

<b>DATE:</b>	APRIL 27, 2022
<b>NUMBER:</b>	Q.4
<b>SUBJECT:</b>	VERIFICATION OF LEGAL STATUS AND CONFORMANCE TO IMMIGRATION LAWS
<b>RELATED SECTIONS:</b>	California Penal Code 834(b); Assembly Bill 2792

PURPOSE

To establish guidelines for the verification of legal status and conformance to immigration laws of persons arrested and booked into Sheriff's custody, pursuant to California Penal Code Section 834(b).

POLICY

Agents from the U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE/ERO) may be allowed access to Sheriff's booking facilities for the purpose of conducting screenings and interviews of those suspected of violating federal immigration laws. ICE/ERO agents may not conduct interviews of persons booked into Sheriff's custody unless the person consents to be interviewed. Persons of interest must be given a Consent Form for Immigration and Customs Enforcement Interview (J-330) which explains the purpose of the interview; that it is voluntary; and that they may decline to be interviewed. Persons must provide written consent prior to facility staff arranging the interview with an agent from ICE.

PROCEDURE

I. FACILITY ASSIGNMENT/ORIENTATION

- A. Facility sworn administrative staff (booking facilities) responsibilities.
  - 1. Provide ICE/ERO agents with an orientation to include the physical layout of the facility and familiarization of applicable rules and regulations. ICE/ERO agents are expected to conform to all applicable rules and regulations of the facility.
  - 2. Obtain contact information for each ICE/ERO agent allowed access into their respective facility as well as maintain an active ICE/ERO roster.
  - 3. Provide ICE/ERO agents access to the facility.

II. INTERVIEW OF INCARCERATED PERSON

- A. Prior to meeting with any incarcerated person, an ICE/ERO agent must go to the facility's custody information window to complete the necessary paperwork and schedule the requested visit(s). The ICE/ERO agent must fill out the top portion of the J-330 form(s) and submit it to the detention information assistant (DIA). In addition, the DIA will provide the ICE/ERO agent with a Request to Interview (J-47) card to complete for each incarcerated person the agent is requesting to interview. The DIA will confirm the incarcerated person's housing assignment and forward the J-330 form to the on-duty Detention Processing Supervisor (DPS)/designee.

- B. The DPS/designee will make a copy of the J-330 form and immediately forward the J-330 form to the on-duty classification deputy or available sworn staff (e.g., rover deputy, housing deputy, etc.).
1. The classification deputy will present the J-330 form to any incarcerated person that is in the booking process. Available sworn staff will present the J-330 form to any incarcerated person that has been housed.
  2. The J-330 form will be presented to the incarcerated person in the available preferred language [interpreter services are obtainable per Detention Services Bureau Policy and Procedure (DSB P&P) Q.7]. The classification/sworn staff will explain the purpose of the consent form and options available to the incarcerated person.
- C. Once the incarcerated person has made a selection and signed the J-330 form or opted not to complete the form, the classification/sworn staff will:
1. Complete the bottom portion of the J-330 form.
  2. Provide the incarcerated person with a copy of the J-330 form.
  3. Promptly return the signed copy of the J-330 form to the DPS/designee.
- D. Upon receipt of the J-330 form, the DPS/designee will review the J-330 form(s) and make the appropriate log entry in JIMS, indicating the form has been received:
1. If the J-330 form indicates: I do not agree to be interviewed by an agent of ICE, the interview will not be scheduled (330N).
  2. If the J-330 form indicates: I agree to be interviewed by an agent of ICE without my lawyer, the professional visit may be scheduled in accordance with DSB P&P P.15 (330W).
  3. If the J-330 form indicates: I agree to be interviewed by an agent of ICE, but only if my lawyer is present, the ICE agent will be informed that the visit cannot be scheduled. The J-330 form will be forwarded to the on-duty DPS who will generate an email to the incarcerated person's lawyer according to established procedures. The DIA will advise the ICE agent that the incarcerated person has been notified of their request and will contact their attorney in order to make arrangements for the interview (330L).
- E. The DPS/designee will notify the DIA, assisting the ICE/ERO agent, if the visit may be scheduled and assign a detention processing technician to update the ICE Quality Assurance (J-344) form.
- F. At the conclusion of the visit, the Detentions Processing Division (DPD) staff will:
1. Log the ICE/ERO agent out on the J-4 Professional Visitor Log form.

2. File the original J-330 form in the incarcerated person's custody record.
3. The J-47 card will be maintained for statistical purposes.

