



ILLEGAL IMMIGRATION

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I. POLICY

The department is committed to reducing all illegal activity within Anne Arundel County, including crimes committed by illegal aliens and the criminal enterprise of illegal aliens initiated by breach of federal law pertaining to legal residency. This reduction will be accomplished by:

- A. Cooperating with federal immigration authorities as requested and/or in response to local matters,
- B. Establishing legal authority to enforce immigration law with the proper federal authority,
- C. Responding to citizen and community requests for action regarding illegal aliens, and
- D. Proactively assessing legality of employment through a combination of, document & benefit fraud investigations and worksite enforcement.

Pursuant to the Immigration and Nationality Act and regulations promulgated by the Attorney General and the Secretary of the Department of Homeland Security, only officers and employees of U.S. Immigration and Customs Enforcement (ICE) and certain specifically designated local law enforcement officers may arrest persons for being in this country illegally.

Pursuant to this policy, officers shall attempt to establish positive identification of all detainees before release, to include immigration status of individuals who willingly admit, or are reasonably believed or suspected to be in the United States illegally. Procedures for handling foreign government officials and claims of diplomatic immunity are enumerated in Index Code 2001.1.

Public Safety along with strong community support and trust in the agency are enhanced when crime victims and witnesses file police reports and feel free of reprisal when contacting the police department. Therefore, crime victims and witnesses will not be subjected to immigration inquiries as a matter of routine.

II. PURPOSE

The purpose of this policy is to establish procedures to be followed when contacting, and/or executing an arrest of, an illegal alien. These procedures are to ensure that members of the department maintain consistency and properly aid in the enforcement of federal laws regarding undocumented persons. Although immigration enforcement is vested in federal authority, local law enforcement has an increasing role in identifying, investigating, and apprehending persons who may be in violation of federal immigration law—particularly those who commit other violations of law.

Members of the department will always provide equal enforcement of the law, regardless of immigration status. Racial profiling, the practice of stopping, detaining, or searching a person based solely on factors such as race, gender, age, color, or ethnicity is **strictly prohibited**.

III. DEFINITIONS

A. Alien

Any person who is not a citizen or national of the United States.

B. Alien Absconder

A fugitive alien present in the United States after becoming subject to an administratively final order of removal, or after having failed to appear for a removal hearing or to report to ICE when required.

C. Criminal Alien

An alien who has been convicted of any crime that renders him or her removable from or inadmissible to the United States. The term criminal alien may also include aliens who have committed, but who have not been convicted of, certain crimes.

D. Illegal Alien

An alien whose presence in the United States is not authorized by law. The term includes aliens who illegally entered the United States, as well as aliens whose presence became illegal after legal entry (for example after the expiration of his or her visa).

E. Foreign National

A person who is a citizen or national of a country other than the United States.

F. Permanent Resident Alien

A person who has been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with immigration laws.

G. United States National

A person who is a citizen of the United States or who, though not a citizen of the United States, owes permanent allegiance to the United States. Only citizens of American Samoa and Swains Island are deemed to be noncitizen nationals of the United States. Citizens of Puerto Rico are citizens of the United States.

IV. PROCEDURES

A. Member Responsibilities

Officers shall obtain the full identity of any person who is lawfully detained or arrested for a violation of state law or Anne Arundel County ordinance. Based upon the circumstances, this may include inquiring as to the citizenship or immigration status of the person(s). Officers shall also remain cognizant at all times of the legal justification to continue the detention of a person by standards of legally permissible length of detention based on the circumstance. When a subject is taken into custody and processed through the department's normal booking procedures, police/booking officers shall attempt to verify the subject's immigration status. During the normal booking process, police/booking officers shall obtain a place of birth from the subject and ask him or her if they are a legal resident of the United States.

B. Law Enforcement Support Center (LESC)

1. The booking officer will be instructed to submit a *METERS IAQ* query through the U.S. Immigration and Customs Enforcement, Law Enforcement Support Center (LESC) to verify the subject's immigration status if any of the following circumstances exist:

- a. The officer reasonably believes the subject is a foreign national and an illegal alien,
- b. The officer is unable to verify the identity of the foreign national subject, or
- c. The foreign national subject provides false identification.

2. The LESL will respond to the booking officer's query with the IMMIGRATION status of the foreign national subject in question, in one of five manners:

- a. Verification that the subject is legally present in the United States;
- b. Notification that the subject is illegally present in the United States;
- c. Notification that the subject has a current ICE warrant as an ICE fugitive;
- d. Notification that the subject is an alien absconder;

- e. Notification that no records were found regarding the subject, thus additional information would be needed to determine their legal status.
- 3. Officers will make all appropriate notifications to the local ICE office based upon the information received from the LESC check (Section D). Any request made by ICE officials, which would deviate from the normal booking, release, or court official review process, must be approved by a supervisor.

