



# MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Promoting Community Trust	Executive Order No. 135-19	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 7/22/19

## **BACKGROUND**

1. Montgomery County is one of the most diverse counties in the United States, with a thriving immigrant community representing more than 30% of the County's population. Consistent with the vision of creating a more equitable and inclusive Montgomery County, it is vital that all residents of Montgomery County feel safe and welcomed within the County and have access to the many resources which make the County an exceptional place to live.
2. It is especially important that all County residents feel safe contacting police and other County law enforcement officials without fear that such contact could lead to negative consequences for themselves or their family members. Any perception that such contact could lead to negative immigration consequences for an individual or member of their family undermines that goal and erodes public safety.
3. Enforcing federal immigration law is the sole responsibility of the federal government of the United States and it is not in the interests of Montgomery County to utilize its limited resources to facilitate the enforcement of federal civil immigration law.
4. Cities and counties, including several communities within Montgomery County and in neighboring jurisdictions, are increasingly declining to use limited community resources to facilitate enforcement of federal civil immigration laws.
5. Montgomery County is further bound by the Fourth Amendment of the United States Constitution to ensure that no individual is subjected to unreasonable search or seizure. The United States Supreme Court in *Arizona v. United States* held that such an obligation means that, absent certain exceptional circumstances, local law enforcement officers may not detain or arrest an individual solely based on known or suspected civil immigration violations.
6. Immigration detainers, that are not accompanied by judicial warrants, are civil detainers for which the federal government bears sole responsibility.



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7. The Promoting Community Trust Executive Order aims to reaffirm current County policy and improve community security by ensuring that immigrant and otherwise vulnerable communities can engage with County departments, including public safety departments, with assurance that such engagement will not be used to assist in civil immigration enforcement or a federal discriminatory practice. Further, the present Order is intended to ensure that the constitutional rights of immigrant County residents are not violated and that County benefits and services are provided to residents regardless of country of birth or immigration status.

## Section 1. Definitions.

The following terms wherever used in this Order shall have the following meanings unless a different meaning appears from the context:

“Administrative warrant” means an immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other document, including those issued by the United States Department of Homeland Security (“DHS”) or any other federal immigration official or agency, including an immigration judge, that can form the basis for an individual’s arrest or detention for a civil immigration enforcement purpose. This definition does not include any active criminal warrants issued upon a judicial determination of probable cause and in compliance with the requirements of the Fourth Amendment to the U.S. Constitution and Article 26 of the Maryland Declaration of Rights.

“Department” means any executive branch County department, agency, division, commission, council, committee, board, other body, or person established by authority of an order, executive order, or County Council order.

“DHS” means the United States Department of Homeland Security.

“DOJ” means the United States Department of Justice.

“Agent” means any person employed by or acting on behalf of a department.

“County resources” means any County moneys, facilities, property, equipment, personnel (including personnel time), or other assets funded in whole or in part by Montgomery County.

“Citizenship or immigration status” means all matters regarding questions of citizenship of the United States or any other country, the authority to reside in or otherwise be present in the United



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States, the time and manner of a person’s entry into the United States, or any other immigration matter enforced by DHS, its predecessor or successor agency, or any other federal agency charged with the enforcement of civil immigration laws.

“Contact information” means home address, work address, telephone number, electronic mail address, social media contact information, license plate information, or any other means of contacting an individual or through which an individual may be located.

“Eligible for release from custody” means one of the following conditions has occurred:

- (a) All criminal charges against the person have been dropped or dismissed.
- (b) The person has been acquitted of all criminal charges filed against him or her.
- (c) The person has served all the time required for his or her sentence.
- (d) The person has been released on a conditional bail release.
- (e) The person is otherwise eligible for release under state or local law, or local policy or regulation.

“Family member” means a person’s (i) immediate family, (ii) extended family, (iii) court-appointed legal guardian or a person for whom the person is a court-appointed legal guardian; or (iv) domestic partner or the domestic partner’s immediate or extended family.

“ICE” means the United States Immigration and Customs Enforcement agency and shall include any successor agency charged with the enforcement of civil immigration laws.

“Immigration detainer” is a civil detainer and means a request by ICE to a federal, state, or local law enforcement agency that the law enforcement agency provide notice of release or maintain custody of an individual based on an alleged violation of a civil immigration law, including detainers issued pursuant to sections 236 or 287 of the Immigration and Nationality Act or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. These detainers include but are not limited to DHS Form I-247D “Immigration Detainer – Request for Voluntary Action”; DHS I-247X “Request for Voluntary Transfer”; or DHS Form I-247N “Request for Voluntary Notification of Release.”

“Immigration enforcement official” means any federal employee or agent engaged in immigration enforcement operations as herein defined, including but not limited to employees of DHS and DOJ.



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“Immigration enforcement operation” means any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States, including but not limited to efforts to identify or apprehend persons for purposes of subjecting them to immigration detention and/or removal from the United States.

## **Section 2. Requesting information prohibited.**

- (a) No agent or department may request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person unless such inquiry or investigation is required by court order.
- (b) If the citizenship or immigration status of an individual is relevant to protections accorded to them under any state or federal law, or required by any international treaty, an agent or department may notify the individual of the relevant protection or requirement and provide them an opportunity to voluntarily disclose their status or citizenship.

## **Section 3. Threats based on citizenship or immigration status prohibited.**

- (a) No agent or department may coerce, intimidate, or threaten any person based on the person’s actual or perceived citizenship or immigration status or the actual or perceived citizenship or immigration status of a member of the person’s family or any other associate of the individual.
- (b) No agent or department may subject an individual to verbal abuse, including disparaging or offensive comments, based on the individual’s actual or perceived immigration status, or the actual or perceived immigration status of a member of the individual’s family or any associate of the individual.

## **Section 4. Conditioning benefits, services, or opportunities on immigration status prohibited.**

- (a) No agent or department may condition the provision of County benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by state or federal law, or court order.



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- (b) Where presentation of a Maryland driver's license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's country of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), or by a pre-approved non-profit organization shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a Maryland driver's license or identification card, except that this subsection (b) shall not apply to the completion of the federally mandated I-9 forms.

## **Section 5. Civil immigration enforcement.**

- (a) No agent or department may arrest or detain a person based on an Administrative Warrant, an Immigration Detainer, or any other directive by DHS, on a belief that the person is not present legally in the United States or has committed a civil immigration violation.
- (b) No agent or department may:
- (1) affect in any way the manner in which a person is processed following an arrest based on an Administrative Warrant or an Immigration Detainer;
  - (2) detain the person based on an Administrative Warrant or Immigration Detainer, or otherwise comply with an Administrative Warrant or Immigration Detainer, after that person becomes eligible for release from custody;
  - (3) detain the person based solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation.
- (c) No agent or department may utilize County resources to coordinate with an immigration enforcement official in furtherance of a civil immigration enforcement operation by:
- (1) permitting immigration enforcement officials access to non-public space within a government facility;
  - (2) permitting immigration enforcement officials access to a person being detained by, or in the custody of, the agent or department; or
  - (3) permitting immigration enforcement officials use of non-public space within a government facility, information or equipment for investigative interviews or other investigative purposes.



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- (d) No department may:
- (1) enter into an intergovernmental services agreement, or other contract or agreement, with the federal government for the purpose of housing individuals subject to detention on civil immigration charges, or for any other purpose related to civil immigration enforcement; or
  - (2) enter into an agreement under 8 U.S.C. § 1357(g) or any other federal law that permits state or local governmental entities to enforce federal civil immigration laws.

## **Section 6. Avoiding Aiding Federal Government in Acts of Discrimination.**

No County resources may be used to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, or national or ethnic origin.

## **Section 7. Exchanging File Information.**

- (a) All applications, questionnaires, interviews or other forms used in relation to County benefits, opportunities, or services shall be promptly reviewed by the pertinent departments and any questions regarding citizenship or immigration status, other than those required by statute, order, federal law or court order, shall be deleted if that information is not necessary for a County function. All County departments shall engage in a review of their confidentiality provisions to ensure that they are in compliance with this Order and have sufficient safeguards in place to protect the privacy of sensitive information, including but not limited to an individual's citizenship or immigration status.
- (b) Any request received by an agent or department from immigration enforcement agents or officials to detain or notify immigration enforcement officials regarding a person in custody shall be provided or communicated to the subject of such a request within 48 hours. Where such request is in writing, the subject of the request shall be provided with a copy of the request.
- (c) Departments shall report to the County Executive every six months the number of requests received from immigration enforcement officials and the manner in which each request was handled.



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### Section 8. Compliance with Federal Law.

No provision in this order shall be interpreted as preventing a law enforcement agent from sending to or receiving from any local, state, or Federal agency information regarding the citizenship or immigration status of an individual in accordance with applicable federal or constitutional law.

### Section 9. Directive to Departments.

All Departments will develop policies consistent with implementation of this Order within 90 days of it becoming effective.

### Section 10. Severability.

If any provision, clause, section, part, or application of this Order to any person or circumstance is declared invalid by any court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder hereof or its application to any other person or circumstance.

### Section 11. Effective Date.

This Order shall take full force and effect immediately.

By:   
MARC ELRICH  
County Executive

Approved as to form and legality:  
Office of the County Attorney

By:   
Silvia C. Kinch, Chief

Date: 7/16/19