



# CHANDLER POLICE DEPARTMENT GENERAL ORDERS

*Serving with Courage, Pride, and Dedication*

Order

## E-17 IMMIGRATION ENFORCEMENT/ FOREIGN NATIONALS

Subject

**100 Procedures**

Effective

**05/04/16**

**Low Frequency/High Severity**

### SUMMARY:

[1.1.4] [1.2.5]

This policy establishes procedures for the management of undocumented foreign nationals (UFN) that come in contact with Chandler Police Department enforcement officers.

### A. POLICY

The Chandler Police Department recognizes and values the diversity of the community it serves. In 1996, the United States Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act, 8 U.S.C. 1101, *et. seq* (IIRIRA). IIRIRA made many changes to immigration laws including adding immigration consequences to certain crimes and requiring mandatory detention of UFNs convicted of certain crimes. IIRIRA also addressed the relationship between the federal government and local governments by permitting certain designated officers to perform immigration law enforcement functions provided they receive the appropriate training and agree to function under the supervision of officers from Immigration and Customs Enforcement (ICE) to identify, process, and when appropriate, detain UFNs they encounter during their regular, daily law-enforcement activity.

The Chandler Police Department is committed to partnering with federal agencies and others to the extent allowable under federal, state and local laws to address criminal activity within our community. This practice is consistent with our duty to ensure the safety and well-being of all persons, regardless of their immigration status. This policy will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

In enforcing the laws, officers may legally stop, detain or arrest anyone when reasonable suspicion or probable cause exists that a crime has occurred. Officers, however, shall not engage in bias-based profiling, also referred to as "racial profiling" (See GO A-09), when conducting stops, detentions, or arrests of any subject.

Officers should be aware that the enforcement of state and federal laws related to immigration is a complex effort requiring the cooperation of multiple agencies and the consideration of multiple facts and circumstances. Officers are encouraged to contact supervisors when necessary. If at any time, in the sound judgment of an officer, the officer believes that deviation from this policy is appropriate, the officer should contact a supervisor.

### B. PURPOSE

The purpose of this policy is to provide guidelines for the management of investigations into issues related to immigration enforcement.

### C. GENERAL INFORMATION

Arizona passed comprehensive immigration legislation in 2010, commonly referred to as SB 1070. Since that time, many of the laws have been enjoined or declared to be unconstitutional by federal courts making them

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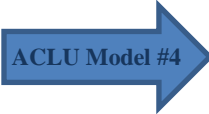
unenforceable. The following is a list of Arizona Laws addressing immigration enforcement as well as their current status:

1. **ARS 11-1051(B)** "Cooperation and assistance in enforcement of the immigration laws; indemnification" - **valid**
2. **ARS 13-1307** "Sex trafficking; classification; definitions" - **valid**
3. **ARS 13-1308** "Trafficking of persons for forced labor or services; classification; definitions" – **valid**
4. **ARS 13-1509** "Willful failure to complete or carry an alien registration document" – **enjoined/unenforceable** – Arizona v. US, US Supreme Court, June 2012
5. **A.R.S. 13-2008(A)** – "Taking the identity of another with "the intent to obtain or continue employment" – **enforceable** and if investigation shows suspect is in US illegally, refer to ICE – Puente Arizona v. Arpaio, 9<sup>th</sup> Cir., May 2016
6. **ARS 13-2009(A)(3)** "Aggravated taking the identity of another" – **enforceable** and if investigation shows suspect is in US illegally, refer to ICE – Puente Arizona v. Arpaio, Dist. Court of AZ, 9<sup>th</sup> Cir., May 2016
7. **ARS 13-2928 (A, B, & C)** "Unlawful stopping to hire and pick up passengers for work ; unlawful application, solicitation or employment" – **enjoined/unenforceable** – Arizona v. US, US Supreme Court, June 2012, Valle del Sol v. Whiting, Ninth Circuit, March 2013
8. **ARS 13-2929** "Unlawful transporting, moving, concealing, harboring or shielding of unlawful aliens; vehicle impoundment; exception; classification" **Enjoined/unenforceable** - Valle del Sol v. Whiting, Ninth Circuit, October 2013
9. **ARS 13-2317** "Money laundering; classifications; definitions."
10. **ARS 13-2319** "Smuggling; classifications; definitions" – **valid but not if conspiring to smuggle oneself** – We Are America v. Maricopa County Bd. Of Supervisors, Ninth Circuit, September 2013
11. **ARS 13-2322** "Unlawful transactions involving drop house properties, classifications; definitions."
12. **ARS 28-3511(A)(1)(d)** "Removal and immobilization or impound of vehicle used In furtherance of the illegal presence of an alien in the United States" – based on court finding ARS 13-2929 invalid, **this statute should not be used as basis for impound.**
13. **ARS 13-3883(A)(5)** "Arrest of person who has committed any public offense that makes the person removable from the United States" – **enjoined/unenforceable** – Arizona v. US, US Supreme Court, June 2012

