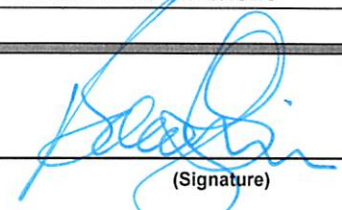


CONTRA COSTA SUPERIOR COURT

POLICY / PROCEDURE / FORM / COVER SHEET

POLICY #:	94		
PROCEDURE #:	94	<input type="checkbox"/> Amend Existing	
FORM #:		<input checked="" type="checkbox"/> Proposed	
What Is Form?	<input type="checkbox"/> Optional <input type="checkbox"/> Mandatory <input type="checkbox"/> Instructions <input type="checkbox"/> Information <input type="checkbox"/> Internal <input type="checkbox"/> Public		
Print Instructions:			
Contains Address Information:			

TITLE:	Immigration Enforcement
Effective Date:	1/17/2020
Revision Date(s):	
Lead Bench Officer(s): Presiding Judge	Submit Date: 1/2/2020
Lead Staff: Executive Officer	

Approved By:	
<input type="checkbox"/> Kate Bieker, CEO / <input type="checkbox"/> Admin. Exec. Date: _____	 (Signature)
<input type="checkbox"/> Committee Date: _____ <input checked="" type="checkbox"/> Hon. Barry Baskin, PJ	
<input checked="" type="checkbox"/> Ex Comm. Approval Date: _____	

Subject Index: <input checked="" type="checkbox"/> COURTWIDE <input type="checkbox"/> Administration <input type="checkbox"/> Appeals <input type="checkbox"/> Bench Officers (all) <input type="checkbox"/> Presiding Judge <input type="checkbox"/> Supervising Judge <input type="checkbox"/> Commissioner <input type="checkbox"/> Temporary Judges <input type="checkbox"/> Benefits <input type="checkbox"/> Branch Courts <input type="checkbox"/> Civil (limited) <input type="checkbox"/> Civil (unlimited) <input type="checkbox"/> Civil Harassment <input type="checkbox"/> Court Executive Officer	<input type="checkbox"/> Court Records <input type="checkbox"/> Courtroom Clerks <input type="checkbox"/> Court Reporters <input type="checkbox"/> Court Security <input type="checkbox"/> Criminal <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Drug Court <input type="checkbox"/> Elder Court <input type="checkbox"/> Facilities, Custodial, Couriers <input type="checkbox"/> Family Law <input type="checkbox"/> Firearms <input type="checkbox"/> Financial Services <input type="checkbox"/> Grand Jury <input type="checkbox"/> Homeless Court <input type="checkbox"/> Human Resources <input type="checkbox"/> Information Technology	<input type="checkbox"/> Interpreters <input type="checkbox"/> Jury <input type="checkbox"/> Juvenile Law <input type="checkbox"/> Legal Libraries <input type="checkbox"/> Managers <input type="checkbox"/> Master Calendar <input type="checkbox"/> Mental Health <input type="checkbox"/> Oaths of Office <input type="checkbox"/> Payroll <input type="checkbox"/> Probate & Court Investigators <input type="checkbox"/> Public Information <input type="checkbox"/> Research Attorneys <input type="checkbox"/> Small Claims <input type="checkbox"/> Traffic <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Warrants
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Related to Local: (attached)	Policies:	
	Procedures:	
	Forms:	
	Rules:	

Mandate / Enabling Legislation:	Gov. Code § 7284.8 Attorney General's Guidance and Model Policies to Assist California's Superior Courts in Responding to Immigration Issues
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Summary and Intent / Notes:

This policy and procedure enacts the Attorney General's model policy concerning the Court's response to and handling of immigration enforcement and related activities at the Court.

Policy and Procedure # 94: Immigration Enforcement

I. INTRODUCTION

Government Code section 7284.8 requires the Court to either implement a model policy "limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law" as developed by the California Attorney General's Office or develop a policy of its own. By this Policy and Procedure #94, the Court adopts and implements the Attorney General's Model Policy, set forth below.

II. POLICIES

a. Establishing Policies for State Court Facility Access: Policies Protecting Access to Justice

- i. Courts shall implement policies permitting wide access to justice through the use of pseudonyms, where feasible, appropriate to protect an individual's safety, and permitted by applicable state law.
- ii. Contra Costa Superior Court personnel are not required to disclose citizenship or immigration status information about any person, unless the requirements of Evidence Code sections 351.2, 351.3, and 351.4 are met and such disclosure is specifically required by judicial warrant or order, or by state or federal law.
- iii. Contra Costa Superior Court personnel shall not inquire about the immigration status of an individual, including a crime victim or a witness, unless such inquiry is required for the performance of the court personnel's regular duties.
- iv. Contra Costa Superior Court policies reducing the frequency with which parties need to appear in court shall be implemented, where feasible and permitted under applicable state law. For example, appearances may be waived for conferences where the parties' appearances are not needed to make decisions or provide testimony, and technology may be used to permit remote appearances by phone or video when possible, as permitted under local rules, the California Rules of Court, and applicable state law.
- v. All Contra Costa Superior Court shall be trained on the requirements of these policies and shall receive a copy of the policies.

b. Protections for Specific Litigants

i. Policies for Protecting Children

1. It is presumed that immigration enforcement does not have a "direct and legitimate interest in individual dependency

- proceedings nor in the work of the court.”
2. In order to protect the best interests of children, arrests for immigration enforcement purposes are prohibited within juvenile courthouses or courtrooms unless there is an immediate risk to the safety and protection of the public.

ii. Policies for Protecting Immigrant Crime Victims

1. Courts shall require that, upon request, all hearing officers complete U Nonimmigrant Status Certifications (Form I-918) for immigrant crime victims of criminal activity listed in Penal Code section 679.10, subdivision (c), who possess information about the qualifying criminal activity, unless the victim has refused or failed to provide information reasonably requested by law enforcement.
2. Courts shall prohibit all hearing officers who have certified victim helpfulness on the Form I-918 from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

c. Responding to Immigration Enforcement Activities at State Court Facilities

i. Training Court Staff on Responding to Immigration Enforcement Activity

1. Courts shall establish protocols for use by court personnel likely to receive in-person, written, telephonic, or electronic requests for information related to immigration enforcement.
2. Courts shall identify nonpublic restricted locations within the court facilities. Contra Costa Superior Court personnel shall be trained on who may access restricted locations.
3. Contra Costa Superior Court personnel shall receive training regarding the different types of warrants, subpoenas, and court orders that may be presented to effect an arrest or to obtain records in immigration enforcement actions. This training shall include the following requirements:
 - a. The ability to differentiate between administrative warrants and judicial warrants signed by a judge or magistrate.
 - b. The ability to differentiate between administrative and judicial subpoenas.

- c. The procedure for responding to any warrant, subpoena, or order issued in connection with immigration enforcement activities.
- 4. Contra Costa Superior Court personnel shall be trained that DHS administrative subpoenas and federal court subpoenas do not require immediate compliance despite the warning language that may be included on the form. Subpoenas shall be submitted for review and a decision by the Executive Officer, Presiding Judge, their designate, their delegate, or legal counsel on whether to comply with or challenge the subpoena.
- 5. Contra Costa Superior Court personnel are prohibited from assisting in immigration enforcement actions, including by engaging in any of the activities listed in Government Code section 7284.6, subdivision (a), unless the exceptions set forth in section 7284.6 (as applicable to law enforcement agencies) are applicable.

ii. Responding to Requests for Access for Immigration Enforcement Purposes

- 1. As soon as possible, Contra Costa Superior Court personnel shall notify the Executive Officer, the Presiding Judge, or their designate of any request by officers engaged in immigration enforcement for access to nonpublic restricted areas of a courthouse or any requests for review of nonpublic court documents.
- 2. In addition to notifying the Executive Officer or Presiding Judge, or their designate, Contra Costa Superior Court personnel shall take the following steps in response to the service of a subpoena or a request for access to execute an administrative arrest warrant:
 - a. Advise the officer that before proceeding with his or her request, Contra Costa Superior Court personnel must first notify and receive direction from the Executive Officer, the Presiding Judge, or their delegate.
 - b. Contra Costa Superior Court personnel should ask to see, and make a copy of, or note, the officer's credentials (name and badge number). Also ask for and copy or note the phone number of the officer's supervisor.
 - c. Contra Costa Superior Court personnel should ask

the officer for his/her reason for being at the courthouse and note the response.

- d. Contra Costa Superior Court personnel should ask the officer to produce any documentation that authorizes court access.
- e. If the officer orders immediate access to court facilities, Contra Costa Superior Court personnel should not refuse the officer's orders and immediately contact the Executive Officer, Presiding Judge, or their designate.
- f. State that Contra Costa Superior Court does not consent to entry of its facilities or portions thereof.
- g. Without expressing consent, Contra Costa Superior Court personnel shall respond as follows if presented with the following documentation:
 - i. **An ICE administrative "warrant" (see Appendices A and B):** Immediate compliance is not required. Contra Costa Superior Court personnel shall inform the officer that they cannot consent to any request without first consulting with the Executive Officer, Presiding Judge, or their designate. Contra Costa Superior Court personnel shall provide copy of the warrant to the Executive Officer, Presiding Judge, or their designate as soon as possible.
 - ii. **A federal judicial warrant (either search-and-seizure warrant or arrest warrant; see Appendices C and D):** Prompt compliance with such a warrant is usually legally required, but where feasible, consult with the Executive Officer, Presiding Judge, or their designate before providing the officer access to the person or materials specified in the warrant.
 - iii. **A subpoena for production of documents or other evidence (see Appendices E and F):** Immediate compliance is *not* required. Inform the officer that Contra Costa Superior Court personnel cannot respond to the subpoena until after it has been reviewed. Provide a copy of the subpoena to the Executive Officer, Presiding Judge, or their designate, or legal counsel as soon as possible.
 - iv. **A notice to appear (see Appendix G):** This document is not directed at the Contra Costa Superior Court facility. Contra Costa Superior

Court personnel are under no obligation to deliver or facilitate service of this document to the person named in the document. If you get a copy of the document, give it to the Executive Officer, Presiding Judge, or their designate, or legal counsel, as soon as possible.

- h. If the officer orders staff to provide immediate access to facilities, Contra Costa Superior Court staff should not refuse the officer's order and should immediately contact the Executive Officer, Presiding Judge, or their designate. Contra Costa Superior Court personnel shall not attempt to physically interfere with the officer, even if the officer appears to be exceeding the authorization given under a warrant or other document. If an officer enters a restricted area without consent, Contra Costa Superior Court personnel shall document their actions.
- i. Contra Costa Superior Court personnel shall document the officer's actions while on Contra Costa Superior Court premises in as much detail as possible, but without interfering with the officer's movements.
- j. Contra Costa Superior Court personnel shall complete an incident report that includes the information gathered as described above and the officer's statements and actions.
- k. To the extent practicable, all Contra Costa Superior Court personnel who observe any immigration enforcement action taking place in, or in the immediate vicinity of, any court facility, shall report the incident to the Executive Officer, Presiding Judge or their designate.

iii. Responding to Requests for Information for Immigration Enforcement Purposes

1. Collection and Dissemination of Personal Information

- a. Unless necessary to perform one's official duties, or required by law, Contra Costa Superior Court personnel shall not:
 - i. Inquire into an individual's immigration status.
 - ii. Provide, to an officer engaged in immigration enforcement, information regarding a person's

release date unless: (1) the officer has a valid judicial warrant, subpoena, or court order; (2) the person subject to the search has a criminal history that meets the criteria of California Government Code section 7282.5, subdivisions (a) and (b); or (3) the information is available to the public; or

- iii. Provide, to an officer engaged in immigration enforcement, personal information unless: (1) the officer has a valid judicial warrant, subpoena, or court order; or (2) the information is available to the public. "Personal information" means any information that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history.

- b. All other Contra Costa Superior Court personnel shall not:

- i. Collect and maintain personal information, except as required by law or as necessary to perform one's official duties.
 - ii. Ask an individual about his or her immigration status, except as required by law or as necessary to perform one's official duties.
- c. Contra Costa Superior Court personnel shall not share information regarding any juvenile case file for the purposes of immigration enforcement unless specifically authorized to do so by a judicial order.

2. Responses to Requests for Information for Immigration Enforcement Purposes

- a. Contra Costa Superior Court personnel shall not provide personal information to any person or entity for immigration enforcement purposes, unless: (1) such information is available to the public; or (2) is subject to a valid judicial warrant, subpoena, or court order.
- b. Contra Costa Superior Court personnel shall not provide information regarding a person's release date or respond to requests for notification by providing

release dates or other information unless that information: (1) is available to the public; (2) is subject to a valid judicial warrant, subpoena, or court order; or (3) is in response to a notification request from immigration authorities in accordance with Government Code section 7282.5.

- c. Contra Costa Superior Court personnel shall not use immigration authorities as interpreters when an interpreter is necessary to conduct the court's business.
- d. Contra Costa Superior Court personnel shall revise the terms and use policies that permit access to their case management systems or any other database that contains non-criminal history information as follows:

All users of the court's case management systems or any other database that contains non-criminal history information shall agree, as a condition to being provided access to the systems and databases, that they shall not access or use any information contained within these databases for immigration enforcement purposes, except that users are not restricted in the use of criminal history information and are not restricted in the use of information regarding a person's immigration or citizenship status pursuant to Sections 1373 and 1644 of title 8 of the United States Code.

Appendix A
Immigrations and Customs Enforcement "Arrest Warrant"
(Form I-200)

U.S. DEPARTMENT OF HOMELAND SECURITY

Warrant for Arrest of Alien

File No. _____

Date: _____

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that _____
is removable from the United States. This determination is based upon:

- ☐ the execution of a charging document to initiate removal proceedings against the subject;
- ☐ the pendency of ongoing removal proceedings against the subject;
- ☐ the failure to establish admissibility subsequent to deferred inspection;
- ☐ biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- ☐ statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____
(Location)

on _____ on _____, and the contents of this
(Name of Alien) (Date of Service)

notice were read to him or her in the _____ language.
(Language)

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

Appendix B
Immigrations and Customs Enforcement "Removal Warrant"
(Form I-205)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
WARRANT OF REMOVAL/DEPORTATION

File No: _____

Date: _____

To any immigration officer of the United States Department of Homeland Security:

(Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- ☐ an immigration judge in exclusion, deportation, or removal proceedings
- ☐ a designated official
- ☐ the Board of Immigration Appeals
- ☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

(Signature of immigration officer)

(Title of immigration officer)

(Date and office location)

Appendix C

Federal Search and Seizure Warrant (Form AO 93)

AO 93 (Rev. 11/13) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

)
)
)
)
)
)

Case No.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of _____
(identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

YOU ARE COMMANDED to execute this warrant on or before _____ (not to exceed 14 days)
☐ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

☐ for _____ days (not to exceed 30) ☐ until, the facts justifying, the later specific date of _____

Date and time issued: _____
Judge's signature

City and state: _____
Printed name and title

Appendix D
Federal Arrest Warrant (Form AO 442)

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

United States of America

v.

Case No.

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested)

who is accused of an offense or violation based on the following document filed with the court:

- ☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Date:

Issuing officer's signature

City and state:

Printed name and title

Return

This warrant was received on (date) , and the person was arrested on (date) at (city and state) .

Date:

Arresting officer's signature

Printed name and title

**Department of Homeland Security Immigration
Enforcement Subpoena (Form I-138)**

1. To (Name, Address, City, State, Zip Code)	DEPARTMENT OF HOMELAND SECURITY IMMIGRATION ENFORCEMENT SUBPOENA to Appear and/or Produce Records 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To	
_____ (Title of Proceeding)	_____ (File Number, if Applicable)

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or U.S. Citizenship and Immigration Services (USCIS) Official named in Block 3 at the place, date, and time specified, to testify and give information relating to the matter indicated in Block 2.
- (B) ☒ **PRODUCE** the records (books, papers, or other documents) indicated in Block 4, to the CBP, ICE, or USCIS Official named in Block 3 at the place, date, and time specified.

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry relating to the enforcement of U.S. immigration laws. Failure to comply with this subpoena may subject you to an order of contempt by a federal District Court, as provided by 8 U.S.C. § 1225(d)(4)(B).

<p>3. (A) CBP, ICE or USCIS Official before whom you are required to appear</p> <p>Name _____</p> <p>Title _____</p> <p>Address _____</p> <p>Telephone Number _____</p>	<p>(B) Date _____</p> <p>(C) Time <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.</p>
---	--

4. Records required to be produced for inspection



If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.

5. Authorized Official

(Signature)

(Printed Name)

(Title)

(Date)

Appendix F
Federal Judicial Subpoena (Form AO 88B)

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the

Plaintiff
v. _____
Defendant

)
)
)
)
)
)

Civil Action No. _____

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

(Name of person to whom this subpoena is directed)

☐ **Production: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Place: _____ Date and Time: _____

☐ **Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: _____ Date and Time: _____

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____, who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Appendix G

Notice to Appear Form (Form I-862)

U.S. Department of Homeland Security	Notice to Appear
In removal proceedings under section 240 of the Immigration and Nationality Act	
File No: _____	
In the Matter of: _____	
Respondent: _____ currently residing at: _____	
(Number, street, city, state and ZIP code)	(Area code and phone number)
<input type="checkbox"/> 1. You are an arriving alien.	
<input type="checkbox"/> 2. You are an alien present in the United States who has not been admitted or paroled.	
<input type="checkbox"/> 3. You have been admitted to the United States, but are deportable for the reasons stated below:	
The Department of Homeland Security alleges that you: _____	
SAMPLE	
On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law: _____	
<input type="checkbox"/> This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.	
<input type="checkbox"/> Section 235(b)(1) order was vacated pursuant to : <input type="checkbox"/> 8 CFR208.30(f)(2) <input type="checkbox"/> 8CFR235.3(b)(5)(iv)	
YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: _____	
(Complete Address of Immigration Court, including Room Number, if any)	
on _____ at _____	to show why you should not be removed from the United States based on the
(Date)	(Time)
charge(s) set forth above.	
_____ (Signature and Title of Issuing Officer)	
Date: _____	_____ (City and State)
See reverse for important information	
Form I-862 (Rev. 08/01/07)	