



**General Order: 17.3
IMMIGRATION VIOLATIONS**

Effective: June 15, 2005
Last Revised: February 1, 2017

PURPOSE

The purpose of this policy is to establish guidelines when dealing with individuals who have violated the immigration laws of the United States

The trust that members of the community enjoy with the City and the Police Department is of paramount importance. It is incumbent upon all members of this Department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of alien status.

POLICY

The United States Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, U.S. Code dealing with illegal entry, etc. When members of the Garden Grove Police Department are requested by the ICE to provide immediate assistance, or when suspected criminal violations are discovered as a result of any investigation, based upon probable cause, not originating from violations of Title 8. U.S. Code, §~ 1304, 1324, 1325, and 1326, members of the Garden Grove Police Department may assist in the enforcement of federal immigration laws.

IMMIGRATION COMPLAINT PROCEDURES

Persons wishing to report immigration violations should be referred to the United States Immigration and Customs Enforcement (ICE), 34 Civic Center Plaza, 9th floor, Santa Ana, CA (714) 972-4100. The Employer Sanction Unit of the ICE has primary jurisdiction for enforcement of Title 8, U.S. Code.

The fact that an individual is suspected of being an undocumented alien alone shall not be the basis for contact, detention, or arrest.

Members of the Garden Grove Police Department shall not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, socioeconomic status, or other group. While discretionary, the disposition of each contact should not be affected by such factors as race, ethnicity, sexual orientation, etc.

If the ICE or any other federal agency makes a specific request for assistance, members of the Garden Grove Police Department will provide available support during the federal operation. Members of the Department should not participate in such federal operations as part of any detention team unless it is in response to an immediate, yet temporary request for assistance or for officer safety. Any detention by a member of this Department should be based upon the reasonable belief that an individual is involved in criminal activity, other than those related to citizenship status.

ARREST AND IDENTIFICATION

Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor, or felony), the investigating officer should take the necessary steps to identify the person. This may include valid government issued identification or other reliable sources.

If an officer believes that an individual taken into custody for a felony is an undocumented alien, the arrestee should be booked into Orange County Jail without consideration for immigration status.

If an officer believes that an individual taken into custody for a misdemeanor is an undocumented alien, and that person would have otherwise been released on a written promise to appear, the person should be given a reasonable opportunity to verify their true identity (e.g., telephone calls, etc.). If the person's identity is thereafter reasonably established, the original citation release should be completed without consideration of immigration status.

If members of the Department arrest an individual who is unable to reasonably establish his or her true identity, the individual may be booked at the appropriate jail (refer to Vehicle Code § 40302a, and Penal Code § 853.6, if applicable).

If a person is detained pursuant to the authority of Vehicle Code § 40302a, for an infraction, that person may be detained for a reasonable period not to exceed two hours, for the purpose of establishing his or her true identity. Regardless of the status of that person's identity at the expiration of two hours, he or she shall be released on his/her signature with a written promise to appear in court for the Vehicle Code infraction involved.

NOTIFICATION OF IMMIGRATION AND NATURALIZATION SERVICE

If an officer detains an individual who meets the criteria, as defined in Section 1227, Title 8 U.S.C., Deportable Aliens, which includes prior convictions for crimes of moral turpitude, controlled substances, domestic violence, and violation of courts protection orders, the individual can be taken into custody for violation of this Federal statute if:

- a. The officer has obtained a copy of the individuals Criminal History Index indicating one of the listed offenses,

- b. The officer has obtained approval from the Watch Commander prior to the arrest,
- c. Written notification to the Chief of Police, via the chain of command, must be provided prior to the conclusion of the officer's duty shift.

The United States Customs and Border Protection (CBP) should be notified of the arrest by calling (619) 662-7321. The arrestee should be transported to the San Onofre Border Checkpoint and released to the custody of the United States Customs and Border Protection (CBP). The arresting officer shall indicate the disposition of the arrestee on the Arrest Face Page and in the arrest narrative.

This Department will not book undocumented aliens based solely on immigration status unless a warrant is confirmed through the ICE and they are willing to pick up the individual.

DETERMINATION OF IMMIGRANT STATUS

Determination of immigration status is primarily the jurisdiction of the United States Immigration and Customs Enforcement (ICE). Title 8, U.S. Code § 1304 (e), provides: "Every alien, eighteen years of age and over, shall at all times carry with him and have in his/her personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d) of this section. Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100.00 or be imprisoned not more than thirty days, or both."

COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE 7283.1

Department personnel shall not permit, allow, or facilitate any form of communication between ICE personnel and a Department detainee or arrestee.

Upon receiving any ICE hold (detainer), notification, or transfer request, Department personnel shall provide a copy of the request to the individual and inform him or her that the Department intends to comply with the request.

Department personnel shall use the "ICE" circumstance code in Spillman as the means of tracking contact with ICE regarding a Department detainee or arrestee. A 'contact' includes receiving an immigration detainer request via a law enforcement computer system and subsequently serving it to the arrestee. Department personnel who have any type of contact with ICE regarding a Department arrestee shall complete the appropriate arrest report in Spillman to document the contact with ICE. If an arrest is not involved, but contact is made with ICE regarding a Department detainee, then an Officer's Report shall be completed to document the Department personnel contact with ICE.

Beginning January 1, 2018, the Chief of Police shall convene at least one community forum that is open to the public and in an accessible location, and with at least 30 days' notice, to provide information to the public about ICE's access to individuals in the previous calendar year and to receive and consider public comment.