# Florida Policies Safeguarding Against Unconstitutional Detainer Practices Are Widespread

Counties and local law enforcement agencies across Florida have limited their involvement with federal immigration detainers—requests by ICE to hold a person for 48 hours after the person is otherwise entitled to be released from the criminal justice system—in order to safeguard against constitutional violations and to promote trust and cooperation with immigrant communities. In total, at least 30 counties or local law enforcement agencies in Florida currently have written policies that limit detention pursuant to ICE detainers, without some additional showing of probable cause. If current "anti-sanctuary" bills pending in the Florida Legislature were to pass, each of these 30 counties would be faced with the untenable choice of (a) honoring ICE detainer requests and potentially being held liable for damages for constitutional violations, or (b) not honoring ICE detainer requests, and facing a range of harsh financial sanctions and liability in perpetuity for any future negligent acts by immigrants released from their custody.

## Overview

Immigration enforcement is traditionally a job for federal immigration authorities and not for local law enforcement, whose job is to protect all residents regardless of immigration status by preventing and solving and crimes. As the Florida Sheriffs Association has made clear, no jurisdiction in the state has true "sanctuary" policies that categorically refuse all cooperation with immigration requests from the federal government.[1] Counties and local law enforcement agencies broadly respond to ICE requests for notification of an individual's release from local custody, so that ICE may assume custody upon release. But at least thirty counties have limited the circumstances under which they prolong an individual's release on the mere basis of an ICE detainer request unsupported by a judicial determination of probable cause, as these detainer requests raise constitutional concerns, are extremely costly, and undermine trust and cooperation with law enforcement.

## ICE Detainers Are Not Warrants

ICE detainers[2] are not arrest warrants. Unlike criminal warrants, which are supported by a judicial determination of probable cause, ICE detainers are issued by ICE enforcement agents themselves without any authorization or oversight by a judge or other neutral decision-maker. Without

---

[1] Florida Sheriffs Association, Priority Enforcement Program (PEP) Policy Paper, available at http://www.flsheriffs.org/uploads/docs/FL_Sheriffs_PEP_Policy_Paper_FINAL.pdf ("Florida Sheriffs are NOT Permitting "Sanctuary"). *See also* Elizabeth Behrman, *Fla. sheriffs deny claims of 'sanctuary' cities in state*, Tampa Tribune, July 18, 2015, *available at* http://www.tbo.com/news/crime/fla-sheriffs-deny-claims-of-sanctuary-cities-in-state-20150718/.

[2] An ICE detainer is a notice sent by ICE to a state or local law enforcement agency or detention facility. The purpose of an ICE detainer is to notify that agency that ICE is interested in a person in the agency's custody, and to request that the agency hold that person after the person is otherwise entitled to be released from the criminal justice system (for example, after posting bail), giving ICE extra time to decide whether to take the person into federal custody for administrative proceedings in immigration court.

the safeguards of a judicial warrant, ICE detainers can—and do—result in the illegal detention of individuals who have not violated any immigration laws at all and are not deportable, including U.S. citizens and immigrants who are lawfully present in the United States. From 2008 to 2012, ICE erroneously issued more than 800 detainers for U.S. citizens.[3]

**Localities Can Be Held Liable for Honoring ICE Detainers**

A growing body of case law has made clear that ICE detainers are requests, not commands. Local law enforcement agencies are not required to hold anyone based on an ICE detainer alone.[4] Since ICE detainers are merely requests, state and local law enforcement agencies and detention facilities open themselves up to significant legal liability for Fourth Amendment violations for making the decision to detain an individual for any length of time based solely on an ICE detainer request.[5] Localities can even be held liable for imprisoning immigrants who are undocumented pursuant to ICE detainers, if the detention does not comply with constitutional requirements.[6] Many localities around the country that chose to honor ICE detainers have had to expend resource defending civil rights litigation and paying financial settlements to people who were unlawfully imprisoned on a detainer.[7] As the Florida Sheriffs Association (FSA) has pointed out, last year's reforms to the ICE detainer program through the Priority Enforcement Program (PEP) "does not adequately address the Fourth Amendment concerns with holding an individual absent a warrant or judicial order." FSA has warned Florida sheriffs' offices against honoring detainers because "PEP asks sheriffs to accept unlimited liability in the enforcement of a Federal responsibility. In cases where a sheriff's office has been sued for honoring an ICE detainer, neither DHS nor any of its components have stepped forward with any type of support."[8]

**Additional Reasons Why Localities Have Chosen to Limit Involvement with ICE Detainers**

Many localities around the state recognize that immigrant victims and witnesses will not report crimes if they fear that local police are acting as immigration agents—and thus, in order to solve crimes,

---

[3] According to ICE's own records, between FY2008 and FY2012, it issued 834 detainers against U.S. citizens. TRAC Immigration, *ICE Detainers Placed on U.S. Citizens and Legal Permanent Residents,* Feb. 20, 2013, *available at* http://trac.syr.edu/immigration/reports/311/.