### III. ICE NOTIFICATIONS

- A. If an individual is determined to be in the United States illegally, or pending prosecution, ICE/ERO will furnish an Immigration Detainer-Notice of Action (I-247A) form to Jail Population Management Unit (JPMU) staff.
- B. The I-247A form has two crucial functions:
  1. Notifies the Law Enforcement Agency (in this case the Sheriff's Department) (LEA) that once an incarcerated person of interest is no longer subject to the LEA's detention, ICE/ERO intends to assume custody.
  2. Requests the LEA to notify ICE/ERO as early as practicable (at least 48 hours, if possible) before the incarcerated person is released from custody.
- C. Upon receiving the I-247A form, JPMU staff will:
  1. Review the incarcerated person's criminal history and current charges to ensure compliance with notification request from ICE/ERO is in accordance with California Senate Bill 54 (SB 54), Government Code section 7282.5.
  2. Complete the Notice to Incarcerated Person of Immigration and Customs Enforcement Request and Intent to Notify (J-340) form and check the appropriate box indicating that the I-247A form "meets criteria/approved" or "does not meet criteria/rejected."
  3. Make a JIMS log entry in the incarcerated person's history using the "247A (approved) or 247R (rejected)" drop-down; to reflect the selection made on the J-340 form.
  4. Forward the J-340 form to DPD for processing and serving.

### IV. INTENT TO NOTIFY

- A. Upon DPD receiving an I-247A form and J-340 form, the Sheriff's Department must inform the incarcerated person of its intent. Notification will be accomplished via the J-340 form and or Notice of Intent to Comply with Immigration and Customs Enforcement Request (J-335 form).
- B. If the incarcerated person's release date is not known at the time of the request from ICE, DPD staff will utilize the J-340 form and attach a copy of the I-247A form. Sworn staff will assist DPD with the following:
  1. Present the J-340 form and attachment to the incarcerated person.

2. Remove the attachment and give it to the incarcerated person.
  3. Explain the purpose of the form and request a signature from the incarcerated person. Staff may check the "Incarcerated Person chose not to sign box," for those that refuse to sign.
  4. Collect the J-340 form from the incarcerated person and complete the bottom portion of the form.
  5. Provide a copy to the incarcerated person (per the distribution) and return the original to DPD. DPD will make a log entry in their JIMS history.
- C. If the incarcerated person's release date is known at the time of the request from ICE, or once an incarcerated person's release date is known, DPD will provide that information to ICE. DPD staff will fill out the J-335 form and attach a copy of the I-247A form. Sworn staff will assist DPD with the following:
1. Present the J-335 form and attachment to the incarcerated person.
  2. Remove the attachment and give it to them.
  3. Explain the purpose of the form, options available, and allow a few minutes to complete the form.
  4. Collect the form from them and complete the bottom portion of the form.
  5. Provide a copy to them (per the distribution) and return the remaining copy and original to DPD.
  6. The DPD staff member, receiving completed forms, will:
    - a. Fill out the 'Received by' section of the form. If the incarcerated person requested a notification be sent, per the J-335 form, the DPD staff member will prepare the documents to be emailed out.
    - b. Make a log entry in the JIMS history.
    - c. Ensure all original forms are filed in their custody record.
- D. If the incarcerated person is a participant of County Parole and Alternative Custody (CPAC), a DPD staff member at a facility will work closely with DPD staff assigned to CPAC to ensure all forms are processed accordingly.

## V. RELEASE OF INCARCERATED PERSON

- A. Reverification of an approved J-340 form will be conducted by JPMU prior to being processed for release.
  1. The DPT at release will generate a fax cover sheet using the designated template to fax the approved J-340 and J-344 QA forms to JPMU at San Diego Central Jail.

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2. JPMU will review the incarcerated person's criminal history and current charges to ensure compliance with SB 54 and complete the 'JPMU Reverification Review' section of the J-344 form. The form will be faxed back to DPD staff.
  3. If an "Approved" status changes to "Denied", JPMU will provide a new J-340 form in addition to the J-344 form.
  4. The incarcerated person will not be placed on the release queue until JPMU has responded.
- B. In the interest of public safety and facility security, law enforcement officers from other agencies are discouraged from arresting any individual in the lobby or waiting area of a facility after their release from Sheriff's custody.
- C. In no event shall an incarcerated person be held past their scheduled date of release or be delayed during the release process due to the issuance of an I-247A form.
- D. Release of individuals to federal law enforcement officers for the purpose of immigration enforcement purposes must take place in the secure area of the facility and only if the person being released meets the qualifying charge criteria per SB 54.
- E. The federal law enforcement officer should call the facility to coordinate with DPD staff of the pick-up; however, absent a federal warrant, no release will be delayed. These types of releases will be verified and witnessed by DPD staff. Facilities will designate a secure area (e.g., processing) for the pick-up of individuals that meet all criteria and have been verified for pick-up.