse at what is happening in the field five months after the new PEP policies were announced.

Note that ICE only issued its [new detainer form I-247D](#) embodying the new PEP priorities on June 12. Thus, these data for April precede the issuance of this new form as well as the alternative ["notification only" form I-247N](#) which also only became available in June.

### Are Detainers Targeting Convicted Criminals?

According to ICE detainer-by-detainer records released to TRAC, during April 2015 only about one third (32%) of individuals on whom detainers were placed had been convicted of a crime. And only 19 percent had a felony conviction. Fully two-thirds had no criminal conviction of any type (see Figure 2). This contrasts sharply with the announced goal that, unless an individual "poses a demonstrable risk to national security," "ICE should *only* seek transfer of an alien in the custody of state or local laws enforcement" when that person had been "convicted of specifically enumerated [serious] crimes." [Emphasis supplied.]

Data for April 2015 thus provide little evidence that ICE has begun to limit detainer requests to individuals with serious convictions, let alone to persons convicted of at least some minor offense. If anything, the trend has since moved opposite what might have been expected based on the new directive. Individuals with criminal convictions have become significantly *less* common among detainers issued during April 2015 than they were during the FY 2012 — FY 2013 period. [As TRAC has reported](#), during that period *half* of detainers issued were for individuals with a criminal record, not just *one third*. An even smaller percentage — roughly one in five — had a felony conviction in either period. This seems to stand at odds to what is called for in Secretary Johnson's directives.

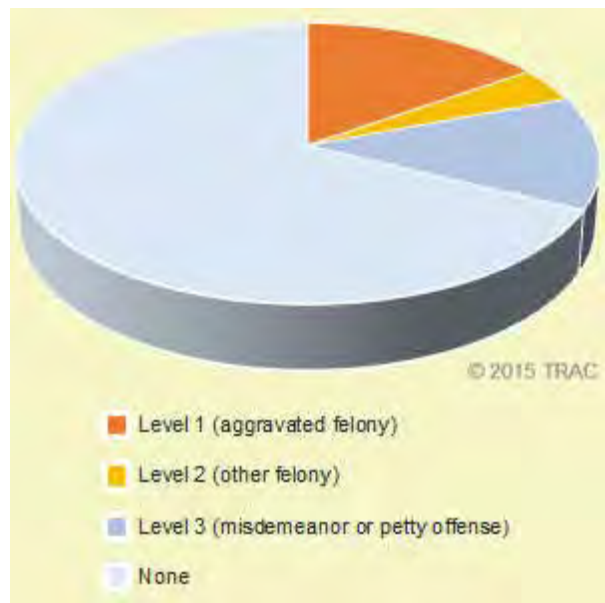


Figure 2. Most Serious Criminal Conviction for Individuals with ICE Detainers, April 2015

**Detainer Usage and Probable Cause**  
 DHS Secretary Johnson also decreed a further limit on that use of detainers in "special circumstances" where "the person is subject to a final order of removal or there is other sufficient probable cause to find that the person is a removable alien." The announced purpose of this further restriction was said to address "the Fourth Amendment concerns raised in recent federal court decisions" on past detainer usage.

Among the individuals on whom ICE detainers had been issued during April 2015, however, ICE records indicated that only 18 percent had an existing deportation order, and fewer than 1 percent had been served with an arrest warrant. Furthermore, there was not a single instance where removal proceedings had been initiated in Immigration Court. Thus, fewer than one out of every five detainers seem to have met the "special circumstances" set out under Secretary Johnson's directive; this is virtually unchanged from what was observed for the period from FY 2012 through the first four months of FY 2013.

**Detainer Usage by Location**

A total of 1,185 facilities were recorded as receiving ICE detainers during this period. Three out of four were issued to a state, county or local facility. The remaining one-fourth of the detainers were directed to a federal or ICE facility.

Not surprisingly, the two largest southern border states of Texas and California saw the most detainer activity. Nearly one out of every four detainers were issued for facilities in Texas, and four out of every ten were for facilities in either Texas or California.

