



**Dannel P. Malloy**

GOVERNOR  
STATE OF CONNECTICUT

**To:** All Heads of Local Enforcement Agencies, All Municipal Police Departments and Constabularies, State Police in the Department of Emergency Services and Public Protection, the Department of Correction, and Post-Secondary Education Campus Security

**From:** Governor Dannel P. Malloy, Commissioner Dora Schriro, and Commissioner Scott Semple

**Date:** February 22, 2017

**Subject:** State Guidance for Law Enforcement in Connecticut

In light of President Donald Trump's Executive Order dated January 25, 2017 entitled, *Enhancing Public Safety in the Interior of the United States*, and subsequent Department of Homeland Security (DHS) implementation memoranda, law enforcement agencies across Connecticut are seeking guidance on the impact that this Executive Order may have on their operations, statutory obligations, and access to federal funds. Law enforcement agencies are also seeking guidance on how to respond if called upon to assist federal law enforcement in carrying out the order. The Executive Order provides policy direction, but little in the way of specifics that jurisdictions seek to inform their decision-making. The additional guidance from DHS promises updated regulations, procedures and forms, however a great deal of uncertainty remains and it is clear that direction in this area will continue to evolve.

Earlier this month, Commissioner Dora B. Schriro of the Department of Emergency Services and Public Protection directed that any sworn State Police personnel who receive requests from federal law enforcement to take action outside of their customary and routine state law enforcement duties, ensure that any such request be referred first up the chain of command for evaluation.

Additionally, Commissioner Scott Semple of the Department of Correction issued a directive aimed at ensuring compliance with all state and federal laws, directed that any requests from federal law enforcement personnel that are outside the ordinary and routine assistance provided to such agencies be forwarded up the chain of command for review.

Similarly, the International Association of Chiefs of Police released a statement on January 30, 2017 to oppose any initiative that would mandate state or local law enforcement

involvement in the execution of federal immigration law, and that their involvement in immigration law should be determined at a local level.

It is never the intention of law enforcement in Connecticut to impede federal enforcement activity. It is always our duty to ensure the protection of the rights guaranteed by the Constitutions of the United States and the State of Connecticut. We encourage all law enforcement agencies in Connecticut to plan for potential requests by our federal partners to perform, or assist in, immigration enforcement duties and to enact policies and procedures that will provide clear direction to officers if the need should arise.

State and local law enforcement agencies are not required to engage in the enforcement of federal immigration law. Section 287(g) of the Immigration and Nationality Security Act is strictly voluntary and the Executive Order and implementation memoranda do not require state or local law enforcement agencies to submit to the authority of Immigration and Customs Enforcement (ICE). Within the parameters of the Connecticut Trust Act, local law enforcement agencies may decide whether, and to what extent, they assist ICE. However, we encourage all of Connecticut's law enforcement agencies not to participate in this program. Acting as an arm of ICE may undermine Connecticut's many efforts to incorporate the principles of community policing in the Police Officers Standards and Training Council's policies and practices, policies and practices designed to strengthen police and community relations and to sustain the historically low rates of crime that we enjoy today.

Additionally, we believe that information clarifying the duties and responsibilities of state and local law enforcement<sup>1</sup> in responding to requests from the DHS, which includes Immigration and Customs Enforcement (ICE) as well as providing information to residents of our state is important and promotes the goals of public safety.

In 2013, Connecticut passed the Connecticut Trust Act, Sec. 54-192h of the Connecticut General Statutes, which defines the circumstances under which a prisoner in the custody of state or local police or corrections can be held in custody solely on the basis of an ICE detainer request.

Under the Trust Act, Connecticut law enforcement can only detain an individual who is already in custody beyond the time of their scheduled release in the following circumstances where it has been determined that the individual has:

- (1) Has been convicted of a felony;
- (2) Is subject to pending criminal charges in this state where bond has not been posted;
- (3) Has an outstanding arrest warrant in this state;

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<sup>1</sup> Law enforcement for this purpose means the Division of the State Police in the Department of Emergency Services and Public Protection, all municipal police departments and constabularies, the Department of Correction, and judicial and state marshals.

- (4) Is identified as a known gang member in the database of the National Crime Information Center or any similar database or is designated as a Security Risk Group member or a Security Risk Group Safety Threat member by the Department of Correction;
- (5) Is identified as a possible match in the federal Terrorist Screening Database or similar database;
- (6) Is subject to a final order of deportation or removal issued by a federal immigration authority; or
- (7) Presents an unacceptable risk to public safety, as determined by the law enforcement officer.

If an individual is detained pursuant to an ICE detainer request, he or she cannot be held for greater than 48 hours, not including weekends and holidays, beyond the time they would normally be released; i.e. sentence finished, posted bail, have the charges dropped or satisfy the conditions for their release, in order to satisfy a detainer request. ICE civil immigration detainers are not warrants for the arrest of an individual, but rather constitutes a request for cooperation as it relates to a particular individual.

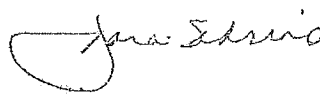
Further, to protect the rights of Connecticut residents, local law enforcement should consider implementing the following policies:

1. Law enforcement should not take action that is solely to enforce federal immigration law. The federal government cannot mandate states to investigate and enforce actions that have no nexus to the enforcement of Connecticut law or local ordinances.
2. As noted above, ICE detainer requests are requests, they are not warrants or orders and thus should only be honored as set forth in Connecticut law (described above), unless accompanied by a **judicial warrant**.
3. Law enforcement should not provide access to individuals who are in law enforcement custody for purposes of questioning by ICE and any such request, as noted above, should be referred up the chain of command for evaluation. ICE or federal agents should be required to identify themselves and be required to state the purpose of their request for access to any individual in law enforcement custody. Individuals in custody should be afforded the opportunity to decline to be questioned by ICE or to do so only in the presence of their attorney.
4. Law enforcement is not required to collect information regarding an individual's citizenship or immigration status, as there is no state or federal law mandate to do so.

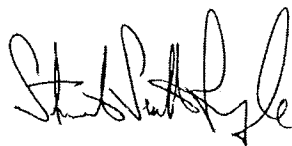
5. Law enforcement, except where the requirements of Connecticut's Trust Act have been met, should not respond to requests for information concerning or provide assistance in determining immigration status, except as provided by Connecticut's Trust Act.
  
6. Attorneys are reminded they must inform criminal defendants of the immigration consequences of pleading guilty; see *Padilla v. Kentucky* (USSC, 2010).



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Dora Schriro  
Commissioner  
Department of Emergency Services  
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Scott Semple  
Commissioner  
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