

Information about Immigration Holds and Removal Proceedings **For Non-Citizen Defendants**

The following is intended to answer general questions about immigration holds, detainers, removal proceedings and detention. It is not legal advice.

What Is an ICE Hold? When a person is set for release from custody on a criminal case, an “ICE hold” (also called a “detainer”), asks the jailer to *hold* him or her for transfer to immigration custody (the person should be given ICE Detainer Form I-247). Immigration and Customs Enforcement (ICE) has 48 hours (not including weekends and holidays) to make this transfer. If 48 hours have *passed* with no transfer and the person is, or was, represented by the Public Defender on the criminal case, *immediately notify* the Public Defender. ***To challenge an improper hold, call ICE toll-free at (855) 448-6903. A person is not required to discuss immigration status with an immigration officer who comes to the jai. A person should not sign any papers that he or she does not fully understand.***

What Is a Removal Proceeding? A “removal proceeding” occurs when the United States government seeks to remove (deport) a person. Not every person in removal proceedings will be removed. An Immigration Judge will first decide whether the person has violated U.S. law and is removable and, if so, whether the removable person is eligible to apply for relief from removal.

Release from Detention on Bond: When a person is detained, ICE may or may not set a bond (also called “bail”). A person who is *eligible* for bond may request a hearing in Immigration Court to have bond set, or to lower the amount of bond. The legal minimum bond is \$1500; many are between \$5,000 and \$20,000. At the hearing, the Judge will consider evidence in support of the request and decide whether the person is dangerous or likely to flee. Payment of the bond should be made by someone with legal immigration status.

Mandatory Detention: “Mandatory detention” applies to persons with prior removal orders, as well as persons with certain types of criminal convictions. These include *almost all controlled substance convictions*, as well as some first-time, non-violent offenses. A person in mandatory detention is *not eligible* for a bond hearing and will be detained by the Department of Homeland Security without bond.

Length of Detention: A detained person is usually brought to Immigration Court within 10 days of receiving the “Notice to Appear” (NTA), which contains the immigration charges. A

person may remain in detained status until the case is resolved. Removal proceedings can take as little as a few weeks to as long as a few years, depending on the issues and whether there are appeals to the Board of Immigration Appeals, the U.S. Court of Appeals and the U.S. Supreme Court. In San Francisco Immigration Court, most cases are resolved in 2 to 8 months.

Finding a Detained Person: In Northern California, non-citizens detained by the Department of Homeland Security (DHS) are usually held in County jails in Sacramento County, Yuba County, Contra Costa County (Martinez and Richmond) or Kern County. A person in DHS custody *can* be transferred out of state (usually to Arizona, New Mexico or Texas), whether or not the person agrees to be transferred. A person may be found by using his or her name, country of birth and Alien Number (A#), through ICE's Online Detainee Locator System: <https://locator.ice.gov/odls/searchByName.do>.

Finding an Attorney: A person in removal proceedings is *not* entitled to a court-appointed attorney. The Public Defender does not handle removal cases. The person in removal proceedings must find a *pro bono* (volunteer) attorney or hire an attorney. The Alameda County Bar Association's referral number is (510) 302-2222. The California State Bar referral number is (866) 442-2529. Also, Immigration Court maintains a list of groups that may provide free or low-cost assistance or representation to a person in removal proceedings.

More Information:

Immigration Court Hotline: (800) 898-7180; Enter the alien number, when prompted, to hear the date, time and place of a person's next court proceeding (if one is scheduled) and information about whether he or she has been ordered removed or granted relief by the Judge. This line does *not* provide bond or location information.

Centro Legal de la Raza (Oakland): (510) 437-1554; <http://centrolegal.org>

Florence Immigrant and Refugee Rights Project: www.firrp.org

National Immigrant Justice Center: <http://www.immigrantjustice.org/>

Detention Watch Network: <http://www.detentionwatchnetwork.org/>

Alameda County Public Defender:

Main Office (510) 272-6600

Oakland (510) 268-7400

Fremont (510) 795-2600

Hayward (510) 670-5000

Pleasanton (925) 551-6863