



Santa Barbara County Sheriff's Office

Kelly Hoover
Public Information Officer
(805) 681-4192

Date: 08/6/2015
Time: 3:00 p.m.

News Release

The Santa Barbara County Sheriff's Office is aware of concerns raised within our local communities and various by various media outlets, relating to the two suspects in the July 24, 2015, assault of a 64 year-old Santa Maria resident. Specifically, questions are being asked about the prior incarceration history of the suspects, their immigration status, and the Santa Barbara Sheriff's Office's handling of immigration detainer requests submitted by Department of Homeland Security (DHS), Immigrations and Customs Enforcement (ICE). We are releasing the attached timeline document to provide answers to questions that are being asked, or are likely to be asked in the future, as well as to correct misinformation that is presently circulating.

The Santa Barbara County Sheriff's Office policies and procedures in handling ICE immigration detainer requests are based upon two significant laws/ legal decisions. The 2013 California Transparency and Responsibility Using State Tools Act ("Trust Act") identifies when state and local law enforcement agencies may detain an individual based upon an ICE immigration detainer request. The Trust Act also specifically states that law enforcement shall not detain an individual when the parameters of the law are not met. Beyond the California Trust act, the *Miranda-Olivares v. Clackamas County* decision (2014), a Federal court case, established that holding a person in custody based solely upon an ICE immigration detainer request may violate the individual's constitutional rights, and the involved local/state agency can be held liable for this violation of constitutional rights.

Based upon the constraints created by the above noted laws, it is the policy of the Santa Barbara County Sheriff's Office, that DHS/ICE must obtain a court order or arrest warrant signed by a Federal judge or magistrate, before we will continue to maintain custody of an individual who does not have local charges that require the individual to be held in our custody. The impact of these two laws causes a significant legal and moral conflict for California Sheriffs when handling ICE immigration detainer requests. It is imperative that the Federal government work to remedy this conflict and provide clear guidance to California Sheriffs.

Attachment: Custody timeline

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Victor Aureliano Martinez

Victor Aureliano Martinez

- DOB: 03/12/1986
- Transient from the Santa Maria, California area
- Reported place of birth: Durango Canatlan, Mexico

Jail Booking and Release Timeline:

Initial booking within Santa Barbara County Jail system:

November 19, 2009:

- Victor Aureliano Martinez (aka: Victor Aureliano Martinez Ramirez) was booked into the Santa Barbara County Sheriff's Office, Custody Division.
 - The booking charge was 12500(a) of the California Vehicle Code: Driving a motor vehicle without a valid license.
 - The Sheriff's Office did not receive any requests from Department of Homeland Security(DHS), Immigrations and Customs Enforcement (ICE), relating to Victor Aureliano Martinez while he was in our custody on this occasion.

December 8, 2009:

- Pursuant to the applicable court orders, Victor Aureliano Martinez was released from Sheriff's custody.

Second booking within Santa Barbara County Jail system:

May 22, 2014:

- Victor Aureliano Martinez was booked into the Santa Barbara County Jail by the Santa Maria Police Department for "on-view" criminal charges.
 - The criminal charges were:
 - 220(a)(1) California Penal Code - Felony assault with the Intent to commit a sexual assault.
 - 11377(a) California Health and Safety Code – Felony possession of a controlled substance.
 - Pursuant to the Santa Barbara Superior Court bail schedule, bail was initially set at \$50,000, based upon the PC 220(a)(1) charge.

May 23, 2014:

- DHS/ICE provided the Sheriff's Office with a Form I-247, Immigration Detainer – Notice of Action.
- DHS/ICE did not subsequently provide the Sheriff's Office with a court order or warrant signed by a Federal magistrate or judge.

May 27, 2014:

- The Sheriff's Office received court orders paperwork from the Santa Barbara Superior Court – Santa Maria Division (public record), indicating the felony assault charge, PC 220(a)(1), was not being alleged. In its place, Martinez was being charged with misdemeanor battery, California Penal Code section 242. Furthermore, the court documentation indicated the bail was reduced to \$10,000.

