



PRESS RELEASE

Attorney General Frosh Issues Immigration Guidance Memorandum for Maryland State and Local Governments *Guidance Provides Legal Conclusions and Principles to Help State and Local Law Enforcement Agencies in their Interactions with Federal Immigration Law and Officials*

BALTIMORE, MD (May 4, 2017) - In light of recent federal measures to restrict immigration and intensify the enforcement of federal immigration laws, Maryland Attorney General Brian E. Frosh today issued an Immigration Guidance Memorandum for Maryland State and local governments. The Guidance Memorandum updates an August 2014 “ICE Detainers” advice letter, and serves as guidance describing the current legal landscape governing the participation of law enforcement officials in immigration enforcement, and to help those officials make decisions about how to engage with federal immigration officers.

“In 2014, the Maryland Office of Attorney General concluded that compliance with ICE detainers is voluntary and State and local law enforcement officials are potentially exposed to liability if they hold someone beyond his or her State law release date without a judicial warrant or probable cause,” said Attorney General Frosh. “This Guidance Memorandum supplements the 2014 advice taking into consideration Trump Administration changes in immigration policies and practices. Its purpose is to help local governments understand their obligations and rights and to enable them to protect their residents during a time of legal uncertainty.”

The Guidance Memorandum outlines several legal conclusions and basic principles to help guide State and local law enforcement agencies as they interact with federal immigration law and officials, including:

1. LEAs face potential liability exposure if they seek to enforce federal immigration laws, particularly if they do so outside the context of a federal cooperation agreement under 8 U.S.C. § 1357(g)(1).
2. LEAs must absorb all costs associated with federal cooperation agreements under 8 U.S.C. § 1357(g)(1). The federal government does not provide reimbursement for these agreements, and the agreements may increase the risk of unconstitutional profiling.
3. LEAs face potential liability exposure if they honor ICE or CBP detainer requests unless the request is accompanied by a judicial warrant or supported by information providing probable cause that the subject of the detainer has committed a crime.

4. State and local officers may not be prohibited from sharing information about a detainee's citizenship or immigration status with federal immigration officials, but they are not required to do so either.
5. As an overriding principle, the government bears the burden of proving that the detention of someone beyond the person's State-law release date does not violate the Fourth Amendment and its Maryland counterpart.

The Memorandum concludes that following these principles will allow law enforcement agencies to comply with federal law in a manner that also respects the constitutional rights of individuals, protects local agencies and officials from potential legal liability, and allows them to remain faithful to their mission of promoting public safety.

This guide is not meant to assist individuals with immigration issues. The Office of Attorney General does not represent individuals in private legal matters. Maryland citizens in need of individual immigration assistance should contact a reputable source such as the [Maryland Immigration Rights Coalition](#).

The full Guidance Memorandum and its Appendices can be found [here](#).