

POLICY OF THE COUNTY OF MIDDLESEX
REGARDING 48 HOUR CIVIL IMMIGRATION
DETAINERS

It has recently been ruled by the United States Court of Appeals for the Third Circuit, which covers the State of New Jersey, that compliance with 48 hour civil detainers requests from Homeland Security's Immigration and Customs Enforcement ("ICE") by local law enforcement authorities, prisons, and jails, are not mandatory and need not be followed, but rather are voluntary; and

The County of Middlesex has and will continue to cooperate with all law enforcement agencies at the local, state and federal levels in order to ensure the safety of its residents. Notwithstanding, it shall be the general policy of the County of Middlesex to not comply with 48 hour civil detainer requests from ICE (hereinafter referred to as "detainer requests") with the following exception;

When the subject of a 48 hour detainer request has been convicted of facing a charge of a first or second degree serious offense (listed below), within ten years prior to the date of the detainer request for this individual, it shall be the policy of the County of Middlesex that the Adult Corrections Center to comply with the 48 hour detainer request only for individuals meeting the following criteria - a charge must be either for an offense of the first or second degree and involve one of the below designated statutes:

- I. Offenses Involving Danger to the Person or Community;
 - A. Criminal homicides, 2C:11-2
 1. Murder, 2C:11-3
 2. Manslaughter, 2C:11-4
 3. Death by vehicular homicide, 2C:11-5
 - B. Aggravated Assault, 2C:12-1
 - C. Offenses involving a "deadly weapon," as defined in 2C:11-1 c (firearms, stun gun, knives, simulated weapon)
 - D. Offenses causing "serious bodily injury" or "significant bodily injury," as defined in 2C:11-1 b and d.
 - E. Aggravated Sexual assault, 2C:14-2
 - F. Terroristic threats during a declared period of national, State or County emergency, 2C:12-3
 - G. Kidnapping, 2C:13-1
 - H. Luring or enticing a child, 2C:13-6
 - I. Human trafficking, 2C:13-8
 - J. Robbery, 2C:15-1
 - K. Carjacking, 2C:15-2
 - L. Bias Intimidation, where there is an underlying crime connected to the

bias intimidation that is a crime of at least the third degree or higher,
2C:16-1

- II. Offenses Against Property;
 - A. Arson, 2C: 17-1(a)
 - B. Causing or risking widespread injury or damage, 2C:17-2(a)
 - C. Burglary, 2C: 18- 2 a & b.(1) & (2)
 - D. Theft of \$75,000 or more, or property is taken by extortion; or the property stolen is CDS or a CDS analog, in excess of 1 kilogram, or the property stolen is a person's federal or State benefits, or from any other source, 2C:20-2 b (1), et seq.
- III. Offenses Against Others;
 - 1. Endangering the Welfare of children, 2C:24-4
- IV. Offenses Against Public Order, Health and Decency;
 - A. Controlled Dangerous Substances, 2C:35-1, et seq.
 - B. Soliciting or recruiting gang members, in the course of which significant bodily injury is inflicted upon another, 2C:33-28 c.
 - C. Anti-Terrorism Act, 2C:38-1, et seq.
- V. Other Offenses
 - A. Escape or Eluding an officer, if the flight or attempt to elude creates a risk of death or injury to any person, 2C:29-2, et seq.
 - B. Tampering with Witnesses and Informants-Retaliation Against Them, if the actor uses force or the threat of force, 2C:28-5;
- VI. When during the intake or release process, the inmate is identified as a known gang member in the database of the National Crime Information Center (NCIC) or any similar or successor database in the United States;
- VII. Is or has previously been subject to a Final Order of Removal issued by federal immigration authorities as it relates to any of the serious crimes mentioned above;

Therefore, it shall be the policy of Middlesex County to identify in advance of the release of any individual meeting the above listed serious offense criteria to identify these individuals and ensure that ICE shall be notified of the custody of these individuals as expeditiously as feasible, however, not to exceed this 48 hour period;

Those individuals not meeting the serious offense criteria will continue to be released immediately after meeting the legal obligations for release (bail, etc.).