



MEMORANDUM

Date: March 12, 2018

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **March 8, 2018 Memorandum from Assistant County Administrator Wendy Petersen Regarding Operation Stonegarden Grants to other Police Jurisdictions**

Attached is information I requested regarding policies that other municipal police jurisdictions within Pima County and the State of Arizona have in relationship to Operation Stonegarden (Attachment 1).

The response from Assistant County Administrator Wendy Petersen answers several questions raised in my February 22, 2018 memorandum regarding this subject (Attachment 2).

Please note, regarding Question 4, the Sheriff has indicated the response material is a working draft as of March 7, 2018.

CHH/anc

Attachments

c: The Honorable Mark Napier, Pima County Sheriff

ATTACHMENT 1



MEMORANDUM

Criminal Justice Reform Unit

Date: March 9, 2018

To: C. H. Huckelberry
County Administrator

From: Wendy Petersen 
Assistant County Administrator

Re: **Operation Stonegarden Grants to Other Police Jurisdictions Response**

Spencer Graves collected information from the majority of the seven (7) jurisdictions listed in your memo. The one jurisdiction we have not contacted about information is the Tohono O'Odham Police Department. We are still trying to find a contact person to obtain this information. Once we receive that information, we will update this memo.

With respect to your Question 3:

What is the process to obtain the daily reports that are required as a condition to the Arizona Department of Homeland Security? Are those daily activity reports available or will a public records request be necessary to obtain copies?

We provided responses from each jurisdiction in the attached memo. There were a variety of responses but generally speaking we would need to make a request under Arizona's Public Records law to obtain copies of the Daily Action Reports ("DAR"). Please let us know if you would like us to make those requests.

We are also providing a draft written policy from the Pima County Sheriff's Department **Rules and Regulations**, titled: Chapter 10: Arrest, Detention, and Transportation Procedures, XII. *International Border Related Issues*. This is the document Sheriff Napier referred to at the February 20, 2018 Board of Supervisors meeting. I received this from Bureau Chief Karl Woolridge on Tuesday, March 6, 2018.

WP/dm

Attachments

c: Jan Leshner, Chief Deputy County Administrator
Terrance Cheung, Program Manager – Criminal Justice Reform Unit
Spencer Graves, Program Coordinator – Criminal Justice Reform Unit

C.H. Huckelberry, County Administrator

Re: **Operation Stonegarden Grants to Other Police Jurisdictions Response**

March 9, 2018

Page 2

This will serve as a response to your February 22nd, 2018 memorandum regarding law enforcement agencies within Pima County awarded Operation Stonegarden (OPSG) funding and the scope of work per department. A contact was made within each department (with the exception of the Tohono O'Odham Nation) and the findings are below.

Departments Receiving Grant Funds	Amount awarded Overtime and Mileage	Point of Contact
AZ DPS (Pima County)	\$282,024.00 Equipment (\$24,900.00)	Sergeant Wilhelm (928) 215-9528
Marana PD	\$165,000.00	Sergeant Scott (520) 382-2027
Oro Valley PD	\$70,000.00	Commander Larter (520) 229-4914
Sahuarita PD	\$160,000.00 Equipment (\$19,800.00)	Officer Holly Graves (520) 344-7000
South Tucson PD	\$60,000.00	Commander Shonk (520) 917-1582
Tohono O'odham Nation PD	\$329,101.00	Awaiting Official Contact
Tucson PD	\$500,000.00	Assistant Chief Kevin Hall (520) 589-8981

Question 1

Do they operate any of their police or law enforcement activities outside the corporate boundary or their jurisdiction or, in the case of Arizona Department of Public Safety, on County or City streets?

AZ DPS (Pima County)	<ul style="list-style-type: none">• Highways and interstate throughout the state, not specific to just Pima County.
Marana PD	<ul style="list-style-type: none">• Officers operate both within the town limits and just outside of the town limits.• The areas of responsibility are attached.
Oro Valley PD	<ul style="list-style-type: none">• Yes, there are operations outside of our jurisdiction but usually stay within northern Pima County.• Have had specialty units requested to Santa Cruz County in the past. Those are usually limited to our explosive detection canine unit.
Sahuarita PD	<ul style="list-style-type: none">• Sahuarita and down in Green Valley to Arivaca road.• West to Mission Road.• Santa Rita experimental range.• Depends on the guidance from BP including where the trains frequently stop.
South Tucson PD	<ul style="list-style-type: none">• Yes, whenever officers call into Border Patrol to advise they are working OPSG, USBP has sent them to work in the areas of Madera Canyon, Nogales Hwy, Magee Ranch Rd, Interstate 10, Interstate 19, and the Interstate 10/Interstate 19 Interchange.
Tohono O'odham Nation PD	
Tucson PD	<ul style="list-style-type: none">• TPD officers do not operate outside of their jurisdiction, the city limits of Tucson, when on Stonegarden deployments.

