

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: TRUST / TRUTH ACT COMPLIANCE

C-2300

EFFECTIVE:	REVIEWED:	REVISED:	UPDATED:
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REFERENCE: CA Government Code, Chapter 17.1, §7282, *et seq.*, Chapter 17.2, §7283, *et seq.* Chapter 17.25, §7284, *et seq.*

POLICY

This policy details procedures to ensure compliance with California laws related to federal immigration enforcement when conducting the following activities:

- Notifying immigration authorities of incarcerated people pending release (Procedures A and B), and;
- Transferring incarcerated people to immigration authorities (Procedure C), and;
- Allowing immigration authorities access to incarcerated people for the purposes of conducting an interview (Procedure D).

These functions are permitted only under the circumstances described in California law, including the TRUST Act (Assembly Bill 4), the TRUTH Act (Assembly Bill 2792), and the California Values Act (Senate Bill 54). Sheriff's Office staff will engage in these functions only as detailed in the policy.

DEFINITIONS

When used in this policy:

- Immigration Authorities/Agents means any federal officer or agent, performing immigration enforcement functions (for example, Immigration Customs and Enforcement (ICE) agents).
- Qualifying Conviction means a conviction for an offense, within the specified timelines, listed in Government Code 7282.5(a). Such convictions must be verified by Sheriff's Office staff prior to notifying immigration authorities about the pending

release of that incarcerated person or transferring the incarcerated person to immigration authorities once the incarcerated person is due for release from Sheriff's Office custody. Under specified circumstances defined in Government Code 7282.5(b), a qualifying charge is applicable provided that charge is a serious or violent felony, as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code, respectively, or a felony that is punishable by imprisonment in state prison, and the magistrate makes a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code.

Note: For purposes of this policy, the Sheriff's Office will only notify and transfer incarcerated people to immigration authorities based on the convictions and circumstances listed in Government Code 7282.5(a). The circumstances listed in Government Code 7282.5(b), which deal with specific offenses for which there has only been a probable cause determination, will not serve as the basis for a notification or transfer to immigration authorities.

Directive #1

The following directives will apply to the activities described in this policy:

- Staff will not provide any notification of an incarcerated person's pending release to immigration authorities except as detailed in this policy;
- **At no time will staff delay the release of an incarcerated person for immigration authorities to take custody of that incarcerated person.** If immigration authorities are not physically present to take custody of the incarcerated person at the time of release, the incarcerated person shall be released without delay, unless the following circumstance outlined in Section C-850, Procedure C, of this manual, exists;
 - I.C.E. (or other immigration authority) provides the Sheriff's Office with a judicial warrant or judicial probable cause determination for the individual;

Note: This policy does not limit the Sheriff's legal authority to arrest or detain an individual where the Sheriff has probable cause to believe the individual has committed, or is committing, a criminal violation under state law beyond the charges which they have been released on.

- Incarcerated people will not be denied the right to bail based on a request from immigration authorities to be notified of the incarcerated person's release or a request to interview the incarcerated person;
- The assistance of Sheriff's Office personnel to immigration authorities will be limited to facilitation and participation in the processes outlined in this policy. Additional assistance will not be given unless there is a problematic or combative incarcerated person. The presence of immigration authorities will not be permitted to impede staff from carrying out their assigned duties;

- If an incarcerated person refuses to sign any of the forms related to this policy, the supervisor shall document 'refused to sign' in the appropriate incarcerated person signature box or line. The supervisor will initial and enter their CAD ID next to the "refused to sign" notation;
- Emails and scanned documents related to this policy will be sent for tracking purposes to the Sheriff's Record Unit Supervisor (SRUS) at the Justice Facility using the following group email:

sb54compliance@kernsheriff.org

Procedure A: Requests by Immigration Authorities to be Notified of a Pending Release

Requests by immigration authorities to be notified of an incarcerated person's pending release will only be honored if a qualifying conviction (as defined above) has been verified by Sheriff's Office staff and confirmed by a supervisor, as detailed below.