**D. DEFINITIONS**

|   |   |
|---|---|
| <b>Bias-Based Profiling</b>                     | Selecting a person or persons for enforcement action based on a common trait of the group; this includes, but is not limited to race, ethnic background, cultural group, religion, national origin, gender, age, sexual orientation, or economic status; this includes "racial profiling" |
| <b>Certified 287(G) Officer</b>                 | State or local officer trained, certified and authorized by the federal government to enforce all aspects of federal immigration law  |
| <b>Consensual Contact</b>                       | Voluntary interaction with a person where a reasonable person would clearly understand they are free to leave or decline the officer's request  |
| <b>ICE/CBP/287(G)</b>                           | Immigrations and Customs Enforcement, Customs and Border Protection or a 287(g) certified officer   |
| <b>Presumptive Identifications (For Persons</b> | A person is presumed not to be an illegal alien who is unlawfully present in the United States if the person provides to a law enforcement officer or agency any of the following: <ul style="list-style-type: none"> <li>• A valid Arizona Driver's License</li> </ul>                   |

|   |  |
|---|--|
| <b>Lawfully Stopped Or Detained / Not Under Arrest)</b> | <ul style="list-style-type: none"> <li>• A valid Arizona non-operating Identification License</li> <li>• A valid Tribal Enrollment Card or other form of tribal identification</li> <li>• If the entity requires proof of legal presence in the United States before issuance; any valid United States federal, state, or local government issued identification</li> </ul>  |
| <b>Probable Cause To Arrest</b>                         | Facts and circumstances, and any rational inferences therefore, that would lead a reasonable and prudent police officer to believe a crime has been or is being committed, and the subject to be arrested committed the crime; an officer may arrest based on probable cause   |
| <b>Racial Profiling</b>                                 | <p>The reliance on race, skin color, and/or ethnicity as an indication of criminality, including reasonable suspicion or probable cause, except when part of a suspect description</p> <p><i>No city official shall interrogate, arrest, detain or take other law enforcement action against an individual based upon that individual's perceived race, national origin, religion, language, or immigration status, unless such personal characteristics have been included in timely, relevant, credible information from a reliable source, linking a specific individual to a particular criminal event/activity.</i></p> |
| <b>Reasonable Suspicion</b>                             | Facts and circumstances, and any rational inferences therefore, that would lead a reasonable and prudent police officer to believe crime is/was afoot (has been, is being, or is about to be committed); the officer need not know the exact nature of the crime; an officer may stop or detain a person based on reasonable suspicion but may not arrest or search  |
| <b>Stop</b>   | A temporary detention of a person for investigation (a temporary detention is considered a seizure of a person and is, therefore, governed by the Fourth Amendment); a stop occurs when a reasonable person under the circumstances would believe that he/she is not free to go; a stop must be based on at least reasonable suspicion; a person is stopped when such person submits to a show of authority or physical force.   |



**E. CONSENSUAL CONTACTS**

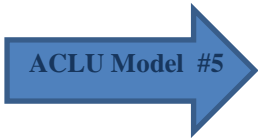
1. **STATE LAWS RELATED TO IMMIGRATION ENFORCEMENT** neither expand nor limit an officer's ability to approach a person and engage that person in a voluntary conversation. During that conversation, the officer may inquire about any subject matter. The person contacted does not have to answer questions or produce any identification, but may choose to do so voluntarily. Officers do not have the authority to demand that a person "show their papers." If during the contact, the officer develops reasonable suspicion that the person has committed, is committing or is about to commit a crime, then the officer should proceed as directed in Section F below.
2. **OFFICERS SHOULD EXERCISE DISCRETION** in making immigration status inquiries during consensual contacts or with victims and witnesses of crime. In order to avoid perceptions of bias based policing (including racial profiling) during consensual contacts, officers should be consistent in asking persons for their identification.



*No City official shall interrogate, arrest, detain or take other law enforcement action against an individual based upon that individual's perceived race, national origin, religion, language, or immigration status, unless such personal characteristics have been included in a timely, relevant, credible information from a reliable source, linking a specific individual to a particular criminal activity.*

3. **IN NO EVENT SHALL RACE, COLOR OR NATIONAL ORIGIN** play any role in an officer's decision to inquire about immigration status in consensual encounters.