Question 2

How often does each police agency engage in OPSG operations specifically, the number of operations? How do the number of operations and ours compare with those of the Sheriff?

AZ DPS (Pima County)	<ul style="list-style-type: none">• Varies, 20+ per month for state, 2-6 deputies deployed.
Marana PD	<ul style="list-style-type: none">• Average around 8 deployments per month.• Typically staff five sworn personnel per deployment. That number is not set in stone however.
Oro Valley PD	<ul style="list-style-type: none">• Average between 10 -15 operations a year.• Operations usually consist of 2-4 day deployments with an average of 4 officers per deployment.
Sahuarita PD	<ul style="list-style-type: none">• No set number of deployments per month but use a sign-up sheet for those who want to work OPSG.• Usually 2-4 people per deployment.• Train check deployments could be up to 8 depending on the day.
South Tucson PD	<ul style="list-style-type: none">• Typically one Officer works at a time and it varies from 2-5 hours at a time.• Our Officers usually deploy 3-5 times a week.
Tohono O'odham Nation PD	
Tucson PD	<ul style="list-style-type: none">• In 2017 TPD completed 104 Stonegarden deployments, typically a deployment is made up of 5-8 officers and 1 sergeant.• Operations are generally conducted 1-2 a week with breaks over holidays or when we are especially busy.

Question 3

What is the process to obtain the daily reports that are required as a condition to the Arizona Department of Homeland Security? Are those daily activity reports available or will a public records request be necessary to obtain copies?

AZ DPS (Pima County)	<ul style="list-style-type: none">• The daily activity reports (DAR's) are submitted to border patrol after each mission.
Marana PD	<ul style="list-style-type: none">• Generate a Daily Action Report (DAR) that is forwarded to the US Border Patrol at the conclusion of every deployment.• Marana does not publish the reports publicly.
Oro Valley PD	<ul style="list-style-type: none">• Creates quarterly reports that are sent to the state.• Oro Valley believes they are publicly available after submission.
Sahuarita PD	<ul style="list-style-type: none">• Entered within 48 hours on government website.• Some things are available immediately, depending on the event and ongoing case. Can be publicly requested but may require redaction
South Tucson PD	<ul style="list-style-type: none">• Sgt. Cajas with our agency completes the Daily Activity Reports and they are required at the completion of the deployment.• To STPD's knowledge the forms are available to the public, but not 100% certain.
Tohono O'odham Nation PD	
Tucson PD	<ul style="list-style-type: none">• The DARs or Daily Activity Reports are Border Patrol forms that are filled out and sent to BP (the grant administrators) at the conclusion of each deployment.• The sergeants complete an operations plan for each deployment outlining the area of operation, assignments, etc...• Criminal activity is reported in the same fashion as they officers would in any other assignment.• TPD believes that in accordance with Arizona Public Records these are public records and available upon request but would defer to our legal counsel on that.• There are no other reports that are published however we do track deployment results such as number of arrests, seizures, recovered stolen property, traffic stops, etc... However that is not compiled in a report <i>per se</i>...

Question 4

Regarding the written policies of the police agency and how they interact with the Border Patrol and OPSG, do all of the police agencies have written policies? If so, please obtain a copy of those policies.

AZ DPS (Pima County)	<ul style="list-style-type: none">• Don't have any policies in writing.• They support order patrol as needed.
Marana PD	<ul style="list-style-type: none">• Marana does not have policies specifically addressing our officers working Operation Stonegarden.• Officers are all held to the same standard, regardless of whether they are on routine patrol or assigned to Operation Stonegarden.• Marana has an Immigration General Order that guides our officers through the complex investigative issues that would typically involve the US Border Patrol.• The General Order is attached for reference.
Oro Valley PD	<ul style="list-style-type: none">• Attached is Oro Valley's policy regarding immigration.
Sahuarita PD	<ul style="list-style-type: none">• No policies in place with Border Patrol. They are good on showing up when called for citizenship check.• Work a lot with BP on non OPSG events.• Have to do one ride along with BP before new officers work OPSG• Have done trainings with them in the past on documents and car compartments protocols at the ports of entry.
South Tucson PD	<ul style="list-style-type: none">• Yes, see attached.
Tohono O'odham Nation PD	
Tucson PD	<ul style="list-style-type: none">• TPD's policy regarding immigration and interaction with the Border Patrol remains the same, regardless of whether it is a Stonegarden deployment or ordinary patrol.• Attached is a copy of that policy (TPD policies are referred to as General Orders).