Immigration authorities must submit an Immigration Release Notification Request (Attachment A) either in-person at the Justice Facility or via email using the SB 54 group. . Phone requests will not be accepted. Requests will not be accepted at other Sheriff's Office facilities. Supervisors and clerical staff at the Justice Facility will process the initial request, review the qualifying conviction, and ensure notification to the incarcerated person as described below in this procedure.

Upon receipt of a request from an immigration agent for notification of pending release, facility clerical staff shall:

- Direct the requesting immigration agent to complete the top portion of an Immigration Release Notification Request form (Attachment A), including the qualifying conviction,
 - If the requesting immigration agent does not list a qualifying conviction the request shall be accepted pending review of the individual's RAP sheet by Sheriff's staff to locate and verify a qualifying conviction.
- Attach the Immigration Release Notification Request form to the incarcerated person's custody file and notify the SRUS;
- If the designated SRUS is present, they will be notified of the request and will;
 - Review the incarcerated person's RAP sheet for qualifying convictions, as defined above;
 - Indicate if a qualifying conviction has been verified on the Immigration Release Notification Request form, print their name, and initial;

- Notify the shift supervisor.
- If the designated SRUS is not present, the Justice Facility clerical staff receiving the request will complete the review of the incarcerated person's RAP sheet and complete the form as described above;
- Notify the on-duty supervisor.

The supervisor will:

- Review the Immigration Release Notification Request form;
- Confirm the presence or absence of a qualifying conviction, as defined above, against the incarcerated person's RAP sheet;
- Mark the form to indicate whether or not the notification and transfer is authorized, print their name, and initial.
 - The supervisor will **NOT** authorize notification and transfer unless they have confirmed a qualifying conviction (as defined above) on the incarcerated person's RAP sheet.

If a qualifying conviction cannot be confirmed, the supervisor will:

- Return the form to clerical staff to be scanned and forwarded electronically to the designated SB54 group email at the Justice Facility for archival. The original will be placed in the designated SB54 box. Immigration authorities will be made via email that the charge did not qualify.

If the supervisor is able to confirm a qualifying conviction, the supervisor will:

- Return the form to the facility clerical staff, who will make a copy of the Immigration Release Notification Request form with immigration agent's phone number redacted (blacked out) to be given to the incarcerated person;
- Attach the original to the top of the incarcerated person's file;
- Print a copy of the TRUTH Act Notification Form (Attachment B) in the appropriate language and fill out the top portion;
 - **Note:** Unless printing Attachment B in a language other than English, Attachment B will be printed as a double-sided document, with an English version of the form on one side and a Spanish version on the other.
- Refer to DBPPM G-1210 for any additional assistance identifying any other languages not provided in TRUTH Act Notification Form (Attachment B.)

- Give the TRUTH Act Notification Form and the incarcerated person's copy of the Immigration Release Notification Request to the supervisor for delivery to the incarcerated person.

The shift supervisor will:

- Give the incarcerated person the copy of the redacted Immigration Release Notification Request (Attachment A) and;
- Have the incarcerated person complete Section 1 of the TRUTH Act Notification Form (Attachment B), including the:
 - Signature and date, and;
 - Name and address of Attorney of Record or another designee.
 - If the incarcerated person provides an Attorney of Record but does not know the address, the shift supervisor will use available means to search for the record. If an address is located, the supervisor will fill in the address. If the supervisor is unable to locate an address, the supervisor will indicate, "Unable to Locate" (UTL).
- Print and initial their name as indicated on the form;
- Return the TRUTH Act Notification Form to clerical staff.

Facility clerical staff will:

- Verify that Section 1 of the TRUTH Act Notification Form has been completed, scan the document and e-mail an electronic copy to the designated SB 54 group email;
- Attach the original form to the front of the incarcerated person's custody file.

Note: The Immigration Notification Request Form and the TRUTH Act Notification Forms will remain attached to the front of incarcerated person's file until teardown upon release.

Procedure B: Notification to Immigration Authorities of a Pending Incarcerated Person Release

When an incarcerated person becomes due for release and an Immigration Release Notification Request form is attached to the front of the incarcerated person's file, clerical staff will review the form and determine if a supervisor has authorized notification to immigration authorities.