States varied in the extent to which detainers were focused on individuals convicted of a crime. Among states with at least 50 detainers, California had the highest proportion of its detainers targeting individuals with no criminal record: fully 81 percent in that state showed no criminal conviction, only 19 percent had a criminal record. At the other extreme, Virginia had the lowest percentage with 36 percent of detainers issued against individuals with no criminal record. Figures for all states are shown in Table 2.

Table 3 lists the facilities within each state that ICE records indicate were sent detainers during April 2015, along with a breakdown of the seriousness of any criminal convictions for the individuals involved.

**Table 2. ICE Detainers Issued During April 2015 by State and Level of Most Serious Conviction\***  
 (Click column header to sort, click title to open in a new window)

State	Total Number	Offense Seriousness Level			No Conviction	
		Level 1	Level 2	Level 3	Number	Percent
<b>Total</b>	<b>7,993</b>	<b>1,217</b>	<b>322</b>	<b>1,043</b>	<b>5,411</b>	<b>68%</b>
Texas	1,817	319	115	292	1,091	60%
California	1,426	124	34	106	1,162	81%
Arizona	661	174	24	101	362	55%
New York	251	88	14	47	102	41%
Florida	247	47	9	39	152	62%
Pennsylvania	238	36	2	18	182	76%
Georgia	219	50	7	54	108	49%
North Carolina	170	39	7	38	86	51%
Oklahoma	128	9	4	44	115	92%

\*From most serious (Level 1) to least serious (Level 3) based on ICE Criminal Offense Levels Business Rules at [http://trac.syr.edu/immigration/reports/330/include/DocumentReleased\\_13-15734\\_Criminal\\_Offense\\_Level\\_Business\\_Rules.pdf](http://trac.syr.edu/immigration/reports/330/include/DocumentReleased_13-15734_Criminal_Offense_Level_Business_Rules.pdf).

**Table 3. ICE Detainers Issued During April 2015 by Facility and Level of Most Serious Conviction\***  
 (Click column header to sort, click title to open in a new window)

State	Facility Type	Facility Name	Total Number	Offense Seriousness Level			
				1	2	3	None
<b>Total</b>			<b>7,993</b>	<b>1,217</b>	<b>322</b>	<b>1,043</b>	<b>5,411</b>
ALABAMA	County Facility	AUTAUGA COUNTY JAIL	1				1
ALABAMA	County Facility	BALDWIN COUNTY COR. CENTER	7				7
ALABAMA	County Facility	CALHOUN COUNTY SHERIFF	1				1
ALABAMA	County Facility	CHEROKEE COUNTY JAIL	2				2
ALABAMA	County Facility	CLEBURNE COUNTY JAIL	1				1
ALABAMA	County Facility	COFFEE COUNTY JAIL	1				1

\*From most serious (Level 1) to least serious (Level 3) based on [ICE Criminal Offense Levels Business Rules](http://trac.syr.edu/immigration/reports/330/include/DocumentReleased_13-15734_Criminal_Offense_Level_Business_Rules.pdf) at [http://trac.syr.edu/immigration/reports/330/include/DocumentReleased\\_13-15734\\_Criminal\\_Offense\\_Level\\_Business\\_Rules.pdf](http://trac.syr.edu/immigration/reports/330/include/DocumentReleased_13-15734_Criminal_Offense_Level_Business_Rules.pdf)

**Footnotes**

[1] The immigration "hold" was supposed to be limited to "48 hours, excluding Saturdays, Sundays, and holidays, beyond the time when the subject would otherwise been released from [...] custody." See [DHS Form I-247](http://trac.syr.edu/immigration/reports/310/include/immigrant_detainer_form_12_2012_i-247.pdf) at [http://trac.syr.edu/immigration/reports/310/include/immigrant\\_detainer\\_form\\_12\\_2012\\_i-247.pdf](http://trac.syr.edu/immigration/reports/310/include/immigrant_detainer_form_12_2012_i-247.pdf).