**F. PERSONS LAWFULLY STOPPED  
OR DETAINED**



1. **IF, DURING THE COURSE OF A LAWFUL STOP OR DETENTION** of a person ("detainee"), an officer subsequently develops reasonable suspicion to believe a detainee is an alien and is unlawfully present in the U.S., the officer shall make a reasonable attempt to determine the immigration status of the detainee with either ICE/CBP. There are three exceptions to this requirement:

*City officials should not inquire into the immigration status of an individual, except where the inquiry relates to a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law, or where required by state and federal law including to verify for a benefit, service, or license conditioned on verification of certain status.*

- a. **When it is not practicable**



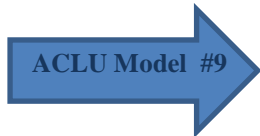
In determining whether it is practicable, officers should consider things such as workload, criticality of incident and of other present duties, available personnel on scene, location, available back up, ability to contact ICE/CBP and availability of ICE/CBP

**b. When the determination may hinder or obstruct an investigation**

The officer should consider when or whether to investigate immigration status in light of the need for suspect, victim and witness cooperation in an investigation (this consideration is not necessarily limited to the investigation for which you have detained the person). For example, complex investigations of money laundering, human trafficking and drug smuggling may require significant cooperation of those involved.

**c. When contact with ICE/CBP extends the length of detention** When the purpose of the original stop/detention has been completed, absent other facts that support reasonable suspicion of another crime, officers shall not extend the length of detention merely to determine immigration status.

2. **IN ESTABLISHING WHETHER THERE IS REASONABLE SUSPICION** to believe a person is an alien and unlawfully present in the U.S., an officer shall not consider the detainee's race, color or national origin, except to the extent that an officer may ask about a person's citizenship
3. **IF THE DETAINEE PRESENTS ONE OF THE FOLLOWING TYPES OF IDENTIFICATION**, it is presumed that the detainee is lawfully present in the U.S. No further investigation into the person's status is necessary, unless there are additional facts that cast doubt on the person's lawful presence.
  - a. A valid Arizona driver license
  - b. A valid Arizona non-operating identification license
  - c. A valid tribal enrollment card or other form of tribal identification
  - d. If the entity requires proof of legal presence in the U.S. before issuance, any valid U.S. federal, state or local government issued identification
4. **IF THE DETAINEE DOES NOT PRESENT PRESUMPTIVE IDENTIFICATION**, then based on articulable facts and circumstances the officer shall determine whether reasonable suspicion exists that the person is an alien and here unlawfully. If reasonable suspicion exists to believe the person is unlawfully present, the officer shall make a reasonable attempt to determine the person's immigration status. In determining whether reasonable suspicion of unlawful presence exists, officers should consider all relevant factors, including, among others:
  - a. Lack of or false identification (if otherwise required by law)
  - b. Possession of foreign identification
  - c. Flight and/or preparation for flight; engaging in evasive maneuvers, in vehicle, on foot, etc.
  - d. Voluntary statements by the person regarding their citizenship or lawful presence  
**\*\*Note\*\*** If the person is in custody for purposes of *Miranda*, s/he may not be questioned about immigration status until after the reading and waiver of *Miranda* rights
  - e. Foreign vehicle registration
  - f. Counter-surveillance or lookout activity
  - g. In company of other unlawfully present aliens



- h. Location, including for example
  - 1) A place where unlawfully present aliens are known to congregate looking for work
  - 2) A location known for human smuggling or known smuggling routes
- i. Traveling in tandem
- j. Vehicle is overcrowded or rides heavily
- k. Passengers in vehicle attempt to hide or avoid detection
- l. Prior information about the person
- m. Inability to provide their residential address
- n. Claim of not knowing others in same vehicle or at same location
- o. Providing inconsistent or illogical information
- p. Dress (dress has been recognized by the courts as a valid factor, but in practice is very difficult to articulate – Example: layered clothing)
- q. Demeanor – for example, unusual or unexplained nervousness, erratic behavior, refusal to make eye contact
- r. Significant difficulty speaking English

*No City official shall interrogate, arrest, detain or take other law enforcement action against an individual based upon that individual's perceived race, national origin, religion, language, or immigration status, unless such personal characteristics have been included in timely, relevant, credible information from a reliable source, linking a specific individual to a particular criminal event/activity.*

The “building blocks” of reasonable suspicion may include, but not be limited to; the examples listed above and should be considered in the totality of the circumstances.