[4] *See* 8 C.F.R. § 287.7(a) (emphasis added); 8 C.F.R. § 287.7(d) (titled "Temporary detention at Department request.") (emphasis added); *Galarza v. Szalczyk*, 745 F.3d 634, 645 (3d Cir. 2014); Acting Director of ICE stated that Letter from Daniel Ragsdale, Acting Director of ICE, to Representative Mike Thompson (Feb. 25, 2014), (immigration detainers "are not mandatory as a matter of law"), *available at* http://www.notonemoredeportation.com/wp-content/uploads/2014/02/13-5346-Thompson-signed-response-02.25.14.pdf.

[5] For example, the *Galarza* case settled for $145,000, including $95,000 from Lehigh County, Pennsylvania. *See* Peter Hall, "Man Wrongly Jailed Settles Suit against Lehigh County," Morning Call (June 2, 2014), *available at*: www.mcall.com/news/breaking/mc-lehigh-galarza-immigration-detainer-settlement-20140602,0,5558794.story. ICE refused to indemnify the County for these costs.

[6] *See Miranda-Olivares v. Clackamas County*, 12-CV-02317-ST, 2014 WL 1414305, at *3 (Apr. 11, 2014) (jail violated immigrant's Fourth Amendment rights by prolonging her incarceration pursuant to an ICE detainer).

[7] *See* ACLU Immigrants' Rights Project, *Recent court decisions relating to ICE detainers*, July 27, 2015, *available at* https://www.aclu.org/sites/default/files/field_document/recent_ice_detainer_cases_2.pdf (partial list of recent damages awards and settlements).

[8] FSA PEP Policy Paper, *supra* n.1.

local officials need to win the trust of the community. Recognizing that community trust in the police is central to their core mission to protect public safety,[9] these localities have enacted carefully crafted policies to foster this trust and have prioritized their police resources to focus on community needs. Importantly, none of the limited detainer policies in Florida shields anyone who is arrested and booked from the knowledge of federal immigration authorities; through the automatic receipt of fingerprints, DHS is already notified of all individuals booked into jail across the country. When immigrant victims and witnesses can feel confident that their interactions with the police will not lead to their deportation, they are much more likely to report crimes.[10]

In addition to driving a wedge between local police and the communities they serve, the "anti-sanctuary" bills would saddle local law enforcement agencies with unmanageable costs. As the federal government does not specifically reimburse local facilities for the costs of holding people under detainers, forced compliance with ICE detainer requests would raise the costs of incarceration for local agencies considerably.[11]

**Nearly Half the County Sheriffs in Florida Have Formal Limited Detainer Policies And Would Be Penalized by HB 675/SB 872**

In recognition of these fundamental problems with detainers, and out of a desire to comply with the constitution and the rule of law, over 360 cities, counties, and states nationwide have declined to respond to ICE detainer requests, or to honor them only in limited circumstances, such as when they are accompanied by a judicial warrant. Among them are at least 30 counties, jails, and sheriffs' offices in Florida.[12] The details of these policies are listed in the table below.

---

[9] Major Cities Chiefs Association, *Immigration Policy* (2013), *available at* https://www.majorcitieschiefs.com/pdf/news/2013_immigration_policy.pdf (recognizing that "trust and cooperation with immigrant communities . . . are essential elements of community oriented policing"); *SAFE Act Anything But*, Former Tampa Police Chief and Retired Director of U.S. Marshals Service Eduardo Gonzalez, Tampa Tribune (Aug. 31, 2013), available at http://www.tbo.com/list/news-opinion-commentary/safe-act-anything-but-20130831/ ("There isn't anyone I've worked with in law enforcement who would disagree that the single most important asset local police have in protecting public safety is the trust and cooperation of the community they are sworn to protect. . . .I don't think police officers, whose primary mission is to ensure the safety of the communities they serve, have any business getting involved in immigration enforcement. Requiring them to do so . . . would be wholly counterproductive to their primary mission of keeping communities safe and diametrically opposed to everything I learned in my 34 years of law enforcement experience.").