[2] While TRAC requests updated data on detainees each month, ICE has not consistently complied, despite [a recent court victory](#). The agency now seems to arbitrarily decide which months it will release, without regard to the time period TRAC requested. As a result, no data have been released for the months of April 2014, July 2014, August 2014, November 2014, January 2015, February 2015 and March 2015.

Report date: August 28, 2015



Copyright 2015, TRAC Reports, Inc.

# Longview News-Journal

## Officials grapple with costs of jailing undocumented immigrants

By Sarah Thomas sthomas@news-journal.com  
Oct. 16, 2013 at 10 p.m.

East Texas county jails have spent more than \$1.38 million housing undocumented immigrants with federal detainees since the state began tracking such data in 2011.

The idea behind collecting the data was to show the federal government how its failure to secure the border was costing taxpayers hefty fees at the local level, said Brandon Wood, executive director of the Texas Commission on Jail Standards.

The East Texas county footing the largest bill for housing undocumented immigrants is Smith County where those inmates have cost the county more than \$717,000. Gregg County - which comes in third after Titus County - has spent nearly \$274,000 to house 407 undocumented immigrants during the two-year period. It costs Gregg County \$30.94 per inmate per day.

"Yes, taxpayers are footing that bill," said Gregg County Sheriff Maxey Cerliano. "When you look at it that way, then wouldn't you think they (the federal government) should reimburse counties?"

Data collected by the Texas Commission on Jail Standards shows that from October 2011 to September 2013 counties across the state have spent more than \$162 million to house undocumented immigrants under federal detainees - a bill one state lawmaker believes should be footed by the federal government.

In 2011, Sen. Tommy Williams, R-The Woodlands, authored Senate Bill 1698, which requires jails to track the number of inmates held on federal detainees along with the number of days those prisoners are housed and how much counties are paying to hold them.

The goal of SB 1698 was to highlight the burden such inmates placed on county budgets in an effort to force the federal government to reimburse local governments, as is the case with state prisons where illegal immigrants are serving time.

No state or local law enforcement agency makes any arrests based on immigration status, Cerliano said. Undocumented immigrants held on detainees issued by Immigration and Naturalizations Services (INS) were booked into jail because they are suspected of committing a crime just like every other inmate, he said.

The INS detainer is attached to the inmate later.

"It's up to the arresting officer if they contact INS on a suspected criminal alien that has committed a crime. It's at the arresting officer's discretion," Cerliano said. "The jail provides the resources to contact INS."

Alan Bernstein, a spokesman for the Harris County sheriff's office, said calculating the cost is not as straightforward as it might seem.

The federal government, he said, already pays a portion of the cost to house certain felony offenders who are undocumented immigrants. And, he pointed out, the inmates would be in jail even if there weren't a detainer from INS, because they were charged with crimes.

However, supporters of tracking the costs to house such inmates argue those costs wouldn't exist for taxpayers if the border was closed.

"The reason for tracking that information, the argument put forth and the legislative intent was the individual should not be here in the first place. If the federal government was keeping them out, the individual would not have been here and would not have been able to commit the crime in the first place," Wood said Wednesday. "(It) was put into place to document the amount local governments are paying to keep those undocumented criminals in jail."

<h3>Hardest hit counties</h3>

Of the 245 jails statewide, Harris County reported by far the largest number of undocumented immigrants and the highest cost. The jail, one of the largest in the nation, housed more than 30,000 undocumented immigrants at a cost of more than \$49.6 million.

Alan Bernstein, a spokesman for the Harris County sheriff's office, said calculating the cost is not as straightforward as it might seem. The federal government, he said, already pays a portion of the cost to house certain felony offenders who are undocumented immigrants. And, he pointed out, the inmates would be in jail even if there weren't a detainer from ICE, because they were charged with crimes.

"Immigration is a federal issue, and if the federal government fails to take care of that piece of business, then it's financially on the hook for it," he said.