Materials sent to Marana City Council for approval of OPSG
on 12/19/17

The Town of Marana has been selected to participate in Operation Stonegarden activities in southern Arizona. Operation Stonegarden is a federally funded program originating with the 2006 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Hurricane Recovery. Funding was renewed for the current fiscal year, providing the Town of Marana an opportunity to participate and receive funding for the ninth straight year. The program provides states the flexibility to use Department of Homeland Security grant funding to enhance coordination among state and federal law enforcement agencies at and near the U.S./Mexico border. The program requires states to identify and prioritize solutions to their border security needs and provides funding to state and local agencies to implement the state's individual goals and objectives.

For 2017-2018, the Town was awarded \$165,000 under a subgrantee agreement with the Arizona Department of Homeland Security to support Operation Stonegarden. Funding will be used to augment and support Border Patrol coverage of egress from the border areas with state, local and tribal police agencies. Through participation in this operation, Marana will use its authority to control the routes and reduce the propensity for cross-border crime in the area. Patrols will concentrate on the 109 miles of arterial roadways serving as regional east-west connectors between State Route 77 and I-10 and the more than 57 miles of rural, mostly two-lane roads paralleling I-10 to the west.

The Marana Police Department's primary goals are to: (1) reduce crime in border communities to improve the quality of life; (2) deter illegal entries through teamwork with other local and federal agencies; (3) assist in apprehending terrorists and terrorist weapons illegally entering the United States; and (4) coordinate operations with the Pima County Sheriff's Department and U.S. Border Patrol (USBP) Tucson Sector. Marana, in cooperation with the Pima County Sheriff and U.S. Border Patrol, will deploy officers along prime roadways prone to invoke illegal activity and national security concerns.

Because Marana sits 60 miles from the Mexican Border and hosts segments of rural transportation routes traditionally used to smuggle undocumented workers and drugs up from Mexico, four specific areas will be targeted for Stonegarden activities:

Area one: Sandario Rd from Emigh Rd to Avra Valley Rd

Area two: Avra Valley from the Silverbell Mines to I-10

Area three: Silverbell Rd/Twin Peaks Rd Corridor

Area four: I-10 from Twin Peaks Rd to the Pinal County line

Area five: Discretionary area with Marana PD sworn supervisor approval to provide flexibility to the Chief of Patrol, USBP

To support this initiative Marana will deploy uniformed officers, a canine officer, and a supervisor with supporting staffing from dispatch. These deployments will be conducted in coordination with partnering agencies. Deployment dates will coincide with Operation COBIJA, Operation Knight Hunter, "surge" dates identified by HIDTA, United States Border Patrol, ICE, and internal/external intelligence information and trends. If contact and/or interaction are made with certain "persons of interest," notification will be made to the Office of Customs and Border Protection, U.S. Border Patrol or the appropriate agency. Deployments will be based on specific threats which can be targeted and countered and shifts in illegal traffic patterns due to increased enforcement actions.

These activities will be coordinated through the USBP. Marana will identify these shift times and locations and address them accordingly. As an active participant in regional planning, emergency operations, and homeland security initiatives, the Marana Police Department has been impacted by increased contacts with illegal entrants and human and narcotics smugglers migrating through the community as focused enforcement has caused a deviated travel pattern from the US Mexican Border along the I-10 corridor.

Financial Impact:

Fiscal Year: 2018

Budgeted Y/N: Y

Amount: \$165,000

Funding has been awarded to support overtime and mileage reimbursement (\$165,000). There is no match requirement from the Town for the funding.

Marana Police Department General Orders – Immigration

Effective Date 11/2013

Revised Date 1/2014

	MARANA POLICE DEPARTMENT GENERAL ORDERS	CHAPTER
REVISED November 2013 Effective January 2014	LAWS OF ARREST ARREST POLICIES	300

360 Immigration

360.1 General

The Marana Police Department shall conduct all immigration enforcement activities in a manner consistent with federal and state laws regulating immigration and protecting the civil rights, privileges and immunities of all persons. This policy will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

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.

