CAC RECOMMENDATION NO. 1

SCSO CURRENT POLICY:

SCSO Booking-General Procedures Detention Wide policy 4.2 (D), Bail Information 4.2 (D) currently allows SCSO to hold persons for 48 hours, even after a person has posted bail, in order to allow ICE to pick up an inmate be changed as follows:

4.2 BAIL INFORMATION: “D. Inmates booked on bailable charges which also have Immigration and Customs Enforcement (ICE) holds, may have bail posted on the bailable charges. After bail is posted, ICE has 48 hours (excluding Federal holidays and weekends) to pick up the inmate before they are released.”

RECOMMENDED POLICY CHANGE: After bail is posted, the inmate shall be immediately released, unless ICE has a warrant signed by a judge to hold the inmate.

CAC RECOMMENDATION NO. 2

SCSO CURRENT POLICY:

SCSO Booking-General Procedures- Detention Wide 4.6 (A) Immigration Information and Contacting Foreign Nationals’ Consulates policy states in part:

4.6 IMMIGRATION INFORMATION AND CONTACTING FOREIGN NATIONALS’ CONSULATES:

A. It is the general policy of the Sheriff’s Office to comply with ICE requests for information relating to a specific inmate...”
RECOMMENDED POLICY CHANGE: 4.6 IMMIGRATION INFORMATION AND CONTACTING FOREIGN NATIONALS’ CONSULATES:

A. It is the general policy of the Sheriff’s Office not to comply with ICE requests for information, relating to a specific inmate unless: 1. It is for a legitimate law enforcement purpose relating to a criminal violation, or 2. ICE agents present a warrant signed by a judge to release information.

CAC RECOMMENDATION NO. 3

SCSO CURRENT POLICY:

SCSO Immigration Status- Detention Division 4.0 (A) and (B) General Information policy states:

4.0 General Information: “A. Immigration Enforcement Jurisdiction.

The U.S. Department of Homeland Security’s Immigration and Customs Enforcement agency (ICE) has primary responsibility to investigate and enforce federal immigration laws. Sheriff’s Office personnel may assist ICE in the enforcement of federal immigration laws upon its specific request and in those situations where ICE initiated investigations have led to the discovery of criminal violations of California law. Assistance to ICE will also be provided in response to officer safety issues.

B. Records will review all immigration detainers to determine if the Sheriff’s Office will honor or deny the hold. In the absence of the Records staff, a Sergeant will review immigration detainers. (ICE Detainer form) (Exemptions form)”

RECOMMENDED POLICY CHANGE:

4.0 General Information:

A. Immigration Enforcement Jurisdiction. The U.S. Department of Homeland Security’s Immigration and Customs Enforcement agency (ICE) has primary responsibility to investigate and enforce federal immigration laws. Sheriff’s Office personnel may not assist ICE in the enforcement of federal immigration laws upon its request unless: 1. There is a situation where ICE initiated investigations have led to the discovery of criminal violations of California law, 2. to assist ICE in response to officer safety issues, or 3. ICE presents a valid warrant issued by a judge.
B. Inmates who are eligible for release from custody shall not be held pursuant to an I-247D form (I-247D-Immigration Detainer-Request for Voluntary Action) unless ICE agents present a warrant signed by a judge to hold the inmate.

CAC RECOMMENDATION NO. 4:

SCSO CURRENT POLICY:

5.0 PROCEDURES: SCSO Immigration Status- Detention Division 5.0 (A) through (D) Procedures policy states in relevant part as follows:

“A. The Sonoma County Sheriff’s Office will no longer honor ICE immigration Detainers, in compliance with the Trust Act, unless ICE presents proof that it has probable cause for the detention, for example by providing an arrest warrant.

B. Immigration Violations Complaints.

1. If members of the public contact the Sheriff’s Office to report suspected immigration violations, such person should be directed to ICE.

C. Notification of ICE of Immigration Violations.

1. The Detention Division generally will not notify ICE of the Immigration status of inmates.

D. ICE immigration Detainees. The Sheriff’s Office regularly receives Immigration Detainer requests (Form I-247) from ICE. The detainer is a request that the law enforcement agency advise ICE, prior to releasing the individual, in order for ICE to arrange to assume custody. These detainer requests will not be honored except as stated below.

...  