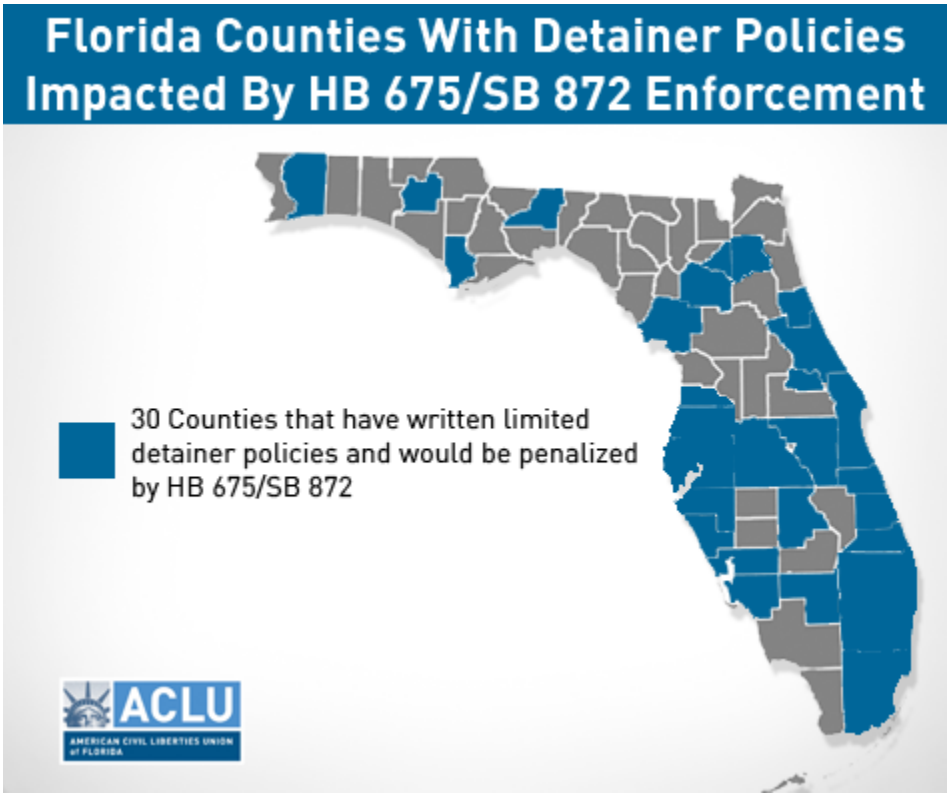
[10] Nik Theodore, Department of Urban Planning and Policy at the University of Illinois at Chicago, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* (May 2013), http://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF.

[11] For example, in Miami-Dade County, a study estimated that continuing to honor ICE detainers, which often results in individuals declining to post bond and significantly lengthening their detention, would result in $12.5 million in detention costs to the county. Edward F. Ramos, *Fiscal Impact Analysis of Miami-Dade's Policy on "Immigration Detainers," available at* https://immigrantjustice.org/sites/immigrantjustice.org/files/Miami%20Dade%20Detainers--Fiscal%20Impact%20Analysis%20with%20Exhibits.pdf.

[12] Information about the detainer policies in this report is largely the result of public records requests issued by the ACLU of Florida in December 2015 and January 2016, after the demise of Secure Communities and roll-out of the Priority Enforcement Program in 2015. As the ACLU is still waiting to

The bills in the Florida Legislature, HB 675/SB 872, would outlaw the policies of these 30 localities by tarring them as "sanctuary" policies and would instead force each and every Florida county and law enforcement agency to honor ICE detainer requests in the absence of probable cause. Passage of these bills would make a mockery of the rule of law by forcing localities and local law enforcement agencies to violate the constitution or else face draconian financial penalties. Entities may be fined up to $5,000 for every day they do not fulfill every immigration request made of them. Further, through a vast and unconventional expansion of tort law, localities will also be perpetually and civilly liable for any bad acts committed by someone released by local law enforcement despite a detainer request. Local agencies will not fully be reimbursed for the cost of detaining these individuals and will continue to be liable in federal court for constitutional violations. In effect, law enforcement will be conscripted to prioritize immigration enforcement over any local needs to address crime or keep communities safe and will be forced to pick up the bill for it too.

Each of the 30 counties, sheriffs' offices, and county jails listed below would be severely penalized for their fidelity to the Fourth Amendment, by HB 675/SB 872.




