

## **Policy and Procedures Regarding Courthouse Interactions with Immigration and Customs Enforcement**

### **I. PURPOSE AND PRINCIPLES**

The following policy governs the way that Trial Court employees and, in particular, court officers, shall respond to requests from the Department of Homeland Security's Immigration and Customs Enforcement (ICE) to provide information about, and take custody of, individuals subject to civil immigration detainers.

### **II. ICE CIVIL IMMIGRATION DETAINERS**

Individuals subject to a civil immigration detainer often arrive in custody at a courthouse accompanied by an ICE "Notice of Action" immigration detainer form (currently DHS Form I-247A) requesting that court employees voluntarily detain the individual subject to the civil immigration detainer for up to 48 hours. ICE officials request that delay so they can come to the courthouse and take custody of the individual even if the individual would otherwise have been released from the Trial Court's custody.

### **III. RESPONSE TO ICE REQUESTS**

Trial Court employees **do not** have authority to detain an individual based solely on a civil immigration detainer. Individuals subject to civil immigration detainers shall be processed and handled in the same way that all other individuals coming before the court are processed and handled.

If an ICE official asks a court officer whether a person is in custody at the court, the court officer may inform them if the person is in custody.

If an ICE official requests information from court personnel or the clerk's office regarding an individual's case, or any case file, the scope of the employee's response shall be guided by the same statutes, rules, and policies that govern public requests for court records.

If an ICE official requests information from Probation, the Probation employee shall direct the request to the attention of the Probation Legal Unit to be processed in the ordinary course.

No Court officer, nor any other court employee, shall call or otherwise initiate communication with any ICE official to report that a defendant is in court custody or in the courthouse.

### **IV. FURTHER RESPONSES TO ICE REQUEST**

When an ICE official enters a courthouse, court officers shall ask the ICE official to state his or her official law enforcement purpose for entering the courthouse and whether he or she proposes to take an enforcement action. The ICE official's information shall immediately be transmitted to a security supervisor or designated court officer.

The security supervisor or designated officer shall inform the first justice, or regional administrative justice of the court department, that an ICE official is in the courthouse with the intent of taking a person who is **not** in court custody into ICE custody (*e.g.*, a party or other participant in a case before a judge or magistrate, or a person attending to business in the courthouse).

There is no requirement to notify a Judge when ICE is seeking to execute a detainer for someone already in custody.

**A. Individuals in Trial Court custody**

Consistent with Chapter 2, sections XIV and XV of the Court Officer Manual (current edition), when an individual is subject to release after his or her court proceeding, court officers shall process that individual out of lock up in the normal course, irrespective of whether the individual is subject to a civil immigration detainer.

If, during the processing of an individual who is eligible to be released out of the courthouse, an ICE official appears in person and seeks admission into the courthouse's holding cell area to take custody of the individual pursuant to an immigration detainer, court officers shall permit the ICE official(s) to enter the holding cell area to take custody of the individual after Trial Court security personnel have released that person from custody.

Before entering the holding cell area, ICE officials must present credentials and a copy of the detainer or civil immigration arrest warrant to court officers and surrender their weapons.

To the extent possible, court officers should require that ICE officials transport any individuals taken into custody through the prisoner transport entrance and avoid taking the individual through the public areas of the courthouse.

**B. Individuals coming to court who are not in Trial Court custody**

In those instances where ICE officials seek to take custody of an individual in a courthouse, Trial Court employees shall neither impede nor assist the ICE officials in taking the individual into custody. The role of court officers is to maintain public safety and decorum in the courthouse. Court officers shall allow ICE to use the sallyport following the transfer of custody.

Nonpublic spaces in a courthouse, such as clerks' offices or Probation offices, may not be used by ICE officials. No ICE official shall be permitted to take an individual into custody pursuant to a civil immigration detainer in a courtroom.

**V. RECORDING INTERACTIONS WITH ICE**

Court security staff shall keep an internal log of every time ICE takes an individual into custody in a courthouse. In addition, court security personnel shall draft an incident report for every instance in which ICE takes an individual into custody in a courthouse. There is no need to document detainees when ICE does not appear.