



Enforcement & Removal » Detention Reform (<http://www.ice.gov/detention-reform/>)



ICE Detainers: Frequently Asked Questions

Q: What is an immigration detainer?

A: An immigration detainer (Form I-247 (<http://www.ice.gov/doclib/secure-communities/pdf/immigration-detainer-form.pdf>)) is a notice that DHS issues to federal, state and local law enforcement agencies (LEAs) to inform the LEA that ICE intends to assume custody of an individual in the LEA's custody.

An immigration detainer serves three key functions: 1) to notify an LEA that ICE intends to assume custody of an alien in the LEA's custody once the alien is no longer subject to the LEA's detention; 2) to request information from an LEA about an alien's impending release so ICE may assume custody before the alien is released from the LEA's custody; and 3) to request that the LEA maintain custody of an alien who would otherwise be released for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays) to provide ICE time to assume custody.

Q: Why does ICE issue detainers?

A: Detainers are critical for ICE to be able to identify and ultimately remove criminal aliens who are currently in federal, state or local custody.

ICE relies on the cooperation of our state and local law enforcement partners in this effort.

Q: What if the LEA needs the individual to remain in the United States for prosecution or other law enforcement purposes?

A: Local law enforcement agencies (LEAs) are advised that once individuals are in ICE custody, they may be removed from the United States. If the LEA wants an individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, the agency should notify the local Field Office or the ICE Law Enforcement Support Center at (802) 872-6020.

Q: Where does ICE's authority to issue a detainer stem from?

A: By issuing a detainer, ICE requests that a law enforcement agency notify ICE before releasing an alien and maintain custody of the subject for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, to allow ICE to assume custody. This request flows from federal regulations at 8 C.F.R. § 287.7, which arises from the Secretary's power under the Immigration and Nationality Act § 103(a)(3), 8 U.S.C. 1103(a)(3), to issue "regulations . . . necessary to carry out [her] authority" under the INA, and from ICE's general authority to detain individuals who are subject to removal or removal proceedings.

Q: What has been changed on the I-247 form?

A: The new I-247 form requests that the LEA provide to the subject of the detainer a copy of the detainer form and a notice advising him or her that ICE intends to assume custody. The notice informs these individuals that ICE has requested the LEA to maintain custody beyond the time when they would have been released by the state or local law enforcement authorities based on their criminal charges or convictions. The notice contains translations into Spanish, French, Portuguese, Chinese, and Vietnamese.

The new I-247 form also emphasizes that local law enforcement agencies (LEAs) may only hold an alien for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays).

Q: What happens if ICE does not assume custody of the individual after 48 hours?

A: If ICE does not assume custody after 48 hours (excluding weekends and holidays), the local law enforcement agency (LEA) is required to release the individual. The LEA may not lawfully hold an individual beyond the 48-hour period.

Q: What if the subject of the detainer believes that he or she has been held beyond the 48 hours, or has a complaint?

A: The Notice to the Detainee advises individuals that if ICE does not take them into custody during the 48 hours, they should contact the LEA or entity that is holding them to inquire about their release from state or local custody.

If the individual has a complaint regarding the detainer or violations of civil rights or civil liberties connected to DHS activities, he or she should contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253).

Q: What happens if a detainer is placed on a victim of a crime or a U.S. citizen?

A: If the local law enforcement agency (LEA) believes the individual may be the victim of a crime or a U.S. citizen, the LEA should notify the ICE Law Enforcement Support Center at (802) 872-6020.

If the subject of the detainer believes that he or she is a victim of a crime or a U.S. citizen, that individual should advise DHS by calling the ICE Law Enforcement Support Center at the following toll-free number (855) 448-6903.