Dallas County spent more than \$22 million housing more than 12,000 undocumented immigrants, and Travis County spent more than \$15 million on 11,000 undocumented immigrants, according to the reports. Among the 20 counties that reported the highest costs, 17 reported spending \$1 million or more.

Chuck DeVore, vice president for policy at the Texas Public Policy Foundation and a former California assemblyman, said the issue of reimbursement for incarcerating undocumented immigrants is thorny. Congress already pays a portion of the cost for housing undocumented immigrants in state lockups.

But he said it is useful to gather the data about the burden local governments are now shouldering.

"It will likely put additional pressure on federal representatives to increase reimbursement of the costs to the state of Texas, so that's a good thing," DeVore said.

Cerliano said Gregg County receives some funds for housing undocumented immigrants charged with crimes.

"We do have an opportunity to get some reimbursement through the SCAAP program (State Criminal Alien Assistance Program)," he said.

However, Cerliano added, the amount the county is able to recoup through the program is minimal.

"We get about \$30,000 to \$40,000 back," he said. "Our jail budget is in the millions so that is a very small fraction of what it costs."

- The Texas Tribune contributed to this report.

## SHARE

---

## Comments

---



[Register](#) | [Login](#)

# THE TEXAS TRIBUNE

## Interactive: The Cost of Jailing Undocumented Immigrants

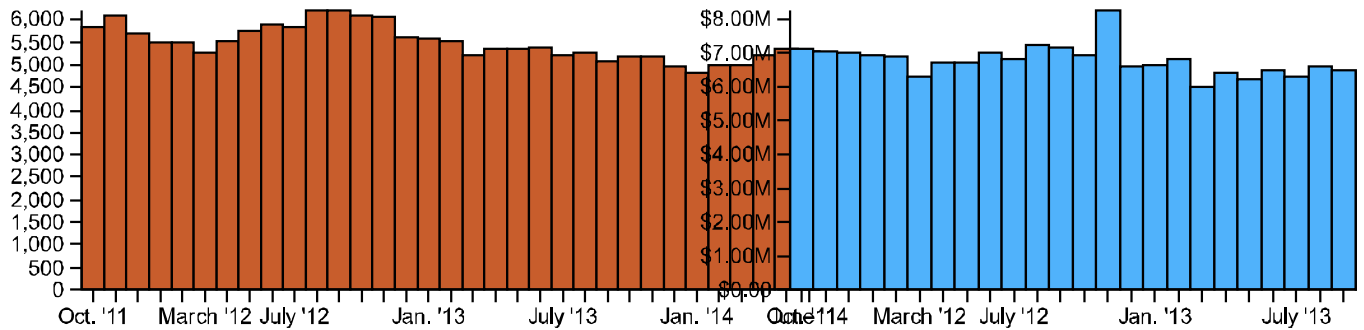
by [Dan Hill](#) | Updated: July 21, 2014 | [2 Comments](#)

Reports from the Texas Commission on Jail Standards estimate that Texas county jails spent more than **\$218.9 million** housing **181,279 undocumented immigrants** with federal detainers between October 2011 and June 2014.

Total Inmates Housed	Total Days Housed	Total Estimated Cost
181,279	3,680,036	\$218,913,314.86

Immigrants Housed Statewide by Month

Cost of Detainers Statewide by Month



A state law passed in 2011 requires Texas jails to report monthly estimates of the cost of housing undocumented immigrants. The table below shows an aggregation of the costs reported each month between October 2011 and June 2014 as well as the total number of undocumented immigrants housed and the number of days county jails housed undocumented immigrants. Each row in the table corresponds to a county jail, and jail names that include "P" represent privately operated jails.

Click [here](#) to download the reports.

Sort By

Inmates Housed ▾

Select a county jail ▾

### 1) Harris County Jail

Inmates Housed (Oct. '11 - June '14)	Days Housed (Oct. '11 - June '14)	Cost (Oct. '11 - June '14)
40,703	891,150	\$66,836,250.00

The number of immigrants housed in Harris County Jail on federal detainers



[View charts](#)



## 2) Dallas County Jail

Inmates Housed (Oct. '11 - June '14)	Days Housed (Oct. '11 - June '14)	Cost (Oct. '11 - June '14)
18,465	398,116	\$22,079,262.95



The number of immigrants housed in Dallas County Jail on federal detainees **increased 18.31 percent** between 2012 and 2013, while the cost of housing immigrants on federal detainees **increased 16.76 percent**.