C. Verification of Legal Presence

Citizens of the United States are not required to carry evidence of citizenship such as birth or naturalization certificates, although valid identification or other reliable sources are commonly carried. All lawful permanent resident immigrant aliens and all lawful temporary or nonimmigrant aliens are required by federal law to have in their possession, documents issued by the Department of Homeland Security that contain information relating to identity and immigration status. They may also be required to have in their possession a passport issued by their own government. If a person's identity is reasonably established, an officer may proceed with whatever action is warranted based on the nature of contact with the subject without consideration of immigration status.

D. Notification to ICE

If confirmation of an outstanding ICE administrative warrant of removal for an ICE fugitive or alien absconder is received through the LESC query, a formal notification shall be made by the LESC 24/7 to the local ICE Baltimore Detention and Removal Office (DRO) Duty Officer. The ICE DRO Duty Officer will then contact the officer for follow up on the subject. If an officer encounters a problem contacting the local ICE DRO Duty Officer, a follow up call must be placed to the LESC at 1-877-999-5372. Officers should make a note of the time of each notification and to whom they spoke.

If confirmation of any other type of illegal immigration status is received through the LESC query, or the LESC cannot confirm the legal status of an individual, a formal notification shall be made to the local ICE Baltimore Office of Investigations (OI) Duty Agent 24/7 at 1-800-973-2867 (SECTOR Communications) and ask for the ICE SAC Baltimore Duty Agent. If an officer encounters a problem notifying the duty ICE agent, a second call must be placed to the aforementioned contact numbers, this time requesting the ICE Supervisory Special Agent of the Duty Agent be notified.

A copy of all reports relating to the arrest and/or criminal investigation involving illegal or suspected illegal aliens will be forwarded to the Homeland Security Unit within 24 hours. The Homeland Security Unit will coordinate all follow-up investigations through the departmental ICE Task Force officer and/or District ICE representatives.

E. ICE Administrative Warrant of Removal

The following procedures will be followed when executing an **active and verified** ICE administrative warrant of removal through NCIC and the LESC, or the arresting/booking officer has received confirmation from the LESC that the subject(s) are an alien absconder:

- 1. If a subject is taken into custody on state and/or local criminal charge(s) and an **active** ICE outstanding administrative warrant of removal is **verified** through NCIC and the LESC, or the arresting/booking officer has received confirmation from the LESC that the subject is an alien absconder, the LESC will issue an Immigration Detainer-Notice of Action (Form I-247) and will contact the ICE Baltimore DRO Duty Officer to notify them of the subject's detention. The ICE DRO Duty Officer will contact the arresting officer to follow up on the subject(s) detention. If the commissioner places a bond on the subject(s), the Immigration Detainer-Notice of Action (Form I-247) received from the LESC **MUST** follow the subject to the Detention Center. If the subject(s) is released on their personal recognizance and the ICE DRO Duty Officer is unable to arrange for pick of the subject(s) within a reasonable amount of time, the subject(s) will be transported to the Anne Arundel County Detention Center, located at 131 Jennifer Rd. Annapolis. The Immigration Detainer-Notice of Action (Form I-247) **MUST** accompany the subject to the Detention Center. Detention Center receiving officials will process these subjects in the same manner as a court order detention commitment.

2. If a subject is lawfully detained and determined to have an **active** ICE outstanding administrative warrant of removal **verified** through NCIC and the LESC, or the arresting/booking officer has received confirmation from the LESC that the subject is an alien absconder, the officer will take the subject into custody and follow the normal process for executing an arrest warrant. The LESC will contact the ICE DRO Duty Officer to notify them of the subject's detention. The LESC will then fax an Immigration Detainer-Notice of Action (Form I-247) to the district station and will also fax a copy of the detainer to the ICE DRO Office. The ICE DRO Duty Officer will contact the arresting officer to follow up on subject(s) detention and arrange for pick up.

3. If the ICE DRO Duty Officer is unable to arrange for pick of the subject(s) within a reasonable amount of time, the subject(s) will be transported to the Anne Arundel County Detention Center, located at 131 Jennifer Rd. Annapolis. The Immigration Detainer-Notice of Action (Form I-247) **MUST** accompany the subject to the Detention Center. The arresting officer must notify the ICE DRO Duty Officer that the subject is being transported to the Detention Center and provide a contact person and telephone number to the receiving official at the Detention Center and the ICE DRO Duty Officer. Detention Center receiving officials will process these subjects in the same manner as a court order detention commitment.