5. **WHEN REASONABLE SUSPICION EXISTS TO BELIEVE A DETAINEE IS AN ALIEN** and present in the U.S. unlawfully but there are no state or local criminal violations, the officer shall not detain the person further. Once the purpose of the original stop/detention has been completed, absent other facts that support reasonable suspicion of another crime, officers shall not extend the length of detention merely to determine immigration status. The officer may attempt to contact ICE/CBP after the person is released by submitting the ICE Referral form.
- a. If the officer is unable to make contact or to determine the person's immigration status with ICE/CBP after reasonable attempts, then the officer shall release the detainee after filling out the ICE Referral form. The form shall be submitted through Police Records to ICE.  
**NOTE:** Once the purpose of the original stop/detention has been completed, absent other facts that support reasonable suspicion of another crime, officers shall not extend the length of detention merely to determine immigration status
  - b. If ICE/CBP advises the officer that there are federal **criminal charges** against the detainee, then the officer shall determine whether ICE/CBP will respond to take the person into custody or whether the officer should arrest the detainee and transport to jail
  - c. If ICE/CBP advises the officer that the detainee only has federal **civil charges**, then the officer shall ask whether ICE/CBP will respond. The detainee may not be detained any longer than necessary to complete the officer's initial reason for the stop or detention (e.g., traffic violation) unless the officer has developed reasonable suspicion to detain further to investigate other violations.



ACLU Model #2

The officer shall not extend the detention to wait for ICE/CBP to respond. If the officer obtained relevant information during the lawful stop, the officer shall fill out an ICE Referral form. The officer shall not transport the person, without the person's consent, based solely upon a federal civil violation. The ICE form shall be submitted through Police Records.

*City officials shall not arrest, detain, or transport an individual solely on the basis of an immigration detainer or other administrative document issued by ICE or CBP, without a judicial warrant.*



**G. ARRESTS**  
(INCLUDING CITE & RELEASE  
OR LONG FORM)



1. **ALL ARRESTED PERSONS, INCLUDING JUVENILES, SHALL HAVE THEIR IMMIGRATION STATUS VERIFIED** by ICE/CBP prior to the arrestee being released through the ICE Law Enforcement Support Center at 1-802-872-6020

*No City official shall voluntarily release personally identifiable data or information to ICE or CBP regarding an inmate's custody status, release date or home address, or information that may be used to ascertain an individual's religion, ethnicity or race, unless for a law enforcement purpose unrelated to the enforcement of a civil immigration law.*

Presentation by the arrestee of presumptive identification and/or agency identification processes meets this requirement. Document in the ICE Referral form the fact that verification was made and by whom.

2. **ALL ARRESTEES WHO ARE GOING TO BE BOOKED** will have the verification of immigration status required above done by jail personnel
3. **FOR ALL ARRESTEES NOT BEING BOOKED** (e.g., Cite & Release or Long Form) who do not present presumptive I.D., the arresting officer/employee will call or otherwise contact (communications, computer, etc.) ICE/CBP to verify the arrestee's immigration status
  - a. If ICE/CBP does not respond or is unable to verify immigration status



by the time the reason for the stop is completed, then the officer will proceed to handle the arrestee according to agency policy, which may result in the issuance of a citation for the original non-immigration charge and the release of the arrestee. The officer will document the attempt by listing the agency name, phone number and time the attempt was made.

- b. If ICE/CBP responds timely and verifies that the person has federal civil or criminal charges, then the officer will transport the arrestee to jail for booking on the original state and/or local charges. The arrestee will not be cited and released. The officer will ensure a "hold" is placed on the arrestee for ICE or other appropriate federal agency on the federal civil or criminal charges. In addition to the original OR, an OR titled "Possible Federal Immigration Violation" will be completed. Officers will include the following information in the departmental report:

- 1) Subject's name and personal information
- 2) Time, place, and reason for contacting the subject
- 3) The agency contacted (ICE/CBP)
- 4) The type of contact made (phone call, radio, etc.)
- 5) Name and serial number of the person who verified the person's immigration status
- 6) The phone number and time the information was verified
- 7) If applicable, the articulable facts establishing voluntary consent or reasonable suspicion, including consent to be transported to ICE
- 8) If applicable, the name and serial number of ICE agent who took custody of the person



4. **AS REQUIRED BY ARIZONA LAW**, all arrested persons who are to be booked into jail shall be asked the following questions, with the answers documented in the departmental report:
  - a. What is your country of citizenship?
  - b. Where were you born?