[View charts](#)

## 3) Travis County Jail

Inmates Housed (Oct. '11 - June '14)	Days Housed (Oct. '11 - June '14)	Cost (Oct. '11 - June '14)
15,568	280,618	\$29,509,788.88



The number of immigrants housed in Travis County Jail on federal detainees **decreased 8.83 percent** between 2012 and 2013, while the cost of housing immigrants on federal detainees **decreased 7.29 percent**.

[View charts](#)

## 4) Bexar County Jail

Inmates Housed (Oct. '11 - June '14)	Days Housed (Oct. '11 - June '14)	Cost (Oct. '11 - June '14)
10,406	198,864	\$9,147,744.00



The number of immigrants housed in Bexar County Jail on federal detainees **decreased 8.67 percent** between 2012 and 2013, while the cost of housing immigrants on federal detainees **decreased 11.95 percent**.

[View charts](#)

## 5) Tarrant County Jail

Inmates Housed (Oct. '11 - June '14)	Days Housed (Oct. '11 - June '14)	Cost (Oct. '11 - June '14)
9,624	191,593	\$7,569,163.99



The number of immigrants housed in Tarrant County Jail on federal detainees **decreased 5.21 percent** between 2012 and 2013, while the cost of housing immigrants on federal detainees **decreased 5.80 percent**.

[View charts](#)

## 6) Hidalgo County Jail

Inmates Housed (Oct. '11 - June '14)	Days Housed (Oct. '11 - June '14)	Cost (Oct. '11 - June '14)
9,577	164,643	\$8,332,582.23

The number of immigrants housed in Hidalgo County Jail on federal detainees **increased 5.23 percent** between 2012 and 2013, while the cost of

[View charts](#)

## Dallas County sheriff eases immigration holds on minor offenses

Published: 11 October 2015 11:11 PM

Updated: 12 October 2015 11:17 AM

The campaign for her fourth term as Dallas County sheriff begins now for Lupe Valdez, the 68-year-old incumbent who stunned the establishment as the first Latina to hold that post in the U.S. But that celebrity gets tested when it comes to immigration issues.

Valdez recently changed policies on holding immigrants in the Dallas County jail for federal immigration officials once the person is past his or her release date. People who committed minor offenses won't be held for up to an additional 48 hours for agents of U.S. Immigration and Custom Enforcement, Valdez said.

The move follows similar decisions across the nation, as legal and community pressure builds over the controversial holds. Some 300 counties and cities have officially restricted the extent that they work with ICE, according to a count late last year by the Catholic Legal Immigration Network.

Others insist that local law enforcement increase its vigilance, particularly after the San Francisco murder in July of a woman by an immigrant who had been deported from the U.S. multiple times. There had been a federal request to hold him for immigration officials, but he was released after marijuana charges were dropped against him.

"No matter what we do, someone is going to get upset," Valdez said in an interview with *The Dallas Morning News*. "We can't base our decisions on who is going to get upset with us. We have to base our decisions on what is best for the whole."

The Dallas County change isn't as extensive as California's Trust Act of 2013, which shields immigrant inmates from federal deportation agents unless they have been convicted of serious crimes, such as assault, sexual abuse or felony DUI. Immigrants lawfully in the U.S. can also face deportation if convicted of certain crimes.

'Whose side is she on?'

Immigrant advocates like Danny Cendejas have pushed for less harsh policies, arguing that those with minor traffic offenses have faced immigration holds that spun into deportations. Cendejas, immigration campaign field director for the Texas Organizing Project, calls the change a good first step but adds, "Whose side is she really on? If she is on our side, prove it."