2. Immigration Detainers. Inmates who are eligible for release from custody shall not be held, pursuant to an immigration hold, beyond the time they would otherwise be released, unless conditions set forth in subparagraphs a-f apply.
a. Immigration detainers shall be honored for inmates who are charged with certain felonies, if the individual is arrested on (i) a charge involving a serious felony (OC 1192.7(c)) or a violent felony, (PC 667.5(c)) (see listing below); or (ii) a felony punishable by imprisonment in state prison, other than domestic violence; and a magistrate has made a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code (i.e., a judge has signed the PC Dec”).

b. ICE detainers will be honored for any conviction or prior conviction for serious felonies (see PC 1192.7(c)) or violent felonies (see PC 667.5(c)), as listed in attachment 1;

c. Detainers will be honored for any conviction or prior conviction for a felony punishable by imprisonment in the state prison;

d. Detainers will be honored for any conviction or prior conviction for which the person is required to register on the California Sex and Arson Registry (CSAR) as a sex offender pursuant to PC 290 or as an arson offender pursuant to PC 457.1;

e. Detainers will be honored for: (i) any misdemeanor conviction within the last five years, that could also have been charged either as a misdemeanor or as a felony (i.e., “wobblers”) involving the following specified crimes; or (ii) any felony conviction (at any time), involving the following specified crimes.

   (A) Assault (except for 240 PC)
   (B) Battery (except for 242 PC)
   (C) Use of threats
   (D) Sexual abuse, sexual exploitation, or crimes endangering children
   (E) Child abuse or endangerment
   (F) Burglary, robbery, theft, fraud, forgery, or embezzlement (except for the following: 487, 496, 503, 530.5, 532, 550 PC)
   (G) Driving under the influence of alcohol or drugs, but only for a felony conviction,
   (H) Obstruction of justice
(I) Bribery (except for the following: 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138 and 165 PC)

(J) Escape

(K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction

(L) Possession of an unlawful deadly weapon under the Deadly Weapons Recodification Act of 2010 (PC 16000)

(M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances (except for 11350, 11357 and 11377 H&S)

(N) Vandalism with prior convictions (except 594.7 PC)

(O) Gang-related offenses

(P) An attempt, or any conspiracy, to commit an offense specified in this section

(Q) A crime resulting in death, or involving the personal infliction of great bodily injury

(R) Possession or use of a firearm in the commission of an offense

(S) An offense that would require the individual to register as a sex offender

(T) False imprisonment, slavery, and human trafficking

(U) Criminal profiteering and money laundering

(V) Torture and mayhem

(W) A crime threatening the public safety

(X) Elder and dependent adult abuse

(Y) A hate crime

(Z) Stalking

(AA) Soliciting the commission of a crime
(BB) An offense committed while on bail or released on their own recognizance

(CC) Rape, sodomy, oral copulation, or sexual penetration

(DD) Kidnapping

(EE) A violation of CVC 20001 (c)

f. Detainers should also be honored for any conviction of any federal crime that meets the definition of an aggravated felony as set forth in the Immigration and Nationality Act (8 U.S.C. Sec. 1101 at Section 1101 (a)(43)(A) to (P). The full listing of specified crimes follows:

(43) The Term “aggravated felony” means-

(A) Murder, rape, or sexual abuse of a minor

(B) Illicit trafficking in a controlled substance

(C) Illicit trafficking in a firearms or destructive

(D) Laundering of monetary instruments if the amount of funds exceeded $10,000

(E) An offense relating to explosive materials

(F) A crime of violence, but not including a purely political offense for which the term of imprisonment is at least one year

(G) A theft offense or burglary offense for which the term of imprisonment is at least one year

(H) The demand for or receipt of ransom

(I) Child pornography

(J) Racketeer influenced corrupt organizations or gambling offenses, for which a sentence of one year imprisonment or more may be imposed

(K) Owning, controlling, managing or supervising of a prostitution business; peonage, slavery, involuntary servitude, and trafficking in persons
(L) Gathering or transmitting national defense information relating to disclosure of classified information relating to sabotage, relating to treason, relating to protecting the identity of undercover intelligence agents or relating to protecting the identity of undercover agents

(M) Fraud or deceit in which the loss to the victim or victims exceeds $10,000; tax evasion in which the revenue loss to the Government exceeds $10,000

(N) Alien smuggling (except in the case of a first offense for which the alien had affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien’s spouse, child or parent)

(O) An offense described in section 1325(a) or 1326 of this title committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph

(P) Falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument and for which the term of imprisonment is at least 12 months (except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien’s spouse, child, or parent (and not other individual)

g. If none of the conditions listed in a-f above are satisfied, an individual shall not be detained on the basis of an immigration hold after the individual becomes eligible for release from custody.