4. Under Federal regulations (8 CFR 287.7) an agency is authorized to detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sundays and Federal holidays) to provide adequate time for ICE to assume custody of the alien. The 48 hour period begins when the detainee would have otherwise been released from law enforcement custody, if not for the Immigration Detainer-Notice of Action (Form I-247) being issued. If transported to the Detention Center, the Immigration Detainer-Notice of Action (Form I-247) and the Detention Request Pending Transfer to Immigration & Customs Enforcement (PD Form 606B) **MUST** accompany the subject.

F. ICE Office of Investigation Baltimore Maryland

The following procedures will be followed for individuals for whom the arresting officer has received confirmation from the LESC of their illegal status in the United States and NO ICE Administrative Warrant of Removal is on file:

1. If a subject is taken into custody on state and/or local criminal charge(s) and an LESC check reveals the subject to be an illegal alien, the arresting officer will contact the local ICE Office of Investigation (OI) Duty Agent and provide all appropriate identification on the subject in order for the ICE OI Duty Agent to confirm the subject's illegal status. In these situations, ICE OI local policy only allows a detainer to be sent once the subject has been brought before the district court commissioner on the original state or local charge. If the commissioner places a bond on the subject, the ICE OI Duty Agent will have a Detainer-Notice of Action (FormI-247) sent via fax to the detention center. It is the arresting officer's responsibility to notify the ICE OI Duty Agent if the subject has been transported to the detention center on bond. If the subject is released on their personal recognizance, the officer will transport the subject back to the district station and notify the ICE OI Duty Agent. The ICE OI Duty Agent will provide a verbal request for detention of the subject until he or she can make the pick-up or fax an Immigration Detainer-Notice of Action (FormI-247). This procedure is established for subject(s) who do not have an "active" ICE Administrative Warrant of Removal.

2. The Baltimore ICE Office of Investigation (OI) has committed to the police department to respond to pick-up subjects under their jurisdiction, who have been released on their personal recognizance by the commissioner or otherwise not subject to state or local criminal charges, within 4-6 hours. At the request of ICE officials, patrol supervisors may authorize the transport of subjects in custody under an ICE detainer or verbal request to be transported to the local Baltimore ICE office located at 31 Hopkins Plaza, Baltimore, MD 21201.

3. District station holding facilities are designed for temporary detention only. Any subject(s) who is being detained for the sole purpose of pick up by the ICE OI Duty Agent and absent an ICE Administrative Warrant of Removal and an Immigration Detainer-Notice of Action (Form I-247), will not be held beyond 12 hours. Should a problem arise where ICE officials are unable to respond to a district station to pick up a subject and arrangements cannot be made to transport the subject to the Baltimore ICE office, the subject will be released after 12 hours of detention. Patrol supervisors will make every attempt to contact the OI Duty Agent's supervisor or the DRO Duty Officer's supervisor (depending on the circumstances) prior to releasing the subject to arrange for a final pick-up. If ICE officials are unable to meet the 12-hour deadline and absent the receipt of an Immigration Detainer-Notice of Action (Form I-247), the subject will be released from custody. Release will occur only after the subject has been fingerprinted, photographed and a valid current address has been determined. Patrol supervisors will complete a supplement report identifying ICE officials whom they spoke to and attempts made to arrange pick-up. A copy of

all reports and identifying information will be forwarded to the Commander of the Homeland Security Unit to coordinate a follow-up investigation with ICE.

G. Limited Enforcement

The department has no legal authority to independently enforce Federal Immigration Laws; therefore, police may not arrest persons based solely on illegal alien status. When there is cause to believe that a person, who has otherwise not committed a crime, may be an illegal alien, a Field Interview Report (FIR) shall be completed and forwarded to the Crime Analysis Unit and to the Homeland Security Unit.

H. Worksite Enforcement

Worksite enforcement mitigates the potential risk of criminal, unscrupulous and terrorist activities presented through illegal, undocumented and unauthorized workers employed in secure areas of the country's infrastructure; such as, airports, defense facilities, power plants and other sensitive facilities. Proactive enforcement will not only promote security and ensure fair labor standards, but also deter employers from knowingly employing illegal aliens. Designated officers will carry out this function by participating on the U.S. Immigration and Customs Enforcement (ICE) Document and Benefit Fraud Task Force. A major component of these Task Force investigations will include assessing the authenticity of documents used to establish employment eligibility and benefits.

I. Processing Illegal Immigration Complaints

All complaints received alleging illegal immigration, independent of other criminal activity, will be forwarded to the Homeland Security Unit supervisor. The Homeland Security Unit supervisor will review the complaint and coordinate all investigations with the Baltimore ICE office. Investigations not handled by federal authorities will be returned to the appropriate District ICE Liaison Officer for follow up and investigation of any violations of state or local laws. The Homeland Security Unit will track all complaints and provide a quarterly report to the Chief of Police.

V. PROPONENT UNIT: Homeland Security Section.

VI. CANCELLATION: This directive cancels Index Code 606, dated 06-25-09.