---

confirm the written policies of 13 jurisdictions—namely Baker County, Bay County, Dixie County, Escambia County, Gilchrist County, Holmes County, Jackson County, Madison County, Marion County, St. Johns County, Sumter County, Suwannee County, and Taylor County—and some jurisdictions without written policies may have a practice of requiring a warrant to detain someone with a detainer request even if they do not have a written policy enumerating their practice, omission of a county or sheriff's office does not necessarily indicate that the county honors ICE detainers without limit.

| LIMITED DETAINER POLICIES IN FLORIDA THAT WOULD BE PENALIZED BY HB 675/SB 872 | | | |
|---|---|---|---|
| **COUNTY** | **DATE OF POLICY** | **POLICY** | **Detainers Issued by ICE 11/14-10/15** |
| **Alachua County Sheriff's Office** | 9/25/15, DOJ 106 – Release Procedures | "ICE detainers will not be honored unless the detainer request form (DHS I-247) is accompanied by a warrant issued by a federal judge or magistrate, or by an Order for Deportation/Removal issued by an immigration judge. . . . An ICE Administrative Warrant for Arrest of Alien (I-200) is not sufficient to satisfy this requirement" | 16 |
| **Bradford County Sheriff's Office** | 6/18/14, email from Jail Administrator Captain C.A. Starling | "Based on the facts established by the federal court ruling, we will not 'hold' anyone for ICE beyond what charges we have . . . [we] will continue to contact ICE as normal, however, unless they provide us a copy of a warrant or deportation order, they will be no detainer placed. If the inmate finishes local charges or posts bond, he will be just like any other person and will be allowed to leave." | 2 |
| **Brevard County Sheriff's Office** | 9/23/14, Policy/Procedure 500.34 – Arrest/Detention of Foreign Nationals | "A suspect may only be detained if probable cause exists for an arrest, a warrant of arrest for removal proceedings has been served and/or is active, or ICE has obtained an order of deportation or removal." | 15 |
| **Broward County Sheriff's Office** | 6/19/14, Legal Bulletin from the Office of the General Counsel— Immigration Detainers: Probable Cause Required | "[P]ersonnel should not honor ICE detainers unless they are supported by probable cause. A suspect may be detained if Form I – 247 indicates that a warrant of arrest for removal proceedings has been served or that ICE has obtained an order of deportation or removal (see attached form). In either case, jail staff should request a copy of the warrant or the order of deportation to determine that probable cause in fact exists for the continued detention." | 116 |
| **Charlotte County Sheriff's Office** | 7/2/14, Detention Procedure, P-09-001, Immigration and Customs Notification | "A person may be detained if Form I-247 indicates a warrant of arrest for removal proceedings has been served or that ICE has obtained an order of deportation or removal. Intake staff will then request a copy of the warrant or order of deportation to determine that probable cause in fact exists for the continued detention. If the detainer indicates a warrant or order of deportation intake staff will | 22 |

| | | | |
|---|---|---|---|
| | | request a copy of the warrant or deportation order. A Copy of the Detainer, warrant or order of deportation will be scanned and emailed to the 'ICE NOTIFICATION' email grouping. No inmate will be held, if Form I-247 that indicates a warrant of arrest for removal proceedings has been served or an order of deportation or removal from the United States has been obtained is not present." | |
| **Clay County Sheriff's Office** | 12/10/15, SOP 4110.04 | "If an illegal alien has been booked into our facility, make appropriate contact with the Immigration and Customs Enforcement office. An Immigration and Customs Enforcement detainer will only be placed on an inmate if an active warrant or deportation order, signed by a judge, and a completed copy of the immigration detainer, Department of Homeland Security Form I-247, have been provided to the agency. A Warrant signed by an immigration officer is not sufficient to place a detainer." | 10 |
| **Flagler County Sheriff's Office** | 10/23/15, General order No. 602 – Intake of Inmates | "Immigration and Customs Enforcement (ICE ) Detainers:<br>a. When an inmate is booked on criminal charges and ICE would like to place a detainer the procedures below will be followed:<br>i. ICE officials will be notified.<br>(A) We will not honor a hold/detainer for their agency unless we are in receipt of either a warrant or a deportation order signed by a judge.<br>(B) Either of these documents received must be with the request and the documents must be signed by a judge.<br>(C) If the documents are signed by an ICE agent only the detainer will not be honored. A Judge's signature must be on all holds, detainers, warrants and/or deportation orders.<br>ii. If an inmate is able to post bond or is time served and the warrant or deportation order has not been received, the inmate is to be released.<br>iii. The ICE agent has forty-eight (48) hours excluding weekends and holidays to pick up the detainee if they have a warrant or deportation order signed by a judge.<br>(A) When the detainee makes bail, time served, etc. the 48 hour clock starts.<br>(B) Once the forty-eight (48) hours are up, the detainee must be released. " | 1 |

