

TRAINING



BULLETIN

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Alpha Index:
Enforcement of Civil Immigration Laws

"Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy."

ENFORCEMENT OF CIVIL IMMIGRATION LAWS

I. BACKGROUND

The immigration status of individuals alone is not a matter for police action. The Oakland Police Department commits to equal enforcement of the law and equal service to the public regardless of immigration status. This commitment increases the Department's effectiveness in protecting and serving the entire community.

The enforcement of civil immigration laws raises many complex legal, logistical, and resource issues for the City of Oakland, including:

- Undermining the trust and cooperation with immigrant communities;
- Increasing the risk of civil liability due to the complexity of civil immigration laws and the lack of training and expertise of local police on civil immigration enforcement;
- Detracting from the core mission of the Oakland Police Department to create safe communities; and
- Most immigrants in the City are law abiding and at times are victims of crime. The City wishes to foster the trust and cooperation with its immigrant communities and wishes to encourage immigrants to report crime and speak to the police without fear of being arrested or reported to the United States Immigration and Customs Enforcement (ICE).

II. TERMINOLOGY

NCIC Immigration "Warrants" and "Holds"

An NCIC check of an individual which results in a "warrant" or "detainer" issued by the United States Bureau of Immigration and Customs Enforcement (ICE)

Verify the type (criminal or civil) of warrant/hold by contacting ICE at the Law Enforcement Support Center (LESC) at (802) 872-6050.



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A. Criminal

The warrant abstract may state, for example, “PREVIOUSLY DEPORTED FELON” or “PREVIOUSLY DEPORTED CRIMINAL.”

B. Civil

Civil immigration holds when the warrant abstract contains any of the following information:

1. Administrative Warrant of Removal;
2. Bureau of Immigration and Customs Enforcement Detainer;
3. Alien Unlawfully Present; and
4. A violation of Code of Federal Regulation (CFR) “8 CFR 287.7.”

III. POLICY

- A. The responsibility for enforcement of civil immigration laws rests with the U.S. Immigration and Customs Enforcement (ICE) and not with local and state police. In accordance with the May 15, 2007 City Council “Resolution Declaring the City’s Policy against Local Enforcement of Civil Immigration Laws while Permitting Cooperation with Federal Agents in Situations Involving Public and Serious Crimes” (Resolution No. 80584), members of the Department will not initiate police action where the primary objective is to discover that the person is an alien (non-United States citizen) or to discover the status of the person under *civil* immigration laws.
- B. The Department shall not independently conduct sweeps or other concentrated efforts which solely focus on the immigration status of individuals.
- C. The Department shall enforce all suspected law violations with equal consideration and not just those affecting a particular race, ethnicity, age, gender, socioeconomic status or other group.
- D. The Department shall continue to cooperate with ICE and all other outside agencies in matters related to foreign nationals involved in serious crimes, the protection of public safety and as required by statute, federal regulation, court decision, or a legally-binding agreement.
- E. Nothing in this order shall be construed to prohibit or in any way restrict persons authorized by the Office of the Chief of Police from sending to or receiving from the U.S. ICE information regarding citizenship or immigration status, lawful or unlawful, of any individual arrested by sworn personnel of the Department or from maintaining such information or exchange such information with any other Federal, State or local government entity.
- F. Persons wishing to report immigration violations shall be referred to ICE, who has the primary jurisdiction for enforcement of Title 8, U.S. Code.



IV. PROCEDURES

A. Enforcement of United States Immigration Laws

If unsure if the type warrant/hold is civil, contact LESC at (802) 872-6050.

1. Civil Immigration Law Violations

Members:

- a. **SHALL NOT** detain or question any person **SOLELY** for the purpose of discovering either the person's citizenship or status under civil immigration laws;
- b. **SHALL NOT** arrest any person solely on the basis of the person's citizenship or status under any civil immigration laws;
- c. **SHALL NOT** arrest any person based solely on a "civil immigration detainer" or "administrative warrant of removal" appearing in an NCIC warrant abstract "hit." **DO NOT CALL ICE** to confirm the "warrant."

Examples of common civil immigration laws or holds that may appear in NCIC:

- 1) A reference to 8 CFR 287.7;
- 2) "Immigration Detainer";
- 3) "Administrative Warrant of Removal";
- 4) BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER; or
- 5) ALIEN UNLAWFULLY PRESENT.

2. Exceptions

Officers assigned to the Gang Unit will be allowed to arrest, enforce, and place detainers/holds for civil immigration violations if all of the following conditions are met:

- a. Officers are cross designated to enforce immigration laws through the (Title 8) – 287g Program;
- b. Officers receive the appropriate training for cross designation;
- c. Officers make civil immigration violation arrest or place/request civil holds on individuals suspected to be involved in gang activity; and



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- d. Officers complete an Offense Report documenting evidence of gang involvement.

NOTE: Gang activity/involvement is based on the listed indicators enumerated in the Gang Unit Field Contact Card.

3. Criminal Immigration Law Violations

- a. The most common warrant abstracts state “PREVIOUSLY DEPORTED FELON” or “PREVIOUSLY DEPORTED CRIMINAL” but verify any criminal warrant/hold through LESC. Upon confirmation, handle as a normal warrant arrest.
- b. A member may notify ICE at (802) 872-6050 of the immigration status of an undocumented alien if the individual is arrested for a felony, or a violent or weapons related misdemeanor to request an immigration hold.

B. ICE Request for Assistance

1. If a specific request is made by ICE or if the Department becomes aware of the need for its services, the Department shall provide support services, such as traffic control, public safety, and keep-the-peace efforts during the ICE operation.
2. Requests for assistance shall be approved by a supervisor or commander;
3. Members may take immediate action, without approval, for officer safety.