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. 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.

Police officers shall not contact or stop a person merely on suspicion that the person is present in the United States illegally.

Federal agents with Immigration and Customs Enforcement (ICE) and the ICE Division of Customs and Border Protection (CBE) may be of assistance when dealing with immigration issues.

360.2 Undocumented Persons

During contact with suspected undocumented persons, officers shall follow the same procedures when contacting or stopping any person. If, after a person is contacted or stopped, the officer reasonably suspects that person is an undocumented person:

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- The officer may request an ICE/CBE agent to respond. The subject shall not be detained longer than necessary to complete the original stop/contact.
- If the contacted agency does not respond prior to the officer completing the contact with the subject, and the subject is going to be released without further law enforcement action being taken, the subject shall be released.
- If the subject is to be cited and released, and the contacted agency has not responded prior to the completion of the citation, the subject shall be cited and released.
- If the subject is arrested for a felony, or a misdemeanor for which the subject will be taken into custody, the subject shall be booked with an ICE hold. ICE shall be notified of the arrest by the arresting officer.

360.3 Federal civil or criminal charges

If officers contact ICE/CBE during the course of an investigation, and the officer is advised that there are pending federal civil charges, the officer may not extend the initial lawful stop based solely upon those charges.

- Once the investigation related to the initial lawful stop has been completed, if there is no probable cause to arrest, the person must be released, unless the officer develops reasonable suspicion to detain further to investigate a violation of other criminal activity.
- The officer shall not extend the detention to wait for ICE/CBE to respond. Without the person's consent, officers will not transport the person based solely upon a federal civil violation unless the person is already under arrest. If the person is released an ICE referral form will be completed.
- If officers contact ICE/CBE during the course of an investigation, and the officer is advised that there are federal criminal charges

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against the person, then the officer shall determine whether the agent/officer will respond to take the person into custody or whether the officer should arrest the detainee and transport to ICE, jail, or a federal facility.

If it is not clear whether the federal charge against the detainee is civil or criminal, then the officer will treat the charge as civil.

If ICE is unable to verify a person's status, this does not mean that the person is or is not lawfully present in the United States.

360.4 Detention and Removal Order (DRO) Hold

The Detention and Removal Office is a unit of ICE that has the responsibility of detaining and transporting undocumented persons apprehended by ICE, CBP and local law enforcement. Once a person has been identified as being in the United States unlawfully, ICE will issue a DRO hold, which can be for criminal or civil violations. When an individual's information is run through NCIC, information related to a DRO hold will appear much like a warrant notification.

If an officer receives a DRO notification from ICE, the officer shall:

- Call the phone number on the DRO notification to determine whether the DRO hold is criminal or civil.
- Detain and transport for criminal orders only, if requested to do so by ICE.
- Complete a DR containing all relevant information.

Without the person's consent, officers will not transport or continue to detain if the only violation is a civil DRO hold.

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360.5 NCIC ICE Immigration Violator File

ICE keeps a record of undocumented persons 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.

The Immigration Violator File contains the following additional categories:

- The ICE Absconder category, which contains the records for individuals with an outstanding administrative warrant of removal from the United States who have unlawfully remained in the United States.
- The ICE National Security Entry/Exit Registration System (NSEERS) category, which 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.

Department officers will not take enforcement action on Administrative Warrants or NSEERS hits, as these are civil or other non-criminal federal matters. The NCIC query results will advise whether the information displayed is an Administrative Warrant hit or a Deported Felon File hit.

If an officer runs a person who is the subject of a Deported Felon File notification, and there are no local charges, the following steps will be taken.

- Verify through physical description (scars, marks, tattoos, etc.), admission, or other available information, that the person on the notification is the same person.
- 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.

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- Once the hit has been confirmed, officers will positively identify the subject through Live Scan, or fingerprint the individual and fax the fingerprints to ICE.
- After the subject has been positively identified, the ICE Law Enforcement Agency Response (LEAR) Unit (or other local ICE office) may be contacted at (520) 620-7551 for pick-up and disposition of the subject.
- Officers may also, after verification, transport the subject to the ICE Detention and Removal Office at 5431 South Country Club,
- Officers will call the LEAR unit, (520) 620-7270, before transporting a subject.