| | | | |
|---|---|---|---|
| **Gulf County Sheriff's Office** | 8/5/14, Memo from Sheriff Mike Harrison re: Immigration Detainers: Probable Cause Required | "In light of recent federal court cases, law enforcement personnel shall not honor ICE detainers unless they are accompanied by a warrant issued by a federal judge or magistrate. An administrative warrant issued by an ICE official may not be used to detain a subject." | 3 |
| **Hendry County Sheriff's Office** | 7/30/14, Memo from Captain Joe Bastys to Corrections Staff re: Immigration Holds | "No I-247 detainer requests will be accepted from ICE unless they provide a copy of a warrant for arrest or a final order of deportation signed by a U.S. District Judge or Magistrate. Any requests without the accompanied documents will be denied." | 37 |
| **Hernando County Sheriff's Office** | 8/21/14, General Order 7085.20 – Foreign Nationals | "ICE Notification: An inmate shall be detained if DHS Form I-247 indicates that a warrant of arrest for removal proceedings has been served or that ICE has obtained an order of deportation or removal. A copy of the warrant or order must be presented to determine that probable cause in fact exists for continued detention. If neither document can be produced then the inmate must be released upon completion of the bonding process, end of sentence or any other judicial order." | 6 |
| **Highlands County Sheriff's Office** | 5/4/15, SOP 7200.02, Intake – Processing Arresting Documents | "ICE Detainers will be processed upon completion of sentences on current cases/charges, only if we have a warrant signed by a Federal Judge." | 8 |
| **Hillsborough County Sheriff's Office** | 8/20/14, letter from Sheriff David Gee to ICE | "The Hillsborough County Sheriff's office Department of Detention Services will no longer extend the detention on inmate's who are only being investigated for possible removal from the United States. Here forward, we will only honor an immigration detainer request when: (1) a charging document initiating removal has been filed, (2) a warrant has been issued or (3) removal from the United States has been ordered. In all such cases, copies of the appropriate documentation supporting the continued detention must be included with the request form." | 132 |
| **Indian River County Sheriff's Office** | 12/15/14, Procedure No. 900.09.02, Admissions, | "A warrant issued and signed by a Federal Court Judge or Federal Magistrate or an Order of Deportation signed by a Federal Court Judge, Federal Magistrate, or Immigration Judge will be | 15 |

| | | | |
|---|---|---|---|
| | Classification and Release | the only means accepted when detaining a subject for Immigration and Customs Enforcement (ICE). No person will be detained based solely on an administrative warrant signed and issued by an ICE agent. All inmate information is forwarded to Immigration and Customs Enforcement (ICE)." | |
| **Lee County Sheriff's Office** | [sent by County on 12/23/15] Policy 3.07 – Intake and Booking Procedures/Detainers | "IMMIGRATION AND CUSTOMS ENFORCEMENT (I.C.E.) DETAINERS – An I.C.E. detainer is a hold placed on an inmate by the United States Immigration and Customs Enforcement on inmates currently in violation in our nation's customs and immigration laws. . . . Detainers will not be valid unless accompanied by an order or warrant by an Immigration Judge. When the State charges have been satisfied or disposed of on an inmate with an I.C.E. order/warrant signed by an Immigration Judge, Classifications will then contact the U.S. Immigration and Customs Enforcement to make extradition arrangements. If there is not an accompanied order/warrant signed by an Immigration Judge along with the detainer when state charges have been satisfied, the individual will be released as normal and ICE will be contacted and advised of the release." | 139 |
| **Leon County Sheriff's Office** | 8/21/14, directive from Major Robert Long to All LCSO Staff re: ICE Detainers | "It is the policy of the Leon County Sheriff's Office that no inmate in the Leon County Jail will be held pursuant to detainer requests from U.S. Immigration and Customs Enforcement (ICE) Agents. These administrative requests, such as the I-200 or I-247, are not orders form a court and do not require probable cause to support the individual's detention. As such, courts have determined it may be unconstitutional to detain an individual based solely on such a request. However, inmates will be held when there is a signed order from a judge requiring the inmate's detention. When an Inmate has been held on local charges or under other lawful conditions and is scheduled for release, jail staff shall look into the inmate's file and review the comment section for any immigration holds. If there is a signed immigration order from a judge, the inmate will be detained pursuant to the terms of the court order. If it is determined that the inmate only has an administrative hold request from an ICE Agent, the following | 13 |

| | | | |
|---|---|---|---|
| | | steps will be taken:<br>1. ICE will be notified immediately of the inmate's anticipated release date and time to enable ICE to receive the inmate upon his/her release;<br>. . .<br>Staff shall not wait on ICE to arrive before releasing the inmate. No Inmate will be detained for any period beyond the time otherwise required to facilitate the inmate's release. That is, no inmate shall be held for any period of time when there is only an administrative hold request from an ICE Agent. Therefore, early ICE notification is essential to provide ICE with sufficient time to respond and take custody of the individual." | |
| **Levy County Sheriff's Office** | 7/31/14,<br>Memo from U/S B. Beauchamp to All Detention Supervisors re: ICE Detainers (Form I-247) | "Whenever you become aware that an inmate with an ICE Detainer is going to become eligible for release on local charges (bonded, Nolle Pros, time served, etc.), you should make every effort to notify ICE of the impending release and give them the opportunity to provide additional documentation (preferably signed by a Federal magistrate) that authorizes us to continue to hold the inmate." | 2 |
| **Manatee County Sheriff's Office** | 3/1/15,<br>Booking Manual section 30.0 Immigration and Customs Enforcement (I.C.E.) Detainers | "The only documentation that will be accepted by Booking to place an I.C.E. hold on an inmate will be a warrant signed by a judge or magistrate, or a removal/deportation order signed by a judge or magistrate.<br>The following is a list of **unacceptable** documentation:<br>**DO NOT** detain an individual based upon receipt of a Form I-247 and an I.C.E. Warrant that is signed by someone other than a judge;<br>**DO NOT** detain an individual based upon receipt of a Form I-247 and an Order of Removal/ Deportation that is signed by someone other than a judge; and,<br>**DO NOT** detain an individual based upon receipt of a Form I-200 or an I-205 and an Order of Removal/Deportation that is signed by someone other than a judge.<br>Upon the sentencing of the individual on the Manatee County charges, I.C.E. shall be notified of the anticipated release date. The release dates of the sentenced inmates will be available in Booking, and I. C. E. personnel have been notified | 35 |

| | | | |
|---|---|---|---|
| | | of the location of the information and are encouraged to make copies during their visits. Upon the impending release of the inmate, Booking shall contact I. C. E. **72 hours** prior to the release, notifying I.C.E. they will be able to pick up the inmate at a specific time. Arrangements can be made due to a holiday or scheduling conflict where I.C.E. personnel will be allowed to pick up a detained inmate no more than **72 hours** in advance of the inmate's release date. I.C.E. must agree that the inmate will remain in their custody until the actual completion of the sentence." | |
| **Martin County Sheriff's Office** | 6/19/14 Memo from Chief Counsel Glenn Theobald to All SO Re: Legal Memo 14-1 ICE Detainers | "Deputies and supervisors must ensure that any detention of an ICE detainee without probable cause may subject the sheriff's office to liability for an unlawful seizure." | 29 |
| **Miami Dade County Commission** | 12/3/13 Resolution directing the Mayor to implement policy on responding to detainer requests from the United States Department of Homeland Security Immigration and Customs Enforcement | "Miami-Dade Corrections and Rehabilitations Department may, in its discretion, honor detainer requests issued by United States Immigration and Customs Enforcement only if the federal government agrees in writing to reimburse Miami-Dade County for any and all costs relating to compliance with such detainer requests and the inmate that is the subject of such a request has a previous conviction for a Forcible Felony, as defined in Florida Statute section 776.08, or the inmate that is the subject of such a request has, at the time the Miami-Dade Corrections and Rehabilitations Department receives the detainer request, a pending charge of a non-bondable offense, as provided by Article I, Section 14 of the Florida Constitution, regardless of whether bond is eventually granted." | 316 |
| **Osceola County Sheriff's Office** | 12/5/14 Memo from Deputy Chief Nancy DeFerrari to All Staff re: ICE Written Directive | "When an initial detainer is received, upon intake Bonds & Dockets will: . . . Advise [DHS] at that time that a ***warrant of arrest for removal proceedings*** or an ***Order of Deportation or Removal from the United States for this person*** is needed to detain the subject once the inmate has completed their local charges.<br>. . .<br>In the event the ICE hold in place and no additional information has been received from ICE the releasing department, we will: Send an | 29 |

| | | | |
|---|---|---|---|
| | | email to [DHS] and advise that the inmate is ready for release and a copy of their warrant of arrest or order of deportation or removal from the United States is needed for us to detain the inmate for their agency beyond the processing time of their release on local charges.<br>. . .<br>An ICE Detainer can automatically hold an inmate if the detainer is marked with only one of the following two choices:<br>**1. Served a warrant of arrest for removal proceedings. A copy of the warrant is attached and was served on _____(date).** OR<br>**2. Obtained an order of deportation or removal from the United States for this person.**<br>In these cases, request a copy of the warrant from ICE . . . ." | |
| **Palm Beach County Sheriff's Office** | 7/29/14<br>Inter-Office Memo from Captain Alan W. Fuhrman to All Affected Staff re: DHS Form I-247 Detainers | "Effective immediately <u>PBSO WILL NOT BOOK</u> DHS Form I-247 Detainers absent other judicial authority. Judicial authority for booking purposes will include Order of Deportation or Warrant signed by a federal judge/magistrate. . . . PBSO will not hold or detain an inmate beyond the time the inmate would otherwise be released from custody. As part of the release process, the DHS Form I-247 Detainer will be removed from IMACS with the reason stated as 'Per PBSO Policy – DHS notified <u>date</u> and <u>time</u>'<br>If a DHS agent delivers an Order of Deportation or Warrant signed by a federal judge/magistrate to the Booking Desk prior to an inmate's release, the sergeant will ensure that the DHS Form I-247 Detainer is removed with the reason stated 'Per PBSO Policy – DHS provided Order of Deportation or Warrant'" | 116 |
| **Pasco County Sheriff's Office** | 7/25/14,<br>Pasco Sheriff's Office Court Services Bureau Inmate Processing Training Bulletin | "1. When ICE requests a hold to be placed, they must fax over an Immigration Detainer (DHS I-247 form- See attachment 'B'); A copy of this form will be given to the inmate. This form **<u>must</u>** now have one of the following boxes checked before we can process and honor their hold:<br>*a. 'Served a warrant of arrest for removal proceedings ... ', and/or*<br>*b. 'Obtained an order of deportation or removal from the US. for this person.'*<br>2. If either one of those boxes aren't checked, then **<u>we do not book in a hold</u>.** An inmate **<u>can be</u>** | 23 |

| | | | |
|---|---|---|---|
| | | released if conditions are met (ROR, Bond, etc), even if the immigration detainer (DHS I-247 form) is checked stating, *'Maintain custody of the subject for a period NOT TO EXCEED 48 HOURS...'*<br>3. If ICE sends us an immigration detainer (DHS I-247 form) and either one of the two boxes mentioned above (a. and/or b.) are not checked, ICE should be called to request another form if they want us to honor and process the hold.<br>4. When you receive an immigration detainer (DHS I-247 form) with either of those two boxes mentioned above checked, we also require a copy of the warrant of arrest or order of deportation be sent for the inmates' packet, which should be stapled to the immigration detainer (DHS I-247 form). **The warrant of arrest and/or order of deportation must be signed by a Judge** (Attachment 'C'), **or Deputy Clerk with a Grand Jury indictment** (Attachment 'D')." | |
| **Pinellas County Sheriff's Office** | 4/28/15, SOP DET 4-4, Re: Custody Records | "ICE Detainee and Judicial Order Flow Chart<br><br>Document Received: Detainer I-247 → PCSO Action: No hold/No entry; Return form with form letter; Put copy of the letter in inmate records → ICE Action: None<br><br>Document Received: Affidavit/Warrant/Court Order/I-200/I-205/All forms NOT 247 or 203 → PCSO Action: No hold/No entry; Will notify when released; Put copy of the letter in inmate records → ICE Action: Inmate won't be detained, ICE must take custody of inmate during release process, otherwise inmate will be released<br><br>Document Received: Custody I-203 → PCSO Action: Place ICE hold; Place in ICE custody immediately or when state charges end→ICE Action: Must provide fully filled out form signed by someone with arrest authority showing transfer of custody to ICE" | 38 |
| **Polk County Sheriff's Office** | 6/25/14, Letter from Dir., Office of Legal Affairs, Anne T. Gibson, to ICE | "Due to the recent federal court rulings in the *Galarza v. Szalczyk* and *Miranda-Olivares v. Clackamas County* cases, please be advised that Polk County Jail will no longer be able to detain inmates based solely upon the Department of Homeland Security's Immigration Detainer-Notice of Action (DHS Form I-247), unless the form | 43 |