- If a supervisor has NOT authorized notification, staff will make NO notification to immigration authorities. Clerical staff will return the form to the incarcerated person's file and process the release normally.

If the supervisor HAS authorized notification, clerical staff will:

- Retrieve the following forms from the incarcerated person file;
 - Immigration Notification Request Form (Attachment A) and;
 - TRUTH Act Notification form (Attachment B);
- Verify notification of the incarcerated person has been documented on Section 1 of Attachment B;
 - Document the verification on Attachment A under "Notification of Pending Release by Clerical Staff";
 - If notification was not completed at the time of the initial request, DO NOT make notification to immigration authorities. Clerical staff will note on the form that the incarcerated person notification could not be verified, return the forms to the incarcerated person's file, and process the release normally.
- If incarcerated person notification has been verified on Attachment B, contact immigration authorities and inform them of the pending release;
 - Complete the "Notification of Pending Release by Clerical Staff" section on Attachment A, and;
 - Complete Section 2 (Notification of Pending release) on Attachment B.
- Give the TRUTH Act Notification Form (Attachment B) to the shift supervisor for delivery to the incarcerated person for signature;

The shift supervisor will:

- Have the incarcerated person read and sign Section 2 of the TRUTH Act Notification Form;
- Return the TRUTH Act Notification Form to clerical staff, who will:
 - Scan and email the form to the designated SB 54 group email.
 - Attach the form to the front of the incarcerated person's file.

Notification to Attorney or Designee

If the incarcerated person indicated an Attorney or Designee in Section 1 of the TRUTH Act Notification Form, facility clerical staff will:

- Complete and sign a TRUTH Act Notification Letter(s) (Attachment 'C'), addressed to the Attorney of Record and/or designee listed in Section 1 of the TRUTH Act Notification Form and make a copy;
 - Clerical staff is herein granted authorization to correspond in the Sheriff's name as required by Sheriff's Office Policy and Procedures, Section J- 100, for the sole purpose of completing and signing the TRUTH Act Notification Letter as detailed in this section.
- Scan and e-mail an electronic copy of the TRUTH Act Notification Letter(s) and updated TRUTH Act Notification Form to the designated SB54 group email;
- Mail the TRUTH Act Notification Letter(s) and a copy of the TRUTH Act Notification Form to the listed Attorney of Record and/or Designee;
- Staple the copy of the completed TRUTH Act Notification Letter to the TRUTH Act Notification Form and attach it to the front of the incarcerated person's custody file.

Procedure C: Transfer to Immigration Authorities of Incarcerated people with Qualifying Convictions

If an incarcerated person due for a release has been verified to have a qualifying conviction, immigration agents may enter the secure part of the facility to take custody of the incarcerated person. Such instances shall be reported to the California DOJ as detailed below in Procedure E.

When processing the release of an incarcerated person whose file contains an Immigration Release Notification Request, the supervisor will review the form and determine if transfer to immigration authorities has been authorized in accordance with Procedure A above.

- If a supervisor **did NOT authorize transfer** at the time of the initial request, the supervisor will ensure the incarcerated person is released normally as detailed in Section C- 850 of this manual. Immigration authorities will NOT be allowed to enter the secure area of the facility to take custody of the incarcerated person.

If a supervisor HAS authorized transfer of the incarcerated person to immigration authorities AND an immigration agent is present when the incarcerated person is ready for release, the shift supervisor will:

- Review the following forms to ensure proper notifications to the incarcerated person and to their attorney and/or designee (if listed) were documented:
 - TRUTH Act Notification Form (Attachment B, Section 1 & 2) and;
 - Immigration Notification Request form (Attachment A) and;
 - Document the verification on Attachment A under “Releasing Supervisor Only.”
- If documentation of the notifications listed above are verified, allow the immigration agent to enter the secure part of the facility to take custody of the incarcerated person;
- On the Immigration Release Notification Request, check the box indicating the incarcerated person was transferred to immigration authorities and indicate which agency took custody of the incarcerated person;
- Complete a JMS incident using code 4055: ICE TRANSFER WITH QUALIFYING CONVICTION. If multiple incarcerated people are transferred to immigration authorities simultaneously from one facility, the transfers may be reported on a single incident listing the incarcerated people;
- Send an e-mail to the designated SB 54 group email including the JMS incident number and names of involved incarcerated people **and** scanned copies of the completed Immigration Release Notification Request;