May 30, 2014:

- Sheriff's Office custody personnel evaluated the above noted DHS/ICE detainer request, and determined it did not meet the immigration detention requirements implemented by the Sheriff's Office pursuant to the *Miranda-Olivares v. Clackamas County* court decision (No. 3:12-cv-02317-ST, slip op. (D. Or. April 11, 2014) (Stewart, Magistrate Judge)).
 - In the *Miranda-Olivares v. Clackamas County* Federal court decision, a United States District Court magistrate ruled that state and local law enforcement authorities are not required to comply with requests from ICE to hold people on detainers. Furthermore, the court determined that maintaining custody of an individual based solely upon an ICE detainer request may violate the individual's constitutional rights and that local law enforcement agencies may be held liable for doing so.
 - Upon the advice of Santa Barbara County Counsel, effective May 28th, 2014, the Santa Barbara Sheriff's Office changed its policies and procedures to conform to the Clackamas ruling. Specifically the Sheriff's Office no longer recognized DHS/ICE detainer requests (DHS Form I-247), and requires that immigration holds will only be accepted if in the form of a court order, or warrant issued by a Federal magistrate.
 - The DHS/ICE detainer for Victor Aureliano Martinez was not a valid court order or warrant signed by a Federal magistrate.
- Additionally, once the felony assault charge was dropped, the California Trust Act, which is codified within California Government Code sections 7282 and 7282.5, prohibited the detention of Victor Aureliano Martinez based solely upon the DHS/ICE detainer request.
 - California Government Code section 7282.5(b) specifically directs that an individual shall not be detained on the basis of an immigration hold, once it is determined that none of the exemptions outlined within Government Code 7282.5(a) are present.
 - In this instance, Victor Aureliano Martinez had not been previously convicted of any crimes outlined within California Government Code 7282.5(a).
 - Furthermore, Victor Aureliano Martinez was no longer being charged with a serious or violent felony, as described within California Government Code 7282.5(a)(4).
 - DHS/ICE did not provide the Sheriff's Office with information establishing that Victor Aureliano Martinez had been previously

convicted of a Federal crime meeting the requirements of an “aggravated felony”, nor that Federal authorities possessed a felony arrest warrant for Victor Aureliano Martinez. Reference California Government Code section 7282.5(a)(5).

June 3, 2014:

- Shortly prior to 10:00pm, Victor Aureliano Martinez posted \$10,000 bail, utilizing a local bail bond company.

June 4, 2014:

- Pursuant to Sheriff’s Office policy and the requirements of California Government Code section 7282.5(b), Victor Aureliano Martinez was released from Sheriff’s custody shortly after midnight, approximately 2 ½ hours after his bail was posted.

Third booking within Santa Barbara County Jail system:

July 17, 2015:

- Victor Aureliano Martinez was booked into the Santa Barbara County Jail by the Santa Maria Police Department for:
 - “On-view” criminal charges.
 - The criminal charges were:
 - 21310 California Penal Code - Felony possession of a concealed dirk or dagger.
 - 11364(a) California Health and Safety Code – Misdemeanor possession of drug paraphernalia.
 - Pursuant to the Santa Barbara Superior Court bail schedule, bail was initially set at \$20,000, based upon the PC 21310 charge.
 - Misdemeanor arrest warrants
 - \$10,000 bail, PC978.5 (Failure to appear bench warrant) for an HS11364 (Possession of drug paraphernalia) charge.
 - \$10,000 bail, PC1203.2 (Violation of probation) related to the above noted 2014 charges; HS11377 (Possession of a controlled substance) and PC242 (misdemeanor Battery).
 - In this instance, DHS/ICE did not submit a detainer request for Victor Aureliano Martinez.

July 20, 2015:

- The Sheriff’s Office received court orders paperwork (public record) from Santa Barbara Superior Court – Santa Maria Division, indicating:
 - On view charges:
 - HS11364(a) - This charge was dismissed in the interest of justice.
 - PC21310 – Victor Aureliano Martinez pled “no contest” to the charge, as a misdemeanor.
 - Ordered to be released on 7/20/2015.
 - Sentenced to serve 30 days in county jail, starting October 31, 2015.
 - Recommended to apply for the Sheriff’s Work Alternative Program (SWAP).

- Given 3 years of unsupervised probation.
 - Warrants:
 - HS11377(a) Possession of a controlled substance and HS11364(a) Possession of Drug Paraphernalia.
 - HS11364(a) charge was dismissed.
 - HS11377(a) – Victor Aureliano Martinez pled “no contest” to the charge.
 - Diversion granted for 3 years.
 - Victor Aureliano Martinez was ordered to be released on 7/20/2015.
 - Victor Aureliano Martinez was ordered to reappear in court on August 24, 2015.
 - HS11364(a) Possession of Drug Paraphernalia.
 - The HS11364(a) charge was dismissed.
 - Victor Aureliano Martinez was ordered to be released on 7/20/2015.
 - HS11377(a) Possession of a controlled substance and PC242 Battery.
 - The warrant was ordered recalled.
 - The existing probation terms and conditions were reinstated.
 - Victor Aureliano Martinez was ordered to be released from Sheriff’s custody on 7/20/2015.
- The Sheriff’s Office released Victor Aureliano Martinez pursuant to the above noted court orders.

Fourth booking within Santa Barbara County Jail system:

July 25, 2015:

- Victor Aureliano Martinez was booked into the Santa Barbara County Jail by the Santa Maria Police Department for “on-view” criminal charges.
 - The criminal charges were:
 - 664/187(a) California Penal Code - Felony Attempted Murder.
 - 220(b) California Penal Code - Felony Assault With The Intent To Commit Rape during the commission of First Degree Burglary.
 - 289(a)(1)(A) California Penal Code - Felony Unlawful Sexual Penetration.
 - 459 California Penal Code - Felony Burglary.
 - 148(A)(1) PC-M Resist Arrest.
 - Pursuant to the Santa Barbara Superior Court bail schedule, bail was set at \$1,000,000, based upon the PC 664/187 charge.
 - Victor Aureliano Martinez is currently in custody at the Santa Barbara County Jail.

August 5, 2015:

- The Department of Homeland Security, Immigrations and Customs Enforcement (ICE Division) provided the Sheriff’s Office with a Form I-247D, Immigration Detainer – Request for Voluntary Action.

- As of the present date, the Department of Homeland Security, Immigrations and Customs Enforcement has not provided the Sheriff's Office with a court order or warrant signed by a Federal magistrate or judge.

Present:

- Victor Aureliano Martinez is currently in custody at the Santa Barbara County Jail.

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Jose Fernando Villagomez

Jose Fernando Villagomez

- DOB: 11/21/1994
- Residence: Santa Maria, California
- Reported place of birth: San Francisco, California

Jail Booking and Release Timeline:

Initial booking within Santa Barbara County Jail system:

May 29, 2015:

- Jose Fernando Villagomez was booked into the Santa Barbara County Jail by the Santa Maria Police Department for:
 - “On-view” criminal charges.
 - The criminal charges were:
 - 242 California Penal Code – Misdemeanor battery.
 - 11550(a) California Health and Safety Code – Misdemeanor use/ under the influence of a controlled substance.
 - Pursuant to Santa Barbara Superior Court bail schedule, bail was initially set at \$7,500, based upon the PC 242 charge.

June 10, 2015:

- The Sheriff’s Office received court orders paperwork (public record) from Santa Barbara Superior Court – Santa Maria Division, indicating:
 - On view charges:
 - HS11550(a) – Villagomez pled no contest to this charge.
 - Prop 36 hearing set for June 17, 2015.

June 17, 2015:

- The Sheriff’s Office received court orders paperwork (public record) from the Santa Barbara Superior Court – Santa Maria Division, indicating:
 - On view charges:
 - PC242 – This charge was dismissed by motion of the DA/Court.
 - Villagomez was ordered discharged on the court case.
- Pursuant to the above noted court orders, the Sheriff’s Office released Villagomez from our custody.

Second booking within Santa Barbara County Jail system:

July 29, 2015:

- Jose Fernando Villagomez was booked into the Santa Barbara County Jail by the Santa Maria Police Department for violation of his probation terms, stemming from his previous HS11550 case.

August 4, 2015:

- The Santa Maria Police Department added “on view” charges for Jose Fernando Villagomez, who was still in Sheriff’s Custody at the time.
 - The criminal charges were:
 - 664/187(a) California Penal Code - Felony Attempted Murder.
 - 220(b) California Penal Code - Felony Assault With The Intent To Commit Rape during the commission of First Degree Burglary.
 - 289(a)(1)(A) California Penal Code - Felony Unlawful Sexual Penetration.

Present:

- Jose Fernando Villagomez is currently in custody at the Santa Barbara County Jail.