Valdez detailed the policy change in an office decorated with what she called "diversity" artifacts. Among them is an old sign that reads: "No Dogs, Negroes, Mexicans."

Criticized if you're too tough, criticized if you're not tough enough — that's the dilemma Valdez said she faces.

As controversy and legal challenges to immigration holds have grown, the number of such holds has held steady in Dallas County over the last two fiscal years. In fiscal 2014, ICE placed about 1,930 holds in Dallas County, or about 160 a month. In the fiscal year that just ended, there were about 2,048 holds, or about 170 a month, according to statistics from the sheriff's office.

Immigration holds, or detainers, are requests for locally operated jails to hold people for up to 48 hours beyond their scheduled release date. Holds were part of the "Secure Communities" program launched by ICE during the end of the George W. Bush administration.

Critics say it breaks up families over low-level offenses, when the only other infraction was that the immigrant detained was in the U.S. unlawfully. The bulk of immigration laws consist of civil or administrative offenses — not criminal offenses.

Oregon case

Last year, a federal district court found that a Clackamas County sheriff in Oregon had violated the Fourth Amendment right against unlawful seizure of a Mexican immigrant woman who was kept on a hold after her release from state charges. The judge also ruled that detainers were voluntary, not mandatory. The plaintiff was awarded \$30,100 in damages, her Portland attorney said.

This year, Secure Communities was replaced by the "Priority Enforcement Program," which tightens the focus on immigrants who are a national security or public safety threat. It includes those convicted of felonies and those convicted of misdemeanors such as domestic violence, or driving under the influence.

Valdez said immigrants involved in violence are not here to search for a better life. "These folks we don't need here no matter what background they have," she said.

Valdez said decisions about ICE holds would be made on a case-by-case basis. Cooperation with ICE won't be based on felonies vs. misdemeanors. Certain domestic violence charges are misdemeanors, she noted.

“It is not even felonies. It is things that are violent toward the community. Abuse of children. Abuse of women. Violence with an instrument such as even a car. If you’re drinking and you get in a car, you are using that car as an instrument.”

Some defendants are found not guilty based on a “technicality,” she said. “Do we let that person go to hit again?”

Valdez, who once worked for U.S. Customs, said she’s not a federal cop. Yet she gets hate mail and verbal attacks from both sides on immigration issues.

“Immigration is a federal law. I don’t know why they keep expecting me to take care of federal issues. ... We make our decisions based on reason, safety and what’s best for the community,” she said.

Dallas staff writer Jasmine Aguilera contributed to this report.

On Twitter:

[@disolis](https://twitter.com/disolis)

**Anthony Garza**

---

**From:** Peter Harlan <PETER.HARLAN@dallascounty.org>  
**Sent:** Friday, June 10, 2016 9:09 AM  
**To:** Anthony Garza  
**Subject:** RE: Mercado: detainers for plaintiffs

Anthony:

Unfortunately I must respectfully decline your request for voluntary discovery at this time. Dallas County administration does not have custody of any of the documents relevant to the Plaintiffs claims in this suit. Assuming the documents you request exist and can be located, only Sheriff Valdez would have access and be able to produce them. Any voluntary production of these documents by her at this juncture of the case might be construed as a waiver of her qualified immunity from discovery and suit which she is understandably not willing to do at this time.

Of course, if you would like to discuss the matter further please do not hesitate to contact me at your convenience.

Kind regards,

Peter L. Harlan  
Assistant District Attorney  
Federal Litigation Section  
133 N. Riverfront Blvd. LB 19  
Dallas, Texas 75207  
(214) 653-3691 Telephone  
(214) 653-2899 Fax  
pharlan@dallascounty.org

---

**From:** Anthony Garza [agarza@ccrglaw.com]  
**Sent:** Thursday, June 09, 2016 5:20 PM  
**To:** Peter Harlan  
**Subject:** Mercado: detainers for plaintiffs

Mr. Harlan-

Good afternoon. Discovery is stayed in the Mercado matter. We nevertheless request that Dallas County voluntarily provide the immigration detainers in its possession for Plaintiffs. We intend to attach them to our amended complaint.

