



JAIL COMPLIANCE & TRAINING TEAM

CCOM:

1206 – Immigration

CCOM

Court & Custody Operation Manual

1206 - Immigration

Although enforcing immigration law is a federal government responsibility and not shared by members of OCSJ, OCSJ may allow members of Immigration and Customs Enforcement (ICE) into our custodial facilities for the purpose of interviewing inmates for immigration violations, provided the requirements of Government Code section 7283, et seq (the "Truth Act") are met. Members of this Department may not transfer an individual in Department custody to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or that individual has been convicted of the crimes, or otherwise has met the criteria set forth in Government Code sections 7282 and 7282.5 (the "Trust Act" as amended by Senate Bill 54 (the "California Values Act")).

1206.1 – Definitions

- a) Hold Request means a federal Immigration and Customs Enforcement (ICE) request that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to ICE and includes, but is not limited to, Department of Homeland Security (DHS) Form I-247D.
- b) Notification Request means an Immigration and Customs Enforcement request that a local law enforcement agency inform ICE of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N.
- c) Transfer Request means an Immigration and Customs Enforcement request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X.
- d) Judicial Probable Cause Determination means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.
- e) Judicial Warrant means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

1206.2 – Immigration Interview Procedure

- a) The Facility Watch Commander shall be notified of an ICE Agent's arrival and request to interview inmates for immigration violations.
- b) Prior to being interviewed, a Classification Deputy will provide the inmate with a written consent form (Truth Act Interview Consent Form) which is available in one of eight languages as follows:
 1. English
 2. Chinese
 3. Farsi
 4. Korean
 5. Spanish
 6. Tagalog
 7. Vietnamese
 8. Arabic
- c) The form will explain the purpose of the interview, the voluntary nature of the interview, and that the inmate may decline to be interviewed or may choose to be interviewed only with his or her attorney present.

- d) If the inmate chooses to have his or her attorney present, the interview will be postponed until the attorney can be present.
- e) Upon completion of the written consent form, the inmate will be provided with a duplicate copy and the original will be placed in the inmate's record jacket.
- f) If the inmate agrees to be interviewed, a Classification Deputy will be assigned to escort the inmate to the ICE Agent's location.

1206.3 –Receiving a Notification/Transfer Request

- a) Upon receiving a Notification/Transfer Request, Inmate Records shall provide a copy of the Notification/Transfer Request for the referenced inmate to Classification.
 - 1. This includes a Notification/Transfer Request placed by persons outside of OCSJ, or already lodged on an inmate prior to their intake or after intake when the OCSJ becomes aware of such Notification/Transfer Requests.
- b) The on-duty Classification Sergeant, or in their absence, the on-duty Operations Sergeant will designate an on-duty Classification deputy to provide a copy of the Notification/Transfer Request to the inmate and inform the inmate that OCSJ intends to comply with the Notification/Transfer Request if the inmate qualifies in accordance with Government Code section 7282, et seq. (the "Trust Act," as amended by Senate Bill 54 (the "California Values Act")).
- c) The on-duty Classification Sergeant, or in their absence, the on-duty Operations Sergeant will designate an on-duty Classification Deputy to provide the Truth Act Notification form to the inmate to complete the name and address of the inmate's attorney or other person whom the inmate may designate for the purpose of OCSJ providing notice to that attorney or other person if ICE is notified of the inmate's release date.
- d) Upon completion of the top portion of the Truth Act Notification form, the Classification Deputy will provide a copy of the Truth Act Notification form to the inmate and return the original form to Inmate Records to be placed in the inmate's Inmate Record Jacket.

1206.4 – Screening Inmates in Accordance with the Trust Act and the California Values Act

- a) All inmates who have a Notification/Transfer Request will be evaluated in accordance with Government Code sections 7282 and 7282.5, which criteria are set forth in CCOM Section 1206.6 - Criteria for Responding to a Notification/Transfer Request. The evaluation will be conducted by an on-duty Classification Deputy designated by the on-duty Intake Release Center Classification Sergeant, or in their absence, the on-duty Intake Release Center Operations Sergeant.
- b) OCSJ will comply with Notification/Transfer Requests by notifying ICE and releasing the inmate to ICE custody when the referenced inmate qualifies in accordance with Government Code sections 7282 and 7282.5.
 - 1. Inmates who qualify under Government Code sections 7282 and 7282.5 may be processed for release at Sentence Ending Date (SE Date) or Pre-trial release and released in-custody to ICE.
 - i. These inmates will not be held past their release date.
 - ii. No inmate will be detained or held on the basis of an ICE Hold Request.
 - 2. ICE will be notified in a timely manner for all inmates who qualify under Government Code sections 7282 and 7282.5 to afford ICE the opportunity to pick up the inmate. ICE will not be notified if the inmate does not qualify under Government Code Sections 7282 and 7282.5.

1206.5 – Release of Inmates with a Notification/Transfer Request

- a) Records Supervisors will notify the on-duty Intake Release Center Classification Sergeant, or in their absence, the on-duty Intake Release Center Operations Sergeant when an inmate with a Notification/Transfer Request is preparing for release.
- b) The on-duty Intake Release Center Classification Sergeant, or in their absence, the on-duty Intake Release Center Operations Sergeant will designate an on-duty Classification deputy to screen the inmate per section 1206.4 above.
- c) When ICE is notified that an inmate is being, or will be released, on a certain date, the on-duty Intake Release Center Classification Sergeant, or in their absence, the on-duty Intake Release Center Operations Sergeant will designate an on-duty Classification Deputy to promptly complete the bottom portion of the Truth Act Notification form and provide a copy of the original to the inmate, mail a copy of the original to the inmate’s attorney or other person designated if such person was designated by the inmate and return the original to the inmate’s Inmate Record Jacket.
- d) Members of this Department may not transfer an individual in Department custody to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or that individual has been convicted of the crimes or otherwise has met the criteria set forth in Government Code Sections 7282 and 7282.5. Refer to CCOM Section 1206.6 below.