| | | | |
|---|---|---|---|
| | | clearly states that DHS has either served a warrant of arrest for removal proceedings, or obtained an order of deportation or removal and the back-up documentation is provided. As you are aware, the federal cases cited above do not allow county jails to rely upon a Form I-247 submitted by DHS, except for the two circumstances noted above." | |
| **Santa Rosa County Sheriff's Office** | 12/5/15, General Order O-001 re: Adult Admission and Processing | "a. When ICE requests a hold/detainer be placed on an inmate in our custody, they must provide us with a copy of the (1) **Warrant of Arrest for Removal Proceedings signed by a federal judge or magistrate** or an (2) **Order of Deportation from the United States signed by a federal district court judge or federal magistrate**, along with an Immigration Detainer – Notice of Action Form (DHS Form I-247 (12/12) before a detainer can be placed. Without one of these forms, no ICE detainer will be placed. . . .<br>b. ICE warrants must be issued by a federal judge or magistrate. An administrative warrant issued by an ICE official (Form I-200) will not be used to hold/detain a subject." | 4 |
| **Sarasota County Sheriff's Office** | 7/10/15, Letter from Sheriff Thomas M. Knight to Michael W. Meade, Deputy Field Office Director of ERO, Miami Field Office, DHS | "• The Sarasota County Sheriff's Office will review the merits of recognizing the voluntary I-247D and I-247N forms on a case-by-case basis.<br>• The Sarasota County Sheriff's Office will consider holding illegal immigrants based upon the voluntary I-247D form if:<br>o ICE submits an accompanying notarized affidavit that outlines in a detailed narrative form why a sworn ICE agent believes probable cause exists that the illegal immigrant in question has violated specific federal *criminal* immigration law(s); or<br>o ICE submits an accompanying active Order of Removal executed by a federal judge or federal immigration judge that authorizes removal.<br>• The Sarasota County Sheriff's Office will communicate with ICE regarding the status of illegal immigrants actively held on local charges that ICE has submitted a voluntary I-247N against in an effort to permit ICE to initiate deportation immediately upon the culmination of the local charges with an understanding that the timing of when and how an inmate posts bond or resolves charges is | 39 |

| | | | |
|---|---|---|---|
| | | largely outside of this agency's control." | |
| **Seminole County Sheriff's Office** | 9/9/14, Corrections Policy and Procedure No. 17.02 re: Intake and Booking Procedures | "The John E. Polk Correctional Facility will not detain individuals solely on the basis of an Immigrations and Customs Enforcement (ICE) detainer, ICE administrative warrant, or ICE administrative orders of removal, unless at a minimum, they are accompanied by a determination of probable cause by a federal magistrate or federal judge." | 22 |
| **St. Lucie County Sheriff's Office** | 7/29/14, Memo from Major F. Patrick Tighe, Dept. of Detention, to All Detention Staff re: Special Order – DHS Forms I-247 Detainers & I-200 Warrant | "Effective immediately, the St. Lucie County Sheriff's Office will NOT accept 'DHS Form I-247 Detainers' and I-200 'Warrant for Arrest of Alien' without an accompanying Order of Deportation or Warrant signed by a federal judge/magistrate." | 32 |
| **Volusia County Division of Corrections** | 9/16/15, Immigration & Border Patrol Holds | "1. Admission Policy:<br>The Volusia County Division of Corrections will place holds for Immigration Customs Enforcement (ICE) or BORDER PATROL only when one of the below listed documents is received via fax or email or from an arresting agency:<br>A. Warrant signed by a Federal Judge (e.g., U.S. magistrate, U.S. District Court judge). A warrant signed by an ICE official or local county or circuit court judge will not be recognized<br>B. Order of Deportation signed by an Administrative Immigration Judge.<br>. . .<br>5. Courtesy Notification of Pending Release:<br>If an inmate with no official hold for immigration has a detainer or request for voluntary notification in their file, VCBJ will make courtesy contact with ICE/Border Patrol to advise them of the pending release.<br>. . .<br>B. ICE/Border patrol will be notified of the inmate's pending release and their last known address. ICE/Border Patrol will be advised the inmate will be released within the next 2-6 hours and the inmate will not under any circumstances be held unduly for longer than that period of time." | 13 |

| | | | |
|---|---|---|---|
| **Washington County Sheriff's Office** | 8/5/14, Ltr from Jail Administrator Capt. Karla Jo Brock and Asst. Jail Administrator Lt. Joshua Skipper to ICE re: UPDATE TO REQUIRED DOCUMENTATION AND ACTIONS FOR ICE DETAINER HOLDS IN WASHINGTON COUNTY, confirming 7/30/14 Policy issued by Capt. Brock | "[I]n order for our agency to legally detain an alien for ICE, we are required to have checked on the Immigration Detainer-Notice of Action Form (DHS I-247):<br>• Served a warrant of arrest for removal proceedings, and/or<br>• Obtain an order of deportation or removal from the United States<br>In addition, we will require a copy of the above noted warrants and/or orders for our records. After discussions with our legal counsel and they agree that the above must contain the following to be valid in order for us to have the probable cause to keep them detained for ICE:<br>• Must be signed by a Judge, or<br>• If signed by a Deputy Clerk, it must accompany a Grand Jury Indictment" | 0 |