- 1) If other than the United States, officers may not ask incriminating follow-up questions unless Miranda has been read and a valid waiver obtained
- 2) **Officers must comply with agency policies regarding consular notification for persons who self-identify as being foreign citizens**
- c. If Miranda has been read and a valid waiver obtained, officers should ask the following questions with the answers documented in the report:
  - 1) Are you in the United States legally?
  - 2) Do you have any registration documents or other proof of lawful presence?
5. **THE COUNTY WILL HANDLE VERIFICATION** for all prisoners booked at the county jail
6. Arrests that result in booking a suspect, or referring a juvenile, will be processed in accordance with applicable department policies
7. The officer should take into consideration the following factors in determining whether to cite and release or arrest:
  - a) Ties to the community, including family ties and relationships, and length of residence
  - b) Prior criminal activity
  - c) Any other facts bearing on the risk of nonappearance or danger to the public

#### **H. WHEN CONTACTING I.C.E.OR C.B.P.**

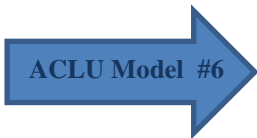
When an officer contacts ICE/CBP to verify whether a person is an alien and unlawfully present in the U.S., and ICE/CBP advises that the person is unlawfully present, the officer shall ask whether:

1. There is any record that the person has ever completed an alien registration document
2. The person has any other authorization from the federal government to remain in the U.S
3. If the person has no alien registration documents or other proof of lawful presence, or there is no record that the person has ever registered
4. Once verification of immigration status is completed, the person is eligible to be released, subject to other legal requirements (such as signing a citation in lieu of detention)
5. The fact that an ICE/CBP cannot verify a person's status does not mean a person is unlawfully present in the United States and is not, by itself, basis for enforcement action

#### **I. DETENTION AND REMOVAL ORDER (DRO) HOLD (USUALLY AN NCIC HIT)**

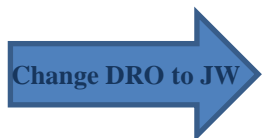
The Detention and Removal Office is a unit of ICE that has the responsibility of detaining and transporting undocumented persons apprehended by ICE, Customs and Border Protection (CPB) and local law enforcement.

Once a person has been identified as being in the United States unlawfully, ICE issues a DRO hold, which can be for criminal or civil violations.



1. **THIS HOLD IS SIMILAR TO A WARRANT** notification when a person's information is run through NCIC

*City officials shall require a judicial warrant prior to detaining an individual or in any manner prolonging the detention of an individual at the request of U.S. Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP).*



**2. IF AN OFFICER RECEIVES A DRO NOTIFICATION:**

- a. **Call the telephone number** on the DRO hit to determine whether the DRO hold is criminal or civil
  - b. **The subject may** be detained for the length of time it takes to determine whether the DRO hold is criminal or civil
3. **WITHOUT THE PERSON'S CONSENT**, officers will not transport for civil violations or continue to detain if the only violation is a civil DRO hold

**J. DRO - CRIMINAL HOLD**

1. **BOOK THE SUBJECT** into the county jail on the criminal DRO hold if ICE cannot respond to the scene of the detention
2. **COMPLETE A REPORT ENTITLED "Possible Federal Immigration Violation"** containing all relevant information for:
  - a. All arrests and transports to ICE on a criminal DRO hold
  - b. Criminal violations of a federal immigration law

**K. DRO - CIVIL HOLD**

Arizona law authorizes police officers to enforce provisions of the criminal law. The authorization is limited to criminal violations and does not include civil. Therefore, officers shall not transport for civil violations or continue to detain if the only violation is a civil DRO hold. If the officers develop information that the suspect is in the United States unlawfully, the information shall be detailed in the ICE Referral form and forwarded to Police Records.

1. **THE ICE REFERRAL FORM** shall be routed to ICE by Police Records
2. **ONCE THE ICE REFERRAL FORM** has been completed, the subject shall be released, if there are no criminal violations

**L. NCIC ICE IMMIGRATION VIOLATOR FILE**

ICE keeps a record of aliens who have been convicted of a felony crime in the United States and have since been deported to their country of citizenship. This record is known as the Deported Felon File, which is located in the NCIC Immigration Violator File.