Officers will also complete a DR with the following information: subject's name and personal information; time, place and reason for contacting the subject; whether or not the LEAR unit picked up the subject or if the subject was transported to the ICE center; and name and badge number of ICE agent that took custody of subject.

If there are local charges along with a Deported Felon notification, there is no need to contact ICE. Follow normal booking procedures.

360.6 Contacting federal agencies

The following options exist for contacting federal immigration agencies. When contact is required, Communications may be contacted to initiate the appropriate computer inquiry (NLETS) or to make the telephone inquiry.

An officer may use the following points of contact:

1. ICE Joint Operations Center (520) 514-4662
2. ICE 24 hour contact. (520) 620-7551.
3. Following initiation of the appropriate computer inquiry (NLETS), call the ICE Law Enforcement Support Center in Vermont, 802-872-6020.

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361 U-Visas

U-Visas are available through United States Citizenship and Immigration Services for immigrants who are assisting or who have assisted officials in the criminal justice system in criminal investigations or prosecutions. To qualify for a U-Visa, the person must be a current or former victim, witness, or affected family member. If an officer or detective believes a victim or witness is an appropriate candidate, the victim or witness may be referred to the appropriate prosecuting agency or to a private attorney for assistance.

361.1 Department U-Visa Certifying Official

The CIU Supervisor has been designated as the Department's certifying official for the U-Visa program. It is the CIU Supervisor's responsibility to determine if the applicant meets the conditions required on the U-Nonimmigrant Status Certification Federal Form (I-918, Supplement B), a copy of which will be provided by the person requesting the U-Visa.

If the qualifying criteria have been met, the certifying official shall complete the form in detail and sign and return the form. The ultimate decision regarding the issuance of the U-Visa is made by the federal government; the applicant cannot proceed, however, without the completion of the form by the Department.

361.2 Arrests Involving Foreign Nationals

The United States is obligated under international treaties and A.R.S. §13-3906 to notify foreign consulates in certain situations when foreign nationals of their country are arrested, or otherwise detained for an extended period. These obligations include:

- Immediately informing the foreign national of the right to have their government notified concerning the arrest/detention.
- Informing the appropriate Consulate without delay if the foreign national asks that such notification be made.
- In the case of certain countries, making such notification without delay, regardless of whether the arrestee/detainee wishes to have the notification made.

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Arizona law also mandates this process in accordance with these obligations. Due to variations in treaties, consular notification is voluntary in some situations (the arrestee's choice), and mandatory in others (notification must be made whether the arrestee requests it or not). Each time a foreign national from a country is arrested or detained for an extended period of time, the officer with custody of the subject shall contact Communications to determine whether notification is voluntary or mandatory.

Communications maintains a list of countries that require mandatory notification as well as fax numbers for Embassies and Consulates across the United States.

- A [Consular Notification Form](#) and Fax Sheet shall be completed each time a foreign national is arrested or detained for an extended period of time.
- The officer with custody of the subject must ensure that the appropriate box is checked regarding the voluntary or mandatory notification status of the country and if Voluntary notification is declined.

362 VOLUNTARY NOTIFICATION

If the arrestee is from a voluntary notification country, the officer must advise the arrestee that, unless the arrestee waives notification, the officer will advise their consulate of their arrest. The officer will document the time that the arrestee was advised and whether or not the arrestee waived notification.

Mexico is a voluntary notification country. If a Mexican national is taken into custody or any other national from a country where consular notification is voluntary, the officer with custody of the subject must read statement number one (1) on the back of the [Consular Notification Form and Fax Sheet](#) to the arrestee. The officer will then document that the statement was read as well as the arrestee's indication of understanding

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and whether the arrestee wished for Consular Officials to be notified in the basic case report.

- If the arrestee indicates that they wish for their Consulate to be notified, the officer shall fax the completed [Consular Notification Form and Fax Sheet](#) and fax it to the local Mexican Consulate, or the appropriate consular or embassy office, should the arrestee be from another voluntary notification country.
- Submit the original copy of the *Consular Notification Form and Fax Sheet* and the fax receipt to Records.

362.1 Mandatory Notification

If the arrestee is from a country that requires mandatory notification of Consular Officials, then the officer with custody of the subject must read statement number two (2) on the back of [Consular Notification Form and Fax Sheet](#) to the arrestee. The officer will then document that the statement was read as well as the arrestee's indication of understanding in the *Case Report*.

