



Policy Revision Request

Requestor Name Richard Egal Emp # 3936

This revision applies to Existing Policy 01-16-26

If new, recommended section _____

This revision is necessary to comply with State Law (attach)

Whom does this revision affect? Department

This revision has an unbudgeted financial impact of \$ 0.00

Brief reason for the revision:

Current Policy does not specify the differences between an ICE Detainer and an ICE Administrative Warrant.

Document the changes or additions to the policy below. Please include the specific policy number. ~~Red strikethroughs~~ are used for deletions and blue underlined for text insertions. Please email completed forms to APDPolicy@austintexas.gov. Use this email for any related questions or issues for policy.

319.2.2 WARRANT HIT AND CONFIRMATION

During the course of a lawful detention or arrest, an officer may run a subject for warrants.

(a) When a "hit" is received on a local, TCIC, or NCIC warrant inquiry, confirmation from APD or the originating agency must be obtained prior to taking official action. Confirmation shall be the authorization for placing the person in jail for the warrant.

1. The person may be detained until confirmation is made by APD or the originating agency.
2. Should circumstances make a custody arrest impractical, a person detained solely for a Class C warrant may be released with the approval of a supervisor.
3. If a warrant confirmation is not received within 10 minutes, the arresting officer may either release the subject or continue to await a response.

(b) ICE Warrant Hits and Confirmation

1. Federal Criminal Warrants - Issued by a court or magistrate following a determination that probable cause exists that the individual committed or was involved in a crime. They are legally binding and enforceable by the issuing judicial authority. A federal magistrate or court may issue a federal criminal warrant for the arrest of a person who has allegedly committed federal crimes. Federal criminal warrants will be handled pursuant to 319.2.2(a), above.

2. ICE Administrative Warrants - Issued by a federal immigration official with probable cause that an individual is unlawfully present in the United States and may

be subject to deportation (Form I-200 or Form I-205). Unlike criminal warrants, ICE administrative warrants are not reviewed or issued by a court or magistrate and have limited legal authority.

APD officers are not authorized to make an arrest or detention based solely on an ICE Administrative Warrant.

ICE Administrative Warrants may be accompanied by an ICE Administrative Detainer Request (Form I-247). Officers receiving notice of an ICE Immigration Detainer Request must reference and follow GO 318.3.4/330.9 (identical).

An officer who receives information that a detainee or arrestee in their custody is the subject of an ICE Administrative Warrant will take the following actions:

- a) If there is a separate arrestable criminal charge, the officer shall arrest the person and transport to jail.
- b) If there is no separate arrestable criminal charge, the Officer shall contact their supervisor and, if the supervisor is available, provide the information concerning the circumstances surrounding the call and presence of the Administrative Warrant.
- c) The officer or the supervisor, as appropriate, may, but is not required to, contact the ICE Law Enforcement Service Center at the phone number in the NCIC hit to determine the validity of the warrant. Officers shall not unreasonably prolong a detention to contact ICE. If the warrant is valid, ICE may request that the officer detain the subject until ICE agents can come to the scene to arrest the individual.
- d) The officer or the supervisor shall then contact the Watch Lieutenant and provide the information concerning the circumstances surrounding the call and presence of the Administrative Warrant. The officer may continue detaining the person pursuant to the ICE request only if permitted to do so by the Watch Lieutenant.
- e) The Watch Lieutenant will evaluate the following to determine whether or not resources are available for the officer to remain on scene while they wait for ICE to respond.
 1. The availability of Department resources and personnel that are appropriate for and trained to perform the requested task.
 2. Whether providing the requested assistance would assist with stopping criminal activity.
 3. Whether providing the requested assistance would affect potential criminal prosecution and / or stopping criminal activity, including the consideration as to whether the subject is a victim or witness of a crime.
 4. Whether providing the requested assistance would cause the Department to incur unreasonable overtime costs.
 5. The urgency of the request.
- f) The Watch Lieutenant will contact and brief the Duty Commander, who will make the final decision.
- g) If the Duty Commander determines that the request from ICE to detain the subject of the administrative warrant is not reasonable or necessary, the officer shall release the subject and clear the scene.

h) When a subject is detained for an ICE Administrative Warrant and ICE is contacted, the officer shall document their actions and the final disposition in a report titled "3499-1 Assist other Agency – ICE". The Watch Commander shall write a supplement detailing their consideration of the factors in subsection (e).

3. Officers shall not detain the subject of an ICE administrative warrant under the following circumstances:

a) Officers (including those working secondary employment) shall not detain the subject of an ICE administrative warrant at a place of worship unless exigent circumstances exist which require an immediate intervention of law enforcement to protect public safety; or

(b) Officers working secondary employment for a hospital, religious organization, school district, or open enrollment charter school shall not detain the subject of an ICE administrative warrant unless exigent circumstances exist which require an immediate intervention of law enforcement to protect public safety.

(c) If a subject is arrested for an APD warrant, officers shall:

1. Obtain the original APD warrant from the Central Records/Warrant Unit during normal business hours; or
2. Have Communications/Teletype fax or email the warrant to the jail after confirmation.
3. Warrants from other agencies should be faxed or emailed to the jail by the originating agency after confirmation.

318.3.4 ICE DETAINER REQUESTS

The purpose of this order is to establish guidelines for handling ICE detainers. All officers are expected to comply with, honor, and fulfill formal immigration detainer requests issued by ICE.

ICE Detainer Requests: This is a written request issued by ICE (Form I-247) to state or local police or jailers who have custody of a person subject to deportation to keep that person in custody for 48 hours beyond the time they would otherwise be released. Although detainer requests are most commonly issued for people already booked into jail, state law and APD policy require APD officers to comply with ICE detainer requests except under specific circumstances.

ICE Detainer Requests may be accompanied by an ICE Administrative Warrant (For I-200 or I-205). Officers learning of a warrant hit for an ICE Administrative Warrant without an accompanying Detainer Request must reference and follow GO 319.2.2.

(a) An officer who receives information that a detainee or arrestee in their custody is the subject of an ICE detainer request, will take the following actions:

1. Notify a supervisor.
2. Notify ICE to determine the validity of the detainer.
3. Comply with the detainer request if its validity is confirmed.
4. Inform the person they are being held subject to a detainer (in addition to any applicable criminal charges).

5. Take the person to the Central Booking Facility or other suitable detention facility.

(b) If the person subject to the detainer provides proof, including a Texas Driver's License or other government issued identification, that they are a United States citizen or has lawful immigration status, the officer will do the following:

1. Notify a supervisor.
2. Notify ICE and provide an update.
3. Cease from complying with the detainer request.
4. Unless impracticable to do so, officers will make and retain a copy of the proof that was offered by the subject. The retained copy may be scanned into the Versadex report or submitted as evidence.
5. If the officer is unsure whether the proof provided is adequate proof of U.S. citizenship or lawful immigration status, the officer should continue honoring the detainer request until definitive proof is provided.

330.9 ICE Detainer Requests

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