



Denver Sheriff Department
Office of the Sheriff

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MEMORANDUM

Date: April 29, 2014

To: Division Chief Gale, Downtown Division
Division Chief Diggins, COJL Division
Division Chief Kielar, Support Services Division

From: Gary Wilson, Sheriff 

Subj: 48-Hour ICE Holds

In recent weeks, federal courts in two separate jurisdictions have ruled that a county sheriff department is potentially liable for a Fourth Amendment violation when the county jail holds a prisoner in custody solely on the basis of an immigration detainer. (DHS Form I-247). *Galarza v. Szalczyk*, 2014 WL 815127 (2nd Cir., March 4, 2014); *Miranda-Olivares v. Clackamas County*, 2014 WL 1414305 (D. Oregon, April 11, 2014).

After consultation with the City Attorney, I have concluded that a change in our policy is in order. Therefore:

Effective immediately, the Denver Sheriff Department (DSD) will no longer honor a request in any I-247 detainer that DSD maintain a person in custody "beyond the time when the subject would have otherwise been released," unless the detainer is accompanied by a criminal warrant or some other form that gives DSD legal authority to hold the requested person. Until further notice, DSD will continue to cooperate with ICE officials related to persons of interest but shall release all persons who are eligible for release. Any ICE official who makes a request to hold a person without the proper legal documents to do so shall be denied. All persons who are in our custody who currently have a 48- hour ICE hold that is not accompanied by a criminal warrant or some other form that gives DSD legal authority to hold the person **SHALL BE DROPPED**. Any current holds that are dropped from our system shall be tracked and a report shall be immediately sent to ICE. Please ensure any and all divisional policies are changed within your division to reflect this change in policy and all staff is advised and trained.

It should be understood that this issue has rapidly evolved and there will be further discussion within our Policy and Procedure Taskforce and other groups. Additional changes in policy may be forthcoming; if you have any questions or concerns, please contact me.

Thank you.

cc: Janice Sinden, Mayor Chief of Staff
Stephanie O'Malley, Executive Director of Safety
Scott Martinez, City Attorney
David Broadwell, Assistant City Attorney
File