3. Changed Circumstances:

a. Compliance with ICE detainer requests will be rescinded and the detainer request will not be furthered honored whenever the factors justifying the detainer no longer exist.

b. Similarly, if new evidence is developed meeting the requirements for honoring the detainer request, a prior determination not to honor the detainer request will be reevaluated pursuant to the provision of the Trust Act.
4. **Equality Access.** All persons arrested for a criminal offense and held in our custody pursuant to an ICE detainer will have equal access to custody programs if otherwise program eligible.

5. **Warrants.** Detainers and warrants are entirely separate and should not be confused. Duly issued warrants in all cases will be honored.

**RECOMMENDED POLICY CHANGE:**

**5.0 PROCEDURES**

A. The Sonoma County Sheriff’s Office will no longer honor ICE immigration Detainers, in compliance with the Trust Act, unless ICE presents proof that it has probable cause for the detention, for example by providing an arrest warrant.

B. **Immigration Violations Complaints.**

   (1) If members of the public contact the Sheriff’s Office to report suspected immigration violations, such person should be told that SCSO does not enforce federal civil immigration laws.

C. **ICE immigration Detainees.** The Sheriff’s Office regularly receives Immigration Detainer requests (I-247 N Form- Request For Voluntary Notification of Release of Suspected Priority Alien) from ICE. The I-247N is a request that the SCSO voluntarily notify ICE, prior to releasing the individual, in order for ICE to arrange to assume custody. I-247N requests may be honored for any **conviction or prior conviction** for serious or violent felonies as listed below;

As used in PC 1192.7(e), “serious felony” means any of the following:

1. Murder of voluntary manslaughter;
2. Mayhem;
3. Rape;
4. Sodomy by force, violence, duress, menace, threat of great 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, or any of the precursors of methamphetamines;

25. Any violation of PC 289(a) 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 PC 186.22;

29. Assault with the intent to commit mayhem, rape, sodomy, or oral copulation;

30. Throwing acid or flammable substances;

31. Assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or fire fighter;

32. Assault with a deadly weapon against a public transit employee, custodial officer, or school employee;

33. Discharge of a firearm in an inhabited dwelling, vehicle or aircraft;

34. Commission of rape or sexual penetration in concert with another person;

35. Continuous sexual abuse of a child;

36. Shooting from a vehicle;

37. Intimidation of victims or witnesses;

38. Criminal threats;

39. Any attempt to commit a crime listed in this subdivision other than assault;
40. Violation of PC 12022.53 (Enhancements for use of a firearm in 18 specified felonies);

41. Violation of subdivision (b) or (c) of Section 11418;

42. Any conspiracy to commit an offense described in this subdivision. And any offense committed in another state, which if committed in California, would be punishable as a listed serious felony.

As used in PC 667.5(c), “violent felony” means any of the following:

1. Murder of voluntary manslaughter;

2. Mayhem;

3. Rape;

4. Sodomy;

5. Oral copulation;

6. Lewd or lascivious act;

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. Any robbery;

10. Arson;

11. Sexual penetration;

12. Attempted murder;

13. A violation of PC 18745, 18750, or 18755 (explosives);

14. Kidnapping;

15. Assault with intent to commit a specified felony, in violation with Section 220;
16. Continuous sexual abuse of a child;
17. Carjacking;
18. Rape, spousal rape, or sexual penetration;
19. Extortion, which would constitute as a felony violation of PC 186.22;
20. Threats to victims or witnesses, which would constitute as a felony violation of PC 186.22;
21. Any burglary of the first degree, wherein it is charged and proved that another person, other than the accomplice, was present in the residence during the commission of the burglary;
22. Any violation of PC 12022.53 (Enhancements for use of a firearm in 18 specified felonies);
23. A violation of PC 1418 (b) or (c) (weapon of mass destruction). And any offense committed in another state, which if committed in California, would be punishable as a listed violent felony.

D. I-247N requests shall not be honored for inmates who are merely arrested and charged with a crime.