- The officer shall fax the completed *Consular Notification Form and Fax Notification Sheet* to the appropriate Consulate or Embassy office.
- Submit the original copy of the *Consular Notification Form and Fax Sheet* and the fax receipt to Records.

362.2 Notification Response

Once notification of the appropriate Consulate or Embassy has been made it is not necessary to wait for a reply before continuing with the investigation. If the Consulate does contact the officer and asks to speak with the suspect, the Consulate is entitled to reasonable, private access. That access does not take priority over the investigation.

Unless the official is licensed to practice law in the United States, the Consulate or consular official may not act as an attorney and may not invoke any of the suspect's rights on the suspect's behalf.

Oro Valley Police Department Policy – Immigration

Effective Date 12/20/2016

Immigration Violations

414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Oro Valley Police Department for investigating and enforcing immigration laws.

414.1.1 DEFINITIONS

Definitions related to this policy include:

Detentions - A detention occurs when an officer intentionally, through words, actions or physical force causes a reasonable individual to believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

Consensual contacts - A consensual contact occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

414.2 POLICY

It is the policy of the Oro Valley Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status.

Consensual contacts with consenting individuals are encouraged by the Oro Valley Police Department to strengthen community involvement, community awareness and problem identification. Officers should be consistent about when they ask such consenting individuals for identification in order to avoid the perception of disparate treatment based on race, color or national origin.

414.3 ENFORCEMENT

An officer may detain an individual when there are facts supporting a reasonable suspicion that the individual entered into the United States in violation of a federal criminal law. Federal authorities shall be notified as soon as possible and the detained individual shall be immediately released if the federal authorities do not want the person held. An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

414.3.1 CIVIL VERSUS CRIMINAL OFFENSES

An individual who enters into the United States illegally has committed a misdemeanor (8 USC § 1325(a)). Generally, an alien who initially made a legal entry into the United States but remains beyond what is a legal period of time has committed a federal civil offense.

Reasonable suspicion that a criminal immigration violation has occurred shall not be based on race, color, national origin or any other generalization that would cast suspicion on or stigmatize

Immigration Violations

any person, except to the extent permitted by the United States or Arizona Constitutions. Instead, the totality of circumstances shall be used to determine reasonable suspicion, and shall include factors weighing for and against reasonable suspicion.

Factors that may be considered in determining reasonable suspicion that a criminal immigration violation has occurred may include, but are not limited to:

- (a) An admission that the person entered the United States illegally.
- (b) Reason to suspect that the person possesses immigration documentation that is forged, altered or otherwise indicative that the person is not legally present in the United States.
- (c) While a lack of English proficiency may be considered, it should not be the sole factor in establishing reasonable suspicion. When practicable, reasonable effort should be made to accommodate persons with limited English proficiency.
- (d) Proximity to a United States border or known routes for illegal entry into the United States.
- (e) Other factors based upon training and experience, particularly those identified by Arizona Peace Officer Standards and Training (POST) material.

414.3.2 DETERMINING IMMIGRATION STATUS DURING STOPS AND DETENTIONS

Unless it would hinder an investigation, officers shall, when practicable, make a reasonable attempt to determine the immigration status of any person lawfully stopped or detained in the enforcement of any state or local law or ordinance where reasonable suspicion exists that the person is unlawfully present in the United States (ARS § 11-1051).

Attempts to determine the immigration status of a detained person should not prolong the detention beyond the time it takes to complete the original investigation or other valid enforcement action.

A person is presumed to be lawfully present in the United States if the person provides any of the following (ARS § 11-1051):

- (a) A valid Arizona driver license or a valid Arizona non-operating identification license
- (b) A valid tribal enrollment card or other form of tribal identification
- (c) Any valid federal, state or local government-issued identification where proof of legal presence in the United States was required before issuance

If appropriate documentation has been presented to the officer, no obligation exists to pursue further investigation unless additional reasonable inquiry is warranted.

Circumstances may arise that make reasonable attempts to determine the immigration status of a stopped or detained person impracticable (ARS § 11-1051). Examples of these circumstances include, but are not limited to, time limitations, availability of personnel or other resources, issues of officer safety and communication capabilities. Officers do not need a supervisor's approval to forgo such attempts in these circumstances but are expected to make reasonable decisions in

Oro Valley Police Department

Oro Valley PD Policy Manual

Immigration Violations

good faith and based