Feel free to call me if you have any questions.

Anthony M. Garza  
Charhon Callahan Robson & Garza  
(469) 587-7242

**ICE GUIDANCE FOR COMPLETING FORM I-247A**

- 1. Form I-247A (Immigration Detainer – Notice of Action).** Effective April 2, 2017, the Department rescinded Form I-247D (Immigration Detainer – Request for Voluntary Action), Form I-247N (Request for Voluntary Notification of Release of Suspected Priority Alien), and Form I-247X (Request for Voluntary Transfer), and replaced them with a consolidated detainer form, the Form I-247A (Immigration Detainer – Notice of Action). The Form I-247D, Form I-247N, and Form I-247X may not be issued after April 2, 2017. Detainers issued on prior versions of the detainer form remain active and need not be replaced with a Form I-247A.
  
- 2. Form I-247A, Box 1.**
  - 1) When Box 1 is checked, Form I-247A requests that the receiving LEA: (1) notify DHS as early as practicable, at least 48 hours, if possible, before a removable alien is released from criminal custody; and (2) maintain custody of the alien for a period not to exceed 48 hours beyond the time he or she would otherwise have been released to allow DHS to assume custody for removal purposes.
  - 2) Prior to issuing an immigration detainer to an LEA, immigration officers must have probable cause to believe that the individual they seek to detain is a removable alien.
  - 3) The Form I-247A advises that a copy of the form must be served on the alien in order for the detainer to take effect.
  
- 3. Form I-247A, Box 2.**
  - 1) When a federal, state, local, or tribal LEA requests that ICE transfer an alien detained in ICE custody for a proceeding or investigation, the immigration officer will check Box 2 on Form I-247A.
  - 2) If using Box 2, the immigration officer should not complete Box 1.
  - 3) Immigration officers who transfer an alien into the custody of another federal, state, local, or tribal LEA must serve a copy of the completed detainer form on the alien before transfer.
  - 4) When Box 2 is checked, Form I-247A requests that the receiving LEA: (1) notify DHS as early as practicable, at least 48 hours, if possible, before a removable alien is released from criminal custody; and (2) maintain custody of the alien for a period not to exceed 48 hours beyond the time he or she would otherwise have been released to allow DHS to assume custody for removal purposes.

## Dallas sheriff responds to Texas governor: All ICE detainees honored this year



Texas Governor Greg Abbott speaks at the Dallas Regional Chamber at the Hyatt Regency Hotel on March 16, 2015. (Michael Ainsworth/The Dallas Morning News)

### [Updated throughout story.]

Gov. Greg Abbott on Monday sent a [threatening letter](#) to Dallas County Sheriff Lupe Valdez, urging her to honor federal immigration detainees.

“Your refusal to fully participate in a federal law enforcement program intended to keep dangerous criminals off the streets leaves the State no choice but to take whatever actions are necessary to protect our fellow Texans,” Abbott wrote.

His spokesman, Jon Wittman, confirmed later Monday that the governor was throwing his support behind legislation to bar “sanctuary city” policies, under which police are barred from asking those they stop about their immigration status. Abbott wants the Legislature to address the matter in 2017, Wittman said.

[Valdez recently changed policies](#) on holding immigrants in the Dallas County jail for federal immigration officials once the person is past his or her release date.

People who committed minor offenses aren’t held for up to an additional 48 hours for agents of U.S. Immigration and Custom Enforcement, or ICE.

The sheriff responded this afternoon through her spokesman that she had yet to reject any ICE requests for detainees. and before the day had ended support grew for the sheriff under the hashtag #StandWithLupe.

The sheriff’s spokesman noted her new policy was “very similar” to the new policy guidelines put in place by the Department of Homeland Security. The new program that replaced [Secure Communities](#) is called [Priority Enforcement Program or PEP](#).