1206.6– Criteria for Responding to a Notification/Transfer Request

- a) OCSD personnel may provide information in response to a Notification Request, or may transfer an inmate to immigration authorities only under the following circumstances, as permitted by Government Code Sections 7282 and 7282.5:
 1. The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code. (See below for list of serious felonies and violent felonies).
 2. The individual has been convicted of a felony punishable by imprisonment in the state prison.
 3. The individual has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony for, or has been convicted within the last 15 years of a felony for, any of the following offenses:
 - i. Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.
 - ii. Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.
 - iii. Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.
 - iv. Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.
 - v. Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.
 - vi. Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.

- vii. Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.
- viii. Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.
- ix. Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.
- x. Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.
- xi. Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.
- xii. Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).
- xiii. An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.
- xiv. Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.
- xv. Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.
- xvi. An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.
- xvii. A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.
- xviii. Possession or use of a firearm in the commission of an offense.
- xix. An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.
- xx. False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.
- xxi. Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.
- xxii. Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.
- xxiii. A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.
- xxiv. Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.
- xxv. A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.
- xxvi. Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.
- xxvii. Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.

- xxviii. An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.
 - xxix. Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.
 - xxx. Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.
 - xxxi. A violation of subdivision (c) of Section 20001 of the Vehicle Code.
4. The individual is a current registrant on the California Sex and Arson Registry.
 5. The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.
 6. In no case shall cooperation occur pursuant to this section for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code.
 7. In cases in which the individual is arrested and taken before a magistrate on a charge involving 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, a law enforcement official shall additionally have discretion to cooperate with immigration officials pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 7284.6.

Serious Felonies identified in Penal Code section 1192.7(c)

1. Murder or voluntary manslaughter;
2. Mayhem;
3. Rape;
4. Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
5. Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
6. Lewd or lascivious act on a child under 14 years of age;
7. Any felony punishable by death or imprisonment in the state prison for life;
8. Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm;
9. Attempted murder;
10. Assault with intent to commit rape or robbery;
11. Assault with a deadly weapon or instrument on a peace officer;
12. Assault by a life prisoner on a non-inmate;
13. Assault with a deadly weapon by an inmate;

14. Arson;
15. Exploding a destructive device or any explosive with intent to injure;
16. Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;
17. Exploding a destructive device or any explosive with intent to murder;
18. Any burglary of the first degree;
19. Robbery or bank robbery;
20. Kidnapping;
21. Holding of a hostage by a person confined in a state prison;
22. Attempt to commit a felony punishable by death or imprisonment in the state prison for life;
23. Any felony in which the defendant personally used a dangerous or deadly weapon;
24. Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code;
25. Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person;
26. Grand theft involving a firearm;
27. Carjacking;
28. Any felony offense, which would also constitute a felony violation of Section 186.22;
29. Assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220;
30. Throwing acid or flammable substances, in violation of Section 244;
31. Assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245;
32. Assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Section 245.2, 245.3, or 245.5;
33. Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246;
34. Commission of rape or sexual penetration in concert with another person, in violation of Section 264.1;
35. Continuous sexual abuse of a child, in violation of Section 288.5;
36. Shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100;
37. Intimidation of victims or witnesses, in violation of Section 136.1;
38. Criminal threats, in violation of Section 422;
39. Any attempt to commit a crime listed in this subdivision other than an assault;
40. Any violation of Section 12022.53;
41. A violation of subdivision (b) or (c) of Section 11418; and
42. Any conspiracy to commit an offense described in subdivision (c) of Section 1192.7.

Violent Felonies identified in Penal Code Section 667.5(c)

1. Murder or voluntary manslaughter.
2. Mayhem.

3. Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
4. Sodomy as defined in subdivision (c) or (d) of Section 286.
5. Oral copulation as defined in subdivision (c) or (d) of Section 288a.
6. Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
7. Any felony punishable by death or imprisonment in the state prison for life.
8. Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
9. Any robbery.
10. Arson, in violation of subdivision (a) or (b) of Section 451.
11. Sexual penetration as defined in subdivision (a) or (j) of Section 289.
12. Attempted murder.
13. A violation of Section 18745, 18750, or 18755.
14. Kidnapping.
15. Assault with the intent to commit a specified felony, in violation of Section 220.
16. Continuous sexual abuse of a child, in violation of Section 288.5.
17. Carjacking, as defined in subdivision (a) of Section 215.
18. Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
19. Extortion, as defined in Section 518, would constitute a felony violation of Section 186.22.
20. Threats to victims or witnesses, as defined in Section 136.1, would constitute a felony violation of Section 186.22.
21. Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
22. Any violation of Section 12022.53.
23. A violation of subdivision (b) or (c) of Section 11418.

1206.7– Public Access to Records

- a) Upon receiving any request pursuant to the California Public Records Act, GOVT. CODE §§ 7920.000 – 7931.000, information related to ICE’s access to individuals, responsive records shall be produced consistent with the Act’s requirements.