



County Executive Office

Memorandum

March 15, 2022

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of
Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2022.03.15 08:43:13 -0700

2022 MAR 15 PM 4:01
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

RECEIVED

S46A

The County Executive Office is requesting a Supplemental Agenda Staff Report for the March 22, 2022, Board Hearing.

Agency: County Counsel
Subject: TRUTH Act Community Forum
Districts: All Districts

Reason Item is Supplemental: This item is a supplemental item to allow the Sheriff's Department time to gather data about the access to individuals provided to Immigration and Customs Enforcement (ICE) during 2021 and to accommodate the Sheriff's schedule.

Justification: This item must be heard on March 22, 2022, because the 30-day public notice required by Government Code Section 7283.1 specified that date. If it is continued, the 30-day public notice must be given anew. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

Doug Chaffee, Chairman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel





**SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT**

RECEIVED
2022 MAR 15 PM 4:02
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

MEETING DATE: 03/22/22
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Counsel
DEPARTEMENT HEAD REVIEW: Leon J. Page
Digitally signed by Leon J. Page
DN: cn=Leon J. Page, o=County of Orange, ou=County
Counsel, email=leon.j.page@ocgov.com, c=US
Date: 2022.03.15 16:35:24 -0700
Department Head Signature
DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
Nicole A. Sims (714) 834-3319

SUBJECT: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum

CEO CONCUR  <small>Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2022.03.15 08:32:48 -0700</small> <i>CEO Signature</i>	COUNTY COUNSEL REVIEW <i>No legal objection</i> <i>Action</i>  <i>County Counsel Signature</i>	CLERK OF THE BOARD Public Hearing 3 Votes Board Majority
---	---	---

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A
Staffing Impact: N/A **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years:** N/A

Prior Board Action: 4/23/2019, Item #S49C, 12/08/2020, Item #S34A, 02/23/2021, Item #S15C

RECOMMENDED ACTION(S)

1. Pursuant to Government Code section 7283.1, conduct public hearing regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2021.
2. Receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2021.

SUMMARY:

California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act (Government Code sections 7283 and 7283.1) requires that a Community Forum be held each year, to provide the public with information about what access to individuals had been provided to Immigration and Customs Enforcement (ICE) by County law enforcement departments during the preceding year.

BACKGROUND INFORMATION:

In accord with Government Code sections 7283, subdivision (a) and 7283.1, subdivision (d), the Board has held a public hearing at its meetings on April 23, 2019, December 8, 2020, and February 23, 2021, to provide the public with information about what access to individuals had been provided to ICE by County law enforcement departments during the preceding year.

Government Code section 7283, subdivision (d), defines "ICE access" as follows:

- "ICE access" means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:
- (1) Responding to an ICE hold, notification, or transfer request.
 - (2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
 - (3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.
 - (4) Allowing ICE to interview an individual.
 - (5) Providing ICE information regarding dates and times of probation or parole check-ins.

Sheriff's Department (OCSD)

Following the enactment of state laws limiting law enforcement agencies' cooperation with ICE except as provided, OCSD implemented a jail policy and created forms to meet the laws' requirements. OCSD's jail policy 1206 (Attachment B) prohibits any transfer of an inmate to ICE's custody unless in accordance with state law. Following the enactment of the Transparent Review of Unjust Transfers and Holds (TRUTH) Act, OCSD created forms by which OCSD requests an inmate's written consent to be interviewed by ICE ("TRUTH Act Interview Consent Form") and also notifies an inmate if the inmate qualifies to be transferred to ICE's custody following the inmate's release from OCSD's custody ("TRUTH Act Notification Form") (Attachment C).

OCSD provided the following information for 2021 (see Attachments D and E):

- In calendar year 2021, a total of 199 inmates released from the Orange County Jail had ICE detainers, meaning ICE requested that OCSD notify them when the inmates were being released and transfer the inmates to ICE's custody. OCSD notified ICE about 143 of those 199 inmates upon the inmates' completion of their time in local custody. Those inmates were all individuals whose criminal convictions met the state law's requirement for transfer to ICE's custody. Of the 143 individuals, only 73 or 51 percent were transferred to ICE's custody. With respect to the other 70 individuals who, under state law, were eligible for transfer to ICE, ICE took no action and these individuals were released back into the community. A total of 24 of these individuals were re-arrested for new crimes in Orange County.
- State law prohibited OCSD from notifying ICE of the release of 56 inmates who had ICE detainers. Of the 56 inmates with ICE detainers who were released back into the community, 3 were re-arrested for new crimes in Orange County.

Probation Department (Probation)

Probation does not permit ICE to have access to any juvenile in Probation's custody or under Probation's supervision. This is in accord with Welfare and Institutions Code section 831, which prohibits disclosure of juvenile information to federal officials absent a court order from the Juvenile Court.

Probation has briefed its officers about the legal requirements for ICE access to adults. Probation has not had a situation where it has allowed ICE access to an adult in Probation's custody or under Probation's supervision in 2021.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Sheriff's Department
Probation Department

ATTACHMENT(S):

- Attachment A – Government Code sections 7283 and 7283.1; Welfare & Institutions Code section 831
- Attachment B – OCSD's Jail Policy Section 1206 (Immigration)
- Attachment C – OCSD's Inmate Interview Consent Form and Notification Form
- Attachment D – Orange County Jail – Immigration Detainer Data – 2021
- Attachment E – Inmates with Immigration Detainers – 2021