

700.00 – Enforcement of Immigration and Customs Enforcement (ICE) Detainers

Refer:

- 32 U.C.T. 3227, 1963 Vienna Convention on Consular Relations
- 8 U.S.C. 1373, Communication between government agencies and the Immigration and Naturalization Service
- Miranda-Olivares v. Clackamas County, 2014 U.S. Dist. LEXIS 50340, 2014 WL 1414305 (D. Or. Apr. 11, 2014)
- **Governor's Executive Order 17-4**, Renewing Oregon's Commitment to Protecting its Immigrant, Refugee, and Religious-Minority Residents
- ORS § 181A.820, Enforcement of Federal Immigration Laws
- National Crime Information Center (NCIC)
- Law Enforcement Database System (LEDS)
- Multnomah County Resolution 2016-132, Declaring Sanctuary County

Definitions:

- Immigration and Customs Enforcement (ICE) Detainers – A tool used by Department of Homeland Security (DHS)'s **Bureau of Immigration and Customs Enforcement (ICE) officials** to alert law enforcement agencies that a potentially removable individual is housed in **that law enforcement agency's jail or prison**. An ICE detainer is an official request from ICE to a state or local public safety entity, for the state or local public safety entity to notify ICE prior to releasing an individual from custody, so that ICE may arrange to take over custody.

Policy:

1. The **Multnomah County Sheriff's Office (MCSO) primary mission is public safety. It is vital to this mission that** community members feel comfortable interacting with members, reporting crimes, entering court, and generally participating as witnesses or victims in our criminal justice system, without fear of local law enforcement enforcing federal immigration law.
2. **The Multnomah County Sheriff's Office (MCSO) values the work of the United States Department of Homeland Security (DHS), as a public safety partner.** DHS missions include preventing terrorism, enhancing security, securing cyberspace, and ensuring disaster resilience. However, because of state law, MCSO must draw a bright line with regard to the work of the Bureau of Immigration and Customs Enforcement (ICE), a subset of DHS, and the responsibilities of MCSO. **MCSO's mission does not encompass the enforcement of federal immigration law.** MCSO generally has no enforcement authority or active role in regards to federal immigration law.
3. In all of its public safety roles – patrol, investigations, and operations of jail facilities – the Multnomah County **Sheriff's Office (MCSO)** follows state and federal law. As a result, MCSO does not use agency monies, equipment or personnel to enforce federal immigration law, nor does MCSO hold people in custody pursuant to Immigration and Customs Enforcement (ICE) detainers. The exchange of immigration or citizenship status information if requested by ICE officials, consistent with 8. U.S.C. 1373, is distinct from the enforcement of federal immigration law and therefore permissible.
4. The Multnomah County **Sheriff's Office (MCSO) obligation to enforce** judicial arrest warrants for criminal activity that are reflected in the National Crime Information Center (NCIC), is distinct and separate from the enforcement of federal immigration law. Because MCSO lacks authority, members do not enforce Immigration and Customs Enforcement (ICE) administrative arrest warrants.

5. **The Multnomah County Sheriff's Office (MCSO) ability to apply for** intergovernmental monies relating to the enforcement of criminal activity, is distinct and separate from the enforcement of federal immigration law.

Procedure:

1. Immigration Status Inquiries in the Field:
 - 1.1. **Multnomah County Sheriff's Office (MCSO)** members assigned to the Law Enforcement Division, will not inquire into **a person's** immigration status for the purpose of enforcing federal immigration law.
2. Country of Birth Inquiries in Jail Facilities:
 - 2.1. **Multnomah County Sheriff's Office (MCSO) members** assigned to the Corrections Division, will inquire **into a person's** country of birth during booking and classification processing, before reporting the self-identified country of birth to the Records Unit. MCSO is obligated to inquire per the Law Enforcement Database System (LEDS) and National Crime Information Center (NCIC) requirements.
 - 2.2. During the booking process, members will ask the adult in custody to self-identify their country of birth. This information will be forwarded to the Classifications Unit.
 - 2.3. During classification assessments, members will ask the adult in custody to confirm the self-identified country of birth, reported during the booking process. This information will be forwarded to the Records Unit.
3. Consulate Notification:
 - 3.1. The Records Unit, will review the self-identified country of birth information upon receipt from the Classifications Unit.
 - 3.2. If the self-identified country of birth is outside of the United States, and a mandatory reporting country under federal law, the Records Unit, is required to notify the specified-**country's consular representative** in the United States, of the arrest or detention. Adults in custody are informed of: this requirement; that the consulate may call or visit; that the consulate may be able to help with legal counsel, family contacts and more; but that the adult in custody is not required to accept consulate assistance.
 - 3.3. If the self-identified country of birth is outside of the United States, and a non-mandatory reporting country under federal law, the Records Unit, is not required to notify the specified-**country's consular** representative in the United States, of the arrest or detention. Adults in custody are informed of: the option to direct the Records Unit to notify their consulate at any time; that upon notification the consulate may call or visit; that the consulate may be able to help with legal counsel, family contacts and more; but that the adult in custody is not required to accept consulate assistance.
4. Immigration and Customs Enforcement (ICE) Inquiries:
 - 4.1. Should the Bureau of Immigration and Customs Enforcement (ICE) contact the Multnomah County **Sheriff's Office (MCSO)**, seeking information about particular adults in custody, members are directed to do as follows:
 - 4.1.1. Should ICE request information from MCSO, members shall route the request to the Records Unit Manager, who will provide no greater information than is available to the public.
 - 4.1.2. When ICE is present at a Multnomah County facility, ICE will be provided no greater access than is available to the public.

History:

- Originating Policy/Procedure: 5/1/2017
 - This Policy and Procedure supersedes all prior MCSO policy and procedure relating to the enforcement of Immigration and Customs Enforcement (ICE) Detainers.
- Next Review Date: 5/1/2019
- Review By: Executive Office
- Reviewed 9/11/19
 - No edits, deletions or additions made to originating policy and procedure.
- Next Review Date: 9/11/21
- Review By: Executive Office