

OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 15

June 26, 2018

SUBJECT: ENFORCEMENT OF UNITED STATES IMMIGRATION LAWS – REVISED; INQUIRIES REGARDING CIVIL IMMIGRATION STATUS – ESTABLISHED; AND, PLACEMENT AND DISPOSITION OF ILLEGAL ENTRY HOLDS – RENAMED AND REVISED

PURPOSE: The purpose of this Order is to update the Department Manual to comply with the California Values Act (California Government Code § 7284, *et seq.*) and to protect the public through community partnerships and adherence to the law regarding immigration enforcement. This Order also removes any reference to the word “alien” in the Department Manual. The word “alien” has been replaced with the word “immigrant” in order to conform with current legal terms. In addition, any reference to “Alien Registration Document” has been replaced with “Permanent Resident Card.”

PROCEDURE:

- I. Department Manual Section 4/264.50, *Enforcement of United States Immigration Laws*, has been revised and is attached with revisions indicated in italics.
- II. Department Manual Section 4/264.55, *Inquiries Regarding Civil Immigration Status*, has been established and is attached.
- III. Department Manual Section 4/675.35, *Placement and Disposition of Illegal Entry Holds*, has been revised and renamed *United States Department of Homeland Security Civil Immigration Detainers*. Attached is the revised Department Manual section with revisions indicated in italics.

AMENDMENTS: This Order revises Section 4/264.50, adds Section 4/264.55, and renames and revises Section 4/675.35 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



CHARLIE BECK
Chief of Police

Attachment

DISTRIBUTION “D”

**DEPARTMENT MANUAL
VOLUME IV
Revised by Administrative Order No.15, 2018**

264.50 ENFORCEMENT OF UNITED STATES IMMIGRATION LAWS. Officers shall not initiate police action where the objective is to discover the *civil immigration* status of a person. Officers shall neither arrest nor book persons for violation of Title 8, Section 1325 of the United States Code (U.S.C.), (*Improper Entry*) unless pursuant to an arrest warrant issued by a federal district court or magistrate judge.

Federal Criminal Arrest Warrants. Pursuant to the California Values Act, California Government (Cal. Gov.) Code § 7284.6(a)(4), Department personnel shall continue to honor arrest warrants issued by a federal district court or magistrate judge for criminal offenses including arrest warrants for federal immigration crimes.

Temporary Detentions for Illegal Reentry Criminal Offenses. Pursuant to Cal. Gov. Code § 7284.6(b)(1), officers may detain for investigation, based on reasonable suspicion, a person suspected of violating 8 U.S.C. § 1326(a), (b)(2), *Illegal Reentry after Conviction of an Aggravated Felony*, a felony immigration offense, under the following circumstances:

- *Department personnel initiated contact with the person for reasons unrelated to immigration enforcement;*
- *The person is reasonably suspected of having a prior conviction for an aggravated felony under federal law;*
- *The purpose of the detention is to determine if the prior conviction for an aggravated felony is also classified as a serious or violent felony, as defined in California Penal Code §§ 1192.7(c) and 667.5(c); and,*
- *The person is not a victim of, or a witness to, a crime or can otherwise provide evidence in a criminal investigation.*

Release Requirement. Department personnel shall release a person detained for an 8 U.S.C. § 1326(a), (b)(2) investigation if, during the detention, it is determined that the prior felony conviction is neither a serious nor violent felony under California law and the person is not otherwise subject to arrest or detention based on a non-immigration local, state or federal offense.

Approval Required Prior to Arrest or Transfer. Prior to conducting a probable cause arrest for a violation of 8 U.S.C. § 1326(a), (b)(2), or transferring a suspect to federal authorities such as the United States Immigration and Customs Enforcement (US-ICE) or the United States Customs and Border Protection (US-CBP) based on a probable cause arrest for 8 U.S.C. § 1326(a), (b)(2), Department personnel shall obtain approval from the Department's Immigration Liaison Officer appointed by the Chief of Police.

**DEPARTMENT MANUAL
VOLUME IV
Revised by Administrative Order No.15, 2018**

264.55 INQUIRIES REGARDING CIVIL IMMIGRATION STATUS. Pursuant to the California Values Act, California Government (Cal. Gov.) Code § 7284, et seq., Department personnel shall not:

- Investigate, interrogate, detain, or arrest a person for civil immigration purposes; or,
- Inquire into an individual's civil immigration status.

Exceptions: Crime or Trafficking Victim – Visa Applications (U- and T-Visas). State law does not prohibit inquiring about information necessary to certify an individual who may be a trafficking or other crime victim and potentially eligible for a U- or T-Visa under federal immigration law. [See Cal. Gov. Code § 7284.6(b)(4).] It is not necessary, however, to record the immigration status of the individual on the certification form or in Department records.

Accordingly, Department personnel shall not inquire about, or record, a person's civil immigration status unless, under the particular circumstances, it is necessary to:

- Provide victim services such as T- or U-Visa information or certifications;
- Investigate a criminal offense (e.g., sexual exploitation, trafficking, involuntary servitude, extortion); or,
- Otherwise required by law.

Obligations Under Federal Law (8 U.S.C. § 1373). Notwithstanding the above, nor any other Department policy or procedure, Department personnel are not restricted from:

- Sending information regarding the immigration or citizenship status (lawful or unlawful) of any individual to, or requesting or receiving such information from, the United States Department of Homeland Security or United States Immigration and Customs Enforcement;
- Maintaining information about the immigration or citizenship status (lawful or unlawful) of any individual; or,
- Exchanging information about the immigration or citizenship status (lawful or unlawful) of any individual with any other Federal, State, or local government entity.

675.35 UNITED STATES DEPARTMENT OF HOMELAND SECURITY CIVIL IMMIGRATION DETAINEES. Department personnel shall not hold in custody any individual eligible for release based on a United States Department of Homeland Security or United States Immigration and Customs Enforcement Immigration Detainer – Notice of Action, or other request, without a judicial probable cause determination (PCD) or judicial warrant, signed by a

**DEPARTMENT MANUAL
VOLUME IV
Revised by Administrative Order No.15, 2018**

federal judge or magistrate that authorizes a law enforcement officer to arrest and take into custody the individual for a federal criminal immigration offense or other crime. A PCD or warrant form that is signed by a federal immigration officer is not sufficient to prolong the detention of an individual who is otherwise eligible for release.