“In 2015 we did not have any detainer issued by ICE rejected by the Sheriff’s Department. From January 1, 2015 until today’s date October 26, 2015, we have accepted 1469 detainees from ICE and declined zero. ICE is familiar with our agreement and doesn’t submit a detainer unless it falls into the upper two categories that are designated so in effect we have declined zero.”

Valdez’s decision follows others that were more dramatic and made earlier across the nation, as legal and community pressure increased over the controversial holds. Some 300 counties and cities have officially restricted the extent that they work with ICE, according to a count late last year by the Catholic Legal Immigration Network.

The new federal detention policies for deportation cases were announced last November and [detailed in this memorandum](#) from Jeh Johnson, the DHS chief. The sheriff made her policy change after consultations with local lawyers.

But Abbott criticized the decision, saying the detainees simply allow federal immigration authorities the time to collect and remove criminal immigrants.

“Your decision to not fully honor ICE’s requests to detain criminal immigrants poses a serious danger to Texans,” Abbott wrote. “These detainees provide ICE with the critical notice and time it needs to take incarcerated immigrants into federal custody.”

Abbott listed the potential repercussions should Valdez not change the county’s policy:

- Legislators could pass laws prohibiting policies that give sanctuary to people in Texas illegally.
- Legislators could pass laws that make it illegal for sheriffs not to honor federal immigration detainer requests.
- The state could evaluate the cost local taxpayers should pay for local decisions that increase the expense to the state’s health and education systems.
- Lawmakers could change the Tort Claims Act to ensure that counties are financially responsible for the actions of undocumented immigrants who are released despite the existence of an ICE detainer request.

The Dallas County policy change took effect on Sept. 1 and is done on a case-by-case basis. It’s been [criticized by some immigration advocates](#) as not going far enough to stop deportations of immigrants who have committed low-level offenses, such as traffic violations.

Further, the policy change isn’t written down, [Valdez said in a previous interview](#) with The Dallas Morning News.

In fiscal year 2015, there were requests for about 2,048 holds, according to statistics from the sheriff’s office. In fiscal year 2014, there were requests for about 1930 holds.

Dallas immigration advocates began supporting the sheriff with the on Facebook and in press releases. They accused the governor of distorting the sheriff’s policy change.

“It’s a small change, but I understand the pressure she has,” said Roberto Corona, a community activist who works at the Embrey Human Rights Program at Southern Methodist University.

The Dallas director of the Texas Organizing Project, Brianna Brown, said the change “strengthened trust and safety” in the community. governor was distorting the policy change made by the sheriff.

“Valdez, relying on her and her officers’ law enforcement experience, and research that shows that cooperation with immigration enforcement erodes the trust of the community, made the best choice for her department and for her county,” Brown said.

Attorneys Domingo Garcia and Fernando Dubove said Valdez’ policies are “consistent” with those of Homeland Security. “The Department of Homeland Security has long recognized that they do not have the resources, the prosecutors, the Immigration Courts, the space in detention centers to detain and placed in deportation proceedings every illegal immigrant arrested for speeding, driving without a seat belt, or not changing lanes



State Rep. Rafael Anchia, D-Dallas, said he strongly disapproved of Abbott's stance.

"Governor Abbott appears to be vying for the title of most anti-Hispanic governor in the history of Texas," said in an emailed statement.

He cited lawsuits Abbott filed as attorney general challenging the Obama administration's programs designed to grant relief from deportation for certain immigrants. As attorney general he also filed a brief supporting Arizona's anti-immigration legislation. During his campaign for governor, Abbott also said he would sign legislation repealing Texas law that allows undocumented immigrants to pay in-state tuition at public universities.

"Governor Abbott will soon be known as the Donald Trump of Texas if he continues his ill-advised pursuit of anti-Hispanic policies," Anchia said.

On Tuesday afternoon, Lt. Gov. Dan Patrick entered the issue, backing his fellow Republican Abbott. He said he would support a prohibition on "sanctuary cities" and, "we will pass this legislation out of the Texas Senate as soon as possible.

*Staff writer Dianne Solis contributed to this blog report.*