1. The Immigration Violator File contains the following additional categories:
  - a. **The ICE Absconder category:** Contains the records for individuals with an outstanding administrative warrant of removal from the United States who have unlawfully remained in the United States

- b. **The ICE National Security Entry/Exit Registration System (NSEERS) category:** Contains the records for individuals whom the Department of Homeland Security (DHS) and ICE have determined have violated registration requirements for entry into the United States

- 1) ICE enters this information into the NCIC Immigration Violator File
  - 2) **DO NOT TAKE ENFORCEMENT ACTION on Administrative Warrants or NSEERS hits**; these are civil or other non-criminal federal matters
  - 3) The NCIC query results will advise whether the information displayed is an Administrative Warrant hit or a Deported Felon File notification
2. If an officer runs a person who is the subject of a Deported Felon File notification, and there are no local charges, do the following:
    - a. Verify through physical description (scars, marks, tattoos, etc.), admission, or other available information, that the person on the notification is the same person
    - b. Contact the ICE Law Enforcement Service Center in Vermont through the communications dispatcher or call directly using the phone number listed for immediate notification confirmation
    - b. Positively identify the subject through LiveScan, or fingerprint the individual and fax the fingerprints to ICE once the hit has been confirmed
    - d. May contact the ICE Law Enforcement Agency Response (LEAR) Unit (or other local ICE office) for pick-up and disposition of the subject after the subject has been positively identified
    - e. Transport the subject to the ICE Detention and Removal Office after verification

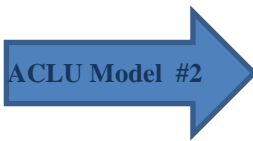
**\*\*Call the LEAR Unit before transporting a subject\*\***
  3. Officers will complete the ICE Referral form with the following information:
    - a. Subject's name and personal information
    - b. Time, place and reason for contacting the subject
    - c. Whether or not the LEAR Unit picked up the subject or if the subject was transported to the ICE center
    - d. Name and badge number of ICE agent that took custody of subject
  4. If there are local charges along with a Deported Felon notification, there is no need to contact ICE. Follow normal booking procedures.

**M. ICE CONTACT FOR DROP HOUSES,  
HUMAN SMUGGLING  
AND LOAD VEHICLES**

When contact with ICE is deemed necessary, the following steps **shall** be taken:

1. **A PATROL SUPERVISOR SHALL:**
  - a. Be contacted and provided a detailed account of ICE contact for drop houses, human smuggling and load vehicles
  - b. Review the circumstances and decide if the incident warrants a response from ICE or if the incident requires notification of another investigatory detail supervisor
  - c. Document each reported incident along with the response by ICE
2. **OFFICERS SHALL COOPERATE** with ICE agents in ICE law enforcement activities consistent with the mandates of Chandler Police Department policy

3. **OFFICERS MAY TRANSPORT ICE** prisoners at the request of an on-call ICE agent and with the approval of an on-duty supervisor when they come in contact with undocumented persons in regard to a smuggling operation/drop house or a load vehicle



*City officials shall not arrest, detain, or transport an individual solely on the basis of an immigration detainer or other administrative document issued by ICE or CPB, without a judicial warrant.*

4. **THE DUTY SERGEANT** or the affected commander and the duty PIO **shall** be notified as soon as possible for on scene assistance by ICE or other high profile incidents involving undocumented persons

#### **N. COMMUNITY AND VICTIM SERVICES**

Officers may contact Communications or Victim Services for information on community services for those in need of such services

#### **O. U-VISA CERTIFICATION FORMS**

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000 encourages victims to report crimes and contribute to criminal investigations and prosecutions regardless of immigration status as well as supports law enforcement efforts to investigate and prosecute crimes committed against immigrant victims. The U-Visa provides eligible victims with nonimmigrant status to temporarily remain in the United States while assisting law enforcement. (U-Visa Law Enforcement Certification Resource Guide)

U-Visas are available through United States Citizenship and Immigration Services for undocumented foreign nationals who are current or former victims, witnesses, or affected family who are assisting or have assisted officials in the criminal justice system investigate or prosecute criminal activity

**Note:** An agency's decision to provide a certification is entirely discretionary; the agency is under no legal obligation to complete a Form I-918 Supplement B for any undocumented foreign national.

1. **VICTIMS INQUIRING ABOUT APPLYING FOR U-VISA OR REQUESTING** assistance with completing an application should be directed to the Victims Services Unit (X4535)
2. **ALL REQUESTS FOR U NONIMMIGRANT STATUS CERTIFICATION (USCIS) FORM I-918 SUPPLEMENT B (I-918B) SHALL** be forwarded to the Criminal Investigations Bureau (CIB) Persons Crimes Section Lieutenant for review and coordination in processing the request
3. **THE LIEUTENANT WILL:**
  - a. Log the request and coordinate with the investigating officers, the affected prosecuting agency and Victim Services in making the determination to recommend and forward the form I-918B to the CIB commander
  - b. Refer to instructions for the form provided by Department of Homeland Security when making this determination
  - c. Consider forwarding completed request to the CIB commander for review if applicant:

- 1) Is a victim of a qualifying criminal activity as outlined in form I-918B and the criminal activity is being investigated
- 2) Possesses information concerning qualifying criminal activity that would assist in the investigation or prosecution
- 3) Is helpful and assisting with the investigation or prosecution



- d. Consult with the affected prosecuting agency to determine need for certification regarding cases pending prosecution
  - e. Notify the affected prosecuting agency when a form I-918B has been certified regarding criminal cases submitted for prosecution
  - f. Notify applicant in writing as to the status of certification request
  - g. Log the disposition of each request
  - h. Send written notification to USCIS if a victim unreasonably refuses to assist in the investigation or prosecution of their case after the form I-918B has been certified
    - 1) Send written notice to:  
USCIS – Vermont Service  
Center 75 Lower Welden Street  
St. Albans, VT 05479-0001
    - 2) Include the victim's name, date of birth, and A-number (if available) on all correspondence
4. **THE CIB COMMANDER SHALL:**
- a. Determine whether to certify the form I-918B
  - b. Forward written recommendation to the Police Chief through the chain of command
  - c. Inform Persons Investigations Section lieutenant of decision to certify the form I-918B

#### ***P. RECORDS MANAGEMENT***

The Immigration Status forms forwarded to ICE shall be forwarded to the Records Unit and maintained in RMS

#### ***Q. COMMANDER NOTIFICATION***

**NOTIFY THE APPROPRIATE COMMANDER** regarding any request for assistance by ICE/CBP or any incident/situation that may become high profile. The commander will coordinate all other city, departmental, and/or community notifications as deemed necessary, including notification required under General Order E-16 Planned Special Events / Operations

#### ***R. IMMUNITY FROM ARREST***

See General Order [E-10.100F](#)

#### ***S. MEXICAN NATIONALS FELONY ARREST***

Per Vienna Convention on Consular Relations Article 36, it is mandatory for the investigating agency to notify the Mexican Consulate in the case of felony arrest of a Mexican national. The investigating officer will:

1. **NOTIFY THE MEXICAN CONSULATE** during business hours
  - a. Refer to Communications for current phone numbers
  - b. Leave the name, DOB, address, and phone number of the individual
  - c. Leave investigating officer's name and badge number, a brief synopsis of what occurred, and the report number
2. **DOCUMENT** the above notification in the report

**T. REQUIRED NOTIFICATION  
TO FOREIGN CONSULATES**

Per the Vienna Convention on Consular Relations, law enforcement officials will notify arrested foreign nationals of their right to contact their consulates, and that, if the **foreign national** requests that a consular official be notified, local officials notify the consulate of the arrest.

1. **OFFICERS MUST ADVISE** arrested or detained foreign nationals of the right to have their consular officials notified. This notification should be given in conjunction with Miranda.
2. **IN SOME CASES**, regardless of the national's wishes, the nearest consular officials **must** be notified on the arrest or detention
3. **CONSULAR OFFICIALS ARE ENTITLED** access to their nationals in detention and to provide consular assistance
4. **WHEN A GUARDIANSHIP OR TRUSTEESHIP** is being considered with respect to a minor or incompetent foreign national, officers must notify consular officials

**U. ARREST / DETENTION  
PROCEDURES**



ACLU Model #2

Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel document the foreign national travels.

*City officials shall not arrest, detain, or transport an individual solely on the basis of an immigration detainer or other administrative document issued by ICE or CPB, without a judicial warrant.*

1. **IF THE FOREIGN NATIONAL'S COUNTRY IS NOT** on the mandatory notification list:
  - a. Advise of rights using the following statement:

“As a non-US citizen who is being arrested or detained, you are entitled to have us notify your country's consular representatives here in the United States. A consular official from your country may be able to help obtain counsel and may contact your family and visit you in detention, among other things. If you want us to notify your country's consular officials, you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your country's consular officials?”

- b. Offer, without delay, to notify the foreign national's consular officials of the arrest/detention. If the foreign national asks that consular notification be given, notify the nearest consular official of the foreign national's country without delay using the fax form, “Notification of Consular Office of Arrest or Detention.”
    - c. Record notification and actions taken in your report

- d. Photographs and fingerprints will be taken if part of the normal booking and investigation process
2. **IF THE FOREIGN NATIONAL'S COUNTRY IS** on the list of mandatory notification countries below:

- a. Advise person arrested or detained of the following:

“Because of your nationality, we are required to notify your country’s consular representatives here in the United States that you have been arrested or detained. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel and may contact your family and visit you in detention, among other things. We will be notifying your country’s consular officials as soon as possible.”