If an immigration agent is not present at the time of release, the supervisor will:

- Ensure the incarcerated person is released normally in accordance with Section C-850 of this manual;
- On the Immigration Release Notification Request, check the box indicating the incarcerated person was released;
- E-Mail a scanned copy of the completed Immigration Release Notification Request to the designated SB 54 group email.

Procedure D: Requests by Immigration Authorities to Interview Incarcerated people

If immigration authorities request to interview an incarcerated person, clerical staff will review the incarcerated person’s file to determine if the incarcerated person’s consent has been given and documented on a TRUTH Act Interview Request Form (Attachment D).

- If the incarcerated person’s consent has been documented as described below, immigration agents may interview the incarcerated person. If the incarcerated

person requests the presence of their attorney, the interview will only be allowed if the requested attorney is present;

- If the incarcerated person has already declined to be interviewed, as documented on the TRUTH Act Interview Request Form, the interview will not be allowed.

If there is no TRUTH Act Interview Request Form in the incarcerated person's file, facility clerical staff will:

- Complete the top portion of a TRUTH Act Interview Request Form (Attachment D) in the appropriate language;
 - **Note:** Unless printing Attachment D in a language other than English, Attachment D will be printed as a double-sided document, with an English version of the form on one side and a Spanish version on the other.
- Provide the form to a supervisor to be signed by the incarcerated person.

The shift supervisor will:

- Take the TRUTH Act Interview Request Form to the designated incarcerated person;
- Direct the incarcerated person to read Section 1 of the form and check a response box regarding the request for interview, sign and date at the bottom of Section 1;
- Once the incarcerated person has completed the form, print the supervisor's name, initial, and date at the bottom of the form.
- Return the signed TRUTH Act Interview Request Form to clerical staff.

Facility clerical staff will:

- Make two copies of the form and route one copy to the incarcerated person and one to the requesting immigration authorities;
- Scan and e-mail an electronic copy of the form to the designated SB 54 group email;
- Attach the original form to the front of the incarcerated person's custody file.
 - **Note:** An incarcerated person's refusal to sign the form shall not be considered consent for interview.
 - **Note:** If an immigration agent is at a facility to interview an incarcerated person, the agent will be required to check in with the visiting clerk. If the

visit occurs, facility clerical staff will log the visit in the JMS and indicate if an attorney was present.

- If an attorney is present for the interview, enter the code: SB54 ICE REQUEST FOR INTERVIEW WITH ATTORNEY;
- If no attorney was present for the interview, enter the code: AT54 ICE REQUEST FOR INTERVIEW WITHOUT ATTORNEY.

Procedure E: Tracking and Reporting Data

The Justice Facility Sheriff's Records Unit Supervisor (SRUS) shall be responsible for entering all required tracking information into the TRUST/TRUTH ACT database.

Upon teardown of release files, all forms related to this policy will be routed to the Justice Facility SRUS.

Procedure F: DOJ Reporting

At the beginning of each year, the Justice Facility SRUS will complete the "Values Act: Transfer Reporting" form (State of California form BCIIIS SB54-2; see attachment E), providing the transfer information for the previous year. The Justice Facility SRUS will submit the form to the Population Management section manager for review and approval.

The Population Management section manager will ensure the completed "Values Act: Transfer Reporting" form is submitted to the California Department of Justice (DOJ) on or before January 15 of each year.

Procedure G: Training

The Detentions Bureau Compliance Section will coordinate with the Training Section to ensure this policy is circulated annually as a required Mandatory Read. This circulation should be completed on or before January 15 of each year.