



# SACRAMENTO POLICE DEPARTMENT GENERAL ORDERS



## 523.07 CONTACTS WITH FOREIGN NATIONALS 4-27-18

### PURPOSE

The purpose of this order is to establish procedures for contacts with foreign nationals, including as victims or suspects of crimes or infractions, witnesses in investigations, or subjects involved in accidents.

### POLICY

It shall be the policy of the Sacramento Police Department (SPD) to provide equal enforcement of the law and equal service to all members of the public regardless of an individual's immigration status. Because the responsibility for enforcement of federal immigration laws rests solely with the U.S. Immigration and Customs Enforcement Agency (ICE) under the direction of the Department of Homeland Services (DHS) and not with state or local law enforcement agencies, the Department will not initiate police action based solely on an individual's immigration status.

### PROCEDURE

#### A. DEFINITIONS

1. FOREIGN NATIONAL – Any person who is not a citizen of the United States and has not become naturalized under United States law.
2. IMMIGRATION AUTHORITIES – The United States Immigration and Customs Enforcement (ICE).
3. HOLD REQUEST – Also known as an “immigration detainer” or “federal administrative warrant,” is a request by ICE, to a jail or other holding facility to notify ICE when a subject in custody will be released and, if necessary, to hold the person up to an additional 48 hours to allow ICE to take custody of the subject. A hold request is an administrative request and is not an arrest warrant or order issued by a court of law.

#### B. GENERAL

1. SPD employees shall not, while in the course and scope of employment, use any City funds or resources to enforce federal civil immigration law, including, but not limited to
  - a. Investigating, interrogating, or collecting information about an individual solely to determine his or her immigration status, except as required to comply with Section 922(d)(5) of Title 18 of the United States Code or to certify an individual who has been identified as a potential 1101(15)(T) or 1101(a)(15)(U) of Title 8 of the United States Code.
  - b. Arresting, detaining, or continuing to detain a person solely on the belief that the person is not present lawfully in the United States or on the basis of alleged violation(s) of the civil provisions of federal immigration laws.
  - c. Arresting, detaining, or continuing to detain a person solely on the basis of an immigration detainer, federal administrative warrant, or hold request when such detainer, warrant, or hold request is based solely on alleged violation(s) of the civil provisions of federal immigration laws.
  - d. Notifying the federal government about the release or pending release of any person detained, arrested, or imprisoned solely on the basis of alleged violation(s) of the civil provisions of federal immigration laws.
  - e. Providing or responding to requests for confidential information about an individual, including, but not limited to, information about the individual's home address, work address, person's status as a victim of domestic abuse or sexual assault, sexual orientation, or



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- disability solely on the basis of alleged violation(s) of the civil provisions of federal immigration laws.
- f. Absent a judicial warrant, detaining or arresting an individual solely on the basis of alleged violation(s) of the civil provisions of federal immigration laws.
  - g. Including on any application, questionnaire, or interview form used in relation to benefits or services provided by the City, any question regarding immigration status other than those required by federal or state laws.
  - h. Inquiring into any individual's immigration status or requesting to examine any individual's documents relating to his or her immigration status for the sole purpose of establishing his or her status unless for the purpose of complying with 834c PC.
  - i. Detaining an individual on the basis of a hold request.
  - j. Making or intentionally participating in arrests based solely on civil immigration warrants.
  - k. Performing the functions of an immigration officer.
2. SPD employees are NOT prohibited from
- a. Investigating, enforcing, detaining, or arresting an individual who unlawfully enters or attempts to reenter the United States following removal based on conviction of a federal aggravated felony, provided that such entry or attempted reentry is detected during unrelated law enforcement activity.
  - b. Responding to a request for information about an individual's criminal history as long as it is not solely on the basis of alleged violation(s) of civil provisions of federal immigration laws.
  - c. Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa.
  - d. Inquiring into an individual's immigration status for the sole purpose of complying with Penal Code Section 834c, which sets forth mandatory notification requirements to certain foreign consulates when a foreign national will be detained longer than two (2) hours.
  - e. Verifying citizen status for the purposes of employment and compliance with Cal. Gov't. Code § 1031 and Cal. Gov't. Code §1031.5.
3. SPD employees shall not participate in joint law enforcement task forces with federal law enforcement agencies if the primary purpose of the joint task force is related to immigration enforcement.
- a. If SPD employees participate in a joint law enforcement task force with federal law enforcement agencies for purposes other than immigration enforcement on an ongoing basis, the Department shall submit a report annually to the California Department of Justice containing the following information:
    - (1) The purpose of the task force.
    - (2) The federal, state, and local law enforcement agencies involved.
    - (3) The total number of arrests made during the reporting period.
    - (4) The number of persons arrested for immigration enforcement purposes.
  - b. If more than one California law enforcement agency participates in a joint law enforcement task force with federal law enforcement agencies as described in B.4.a., the joint task force shall designate a local or state agency responsible for completing the reporting requirement.
4. SPD employees are not required to notify immigration authorities when they have arrested a person for specified drug offenses and have reason to believe that such person may not be a United States citizen.
5. Nothing in this General Order prohibits or restricts any SPD employee from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of a person pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.



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## C. ARREST OR DETENTION OF FOREIGN NATIONALS

1. When foreign nationals are arrested or detained for more than two (2) hours, they must be advised of the right to have their consular officials notified without unreasonable delay.
2. When any officer arrests and books or detains any foreign national for more than two (2) hours, that officer shall attempt to determine the foreign national's country where he/she holds citizenship. In the absence of other information, the officer should assume this is the country on whose passport or other travel documents the foreign national travels.
3. If the person does not speak English, officers shall attempt to determine what language the individual speaks and either see if another available employee can translate or obtain a translator who can speak the individual's language.
4. Officers should provide the following admonition if it is believed the arrested or detained individual is a foreign national:

"If you are not a citizen of the United States, we are required to inform you that you have the right to speak with your consular official because 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 while you are being detained and in custody. Even if you choose not to speak with your consular official, we are still required to notify your country's consulate that you have been arrested or detained."
5. If the foreign national's country is on the mandatory notification list (see 834c PC), the officer shall, without delay, notify the appropriate consulate of the following:
  - a. Name of the arrestee or detainee.
  - b. Reason for arrest or detention only if requested by the consular official.
  - c. Location the foreign national will be held.
6. Should an officer be unable to determine the individual's country from available paperwork, or should the individual remain silent or refuse to provide the requested information, the attempt to obtain the information shall be documented in a report, or if possible, the admonition and silence/refusal recorded on a body worn camera.
7. If the foreign national's country is not on the mandatory notification list (see Penal Code Section 834), the officer shall
  - a. Advise the foreign national as follows:

"If you are not a citizen of the United States, we are required to inform you that you have the right to speak with your consular official because 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 while you are being detained and in custody. If you want us to notify your country's consular officials, you can request this notification now or at any time in the future. Do you want us to notify your country's consular officials?"
  - b. If the foreign national so chooses, notify the appropriate consulate of the following:
    - (1) Name of the arrestee or detainee.
    - (2) Reason for arrest or detention only if requested by the consular official.
    - (3) Location the foreign national will be held.
8. Officers who arrest and book or detain a foreign national for more than two (2) hours shall document whether the foreign national agreed to or declined to communicate with their consulate and whether the consulate was notified and the reasons why or why not in the appropriate report. If possible, officers may record the admonition and the individual's refusal to provide additional information on a body worn camera.



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9. The Communications Center shall:
  - a. Maintain a telephone contact list of foreign consulates.
  - b. Assist officers by contacting foreign consulates and the U.S. Department of State as requested.