- b. Notify that country’s nearest consular officials within 24 hours of the arrest/detention. This does not mean the investigation must be delayed. Tell the foreign national that you are making this notification.
- c. Record notification and actions taken in your report
- d. Photographs and fingerprints will be taken if part of the normal booking and investigation process

### 3. CONTACT INFORMATION

- a. **Normal Business Hours:** Contact the assistant legal advisor for consulate affairs at the Department of State
- b. **After Normal Business Hours:** Contact the Command center of the Bureau of Diplomatic Security, Department of State
- c. **Contact Communications** for current phone numbers

### 4. MANDATORY NOTIFICATION COUNTRIES AND JURISDICTIONS

|                        |  |                     |
|------------------------|--|---------------------|
| Algeria                | Hungary                                      | Seychelles          |
| Antigua and Barbuda    | Jamaica                                      | Sierra Leone        |
| Armenia                | Kazakhstan                                   | Singapore           |
| Azerbaijan             | Kiribati                                     | Slovakia            |
| Bahamas, The           | Kuwait                                       | Tajikistan          |
| Barbados               | Kyrgyzstan                                   | Tanzania            |
| Belarus                | Malaysia                                     | Tonga               |
| Belize                 | Malta  | Trinidad and Tobago |
| Brunei                 | Mauritius                                    | Tunisia             |
| Bulgaria               | Moldova                                      | Turkmenistan        |
| China <sup>1</sup>     | Mongolia                                     | Tuvalu              |
| Costa Rica             | Nigeria                                      | Ukraine             |
| Cyprus                 | Philippines                                  | United Kingdom      |
| Czech Republic         | Poland (non-<br>permanent<br>residents only) | USSR <sup>3</sup>   |
| Dominica               | Romania                                      | Uzbekistan          |
| Fiji                   | Russia                                       | Zambia              |
| Gambia, The            | Saint Kitts and Nevis                        | Zimbabwe            |
| Georgia                | Saint Lucia                                  |                     |
| Ghana                  | Saint Vincent and the<br>Grenadines          |                     |
| Grenada                |  |                     |
| Guyana                 |  |                     |
| Hong Kong <sup>2</sup> |  |                     |

#### FOOTNOTES:

<sup>1</sup> Does not include Republic of China (Taiwan) passport holders.

<sup>2</sup> Mandatory for nonpermanent residents only.

<sup>3</sup> Passports may still be in use.

5. **CONSULAR OFFICIALS ARE ENTITLED** access to their nationals in detention, and are entitled to provide consular assistance. When guardianship or trusteeship is being considered with respect to a foreign national who is a minor or incompetent, consular officials must be notified.

**V. FOREIGN AIRCRAFT  
WRECKS OR CRASHES**

**NOTIFY CONSULAR OFFICIALS** when a foreign aircraft wrecks or crashes within the department's jurisdiction

**W. DEATH OR SERIOUS INJURY**

**THE INVESTIGATING OFFICER** will notify a foreign consulate whenever a foreign national dies or is seriously injured, regardless of the cause (e.g., traffic accident, homicide, suicide, natural, etc.) within the department's jurisdiction

**X. INSTRUCTION MANUAL  
AND FORMS LOCATION**

A copy of the "Consular Notification and Access" instruction manual and notification forms are located in the booking work area in Temporary Detention and by the fax machine in Records. The legal advisors will provide any clarification required.





Chandler + Arizona  
Where Values Make The Difference

# NOTIFICATION TO CONSULAR OFFICERS OF ARRESTS OR DETENTIONS



Date: \_\_\_\_\_

Time: \_\_\_\_\_

**TO:** Embassy of \_\_\_\_\_, Washington, D.C.  
or

Consulate of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
*Country City State*

**FROM:** Name: \_\_\_\_\_  
Office: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
ZIP Code: \_\_\_\_\_  
Telephone: (602) \_\_\_\_\_  
Fax: (602) \_\_\_\_\_

**SUBJECT: NOTIFICATION OF ARREST/DETENTION OF A NATIONAL OF YOUR COUNTRY**

We arrested/detained the following foreign national, whom we understand to be a national of your country, on \_\_\_\_\_.  
*Date*

Mr./Ms \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Place of Birth: \_\_\_\_\_  
Passport Number: \_\_\_\_\_  
Date of Passport Issuance: \_\_\_\_\_  
Place of Passport Issuance: \_\_\_\_\_

This national has been arrested/detained for the following crime(s):  
\_\_\_\_\_  
\_\_\_\_\_

To arrange for consular access, please call \_\_\_\_\_ between the hours of \_\_\_\_\_ and \_\_\_\_\_. Please refer to case number \_\_\_\_\_ when you call.

Comments: