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ICE subpoenas information requested under California sanctuary policies

ICE uses longstanding legal authority to demand information regarding criminal aliens

SAN DIEGO – U.S. Immigration and Customs Enforcement (ICE) served four immigration subpoenas Friday on the San Diego County Sheriff's Office (SDSO) requesting information about multiple illegal aliens who were criminally arrested in San Diego, yet under California's sanctuary state laws, the SDSO cannot honor immigration detainers or provide ICE non-public information about the criminal aliens to include notifying ICE if a criminal alien has been released back into the community.

Issuance of these immigration subpoenas is necessary because the SDSO is forced to comply with California's sanctuary state laws, and therefore cannot cooperate in honoring immigration detainers or requests for non-public information to assist in locating criminal aliens that have been or will be released from custody.

"The public needs to be aware and concerned that California sanctuary state laws do not protect public safety and is bad public policy. Criminal aliens are being released back into the community daily and most will re-offend resulting in more victims. For ICE, the most concerning part about dealing with uncooperative jurisdictions, or places that are not allowed to work with us, is that we don't always know who is being arrested, when they'll be released, or if they are at-large in the community again," said Gregory Archambeault, San Diego Field Office Director for ICE's Enforcement and Removal Operations (ERO) in San Diego.

Congress provided ICE the use of statutorily-authorized immigration subpoenas to obtain information as part of investigations regarding potential removable aliens. ICE has not historically needed to use its lawful authority to issue subpoenas for information from other law enforcement agencies, as most law enforcement agencies throughout the country willingly provide ICE with information regarding aliens arrested for crimes in the interest of public safety.

ICE is using every tool available to obtain information regarding the whereabouts and other relevant information regarding removable aliens from jurisdictions that choose to, or are unable to, cooperate with ICE. The criminal aliens whom ICE sought information from include:

- A 40-year-old illegally present Mexican national who was arrested in December by San Diego Police Department (SDPD) for continuing sexual abuse of a child, lewd and lascivious act of a child under fourteen years old, and oral copulation with a person under fourteen years old. An immigration detainer was lodged with the SDSO. He has two DUI convictions, both from 2009.

He has been returned to Mexico on eleven occasions between 2009 and 2011. He remains in SDSO custody at the county jail;

- A 42-year-old illegally present Mexican national who was arrested for first degree robbery by SDPD in November 2019. He has a prior conviction for possession of a controlled substance (methamphetamine) from 2013. A federal immigration judge granted him voluntarily departure, but he failed to depart the United States as ordered. After his November 2019 arrest, an immigration detainer was lodged with SDSO but due to California sanctuary state laws the detainer was not honored, and he was released back into the community;
- A 31-year-old illegally present Mexican national who was arrested by SDPD for battery of spouse and false imprisonment in December 2019. He has a prior conviction for deceptive government identification, 2008. U.S. immigration authorities previously returned or removed him from the U. S. three times between 2008 and 2010. ICE lodged an immigration detainer with SDSO following his December arrest but due to California sanctuary state laws the detainer was not honored, and he was released back into the community;
- A 28-year-old illegally present Mexican national who was arrested for assault with force, great bodily injury, child cruelty and battery of spouse by SDPD in January 2020. He was previously arrested in 2017 for battery on spouse by local law enforcement. He was returned to Mexico multiple times in 2004. A final order of removal was issued by a federal immigration judge in January 2018 and he was removed to Mexico. Once again, he illegally reentered the United States. An immigration detainer was lodged with the SDSO and he remains in custody.

The immigration subpoenas issued today are the first in California. Since January, ICE has also issued similar immigration subpoenas in Denver, Connecticut and New York. Should the law enforcement agencies neglect or refuse to respond to the subpoenas, an immigration officer may coordinate with the U.S. Attorney's Office for the district in which the subpoena was issued to seek an order from the U.S. District Court requiring production pursuant to INA § 235(d)(4)(B), 8 C.F.R. § 287.4(d).

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