

Immigration Violations

428.1 PURPOSE AND SCOPE

The immigration status of individuals alone is not a matter for police action. It is incumbent upon all employees of this Department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of alien status. Confidence in this commitment will increase the Department's effectiveness in protecting and serving the entire community.

428.2 DEPARTMENT POLICY

The U.S. 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 assisting the ICE at their specific request, or when suspected criminal violations are discovered as a result of inquiry or investigation based on probable cause originating from activities other than the isolated violations of Title 8, U.S. Code, Sections 1304, 1324, 1325 and 1326 this Department may assist in the enforcement of Federal immigration laws.

428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS

Persons wishing to report immigration violations should be referred to the U.S. Immigration and Customs Enforcement (ICE), 34 Civic Center Plaza, Santa Ana, CA (714) 373-8793, fax (714) 379-5228. The Employer Sanction Unit of the ICE has primary jurisdiction for enforcement of Title 8, U.S. Code.

428.31 BASIS FOR CONTACT

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

428.32 SWEEPS

The Costa Mesa Police Department does 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.

The disposition of each contact (i.e., warning, citation, arrest, etc.), while discretionary in each case, should not be affected by such factors as race, ethnicity, sexual orientation, etc.

428.33 ICE REQUEST FOR ASSISTANCE

If a specific request is made by the ICE or any other federal agency, this Department will provide available support services, such as traffic control or keep-the-peace efforts, during the federal operation.

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Costa Mesa police officers should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis 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.

428.34 IDENTIFICATION

Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor, or felony), the investigating officer should take reasonable steps to establish the person's identity through the production of valid identification or other reliable sources.

If an individual would have otherwise been released for an infraction or misdemeanor on a citation, the person should be taken to the station and 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.

428.35 ARREST

If the officer intends to take enforcement action and the individual is unable to reasonably establish his or her true identity, the officer may take the person into custody on the suspected criminal violation (see Vehicle Code §40302a, and Penal Code §836, if pertinent to the circumstances). A field supervisor shall approve all such arrests.

428.36 BOOKING

If the officer is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into jail for the suspected criminal violation and held for bail.

If a person is detained pursuant to the authority of Vehicle Code §40302a, for an infraction, that person may be detained upon approval of a supervisor for a reasonable period not to exceed two hours for the purpose of establishing their 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 promise to appear in court for the Vehicle Code infraction involved.

428.37 NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT

If an officer believes that an individual taken into custody for a felony is also an undocumented alien, after he or she is formally booked and there is no intention to transport to the County Jail, the ICE may be informed by the arresting officer so that they may consider placing an "immigration hold" on the individual.

In the event an individual, who is an undocumented alien, is taken to the County Jail for booking for a criminal charge, he/she will be automatically interviewed by an employee from the ICE.

428.38 DETERMINATION OF IMMIGRANT STATUS

Determination of immigration status is primarily the jurisdiction of the U.S. Immigration and Customs Enforcement. 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 or 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

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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."

428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE

The Costa Mesa Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any subject. Race, gender, religion, sexual orientation, age, occupation or other arbitrary aspects are of no bearing on the decision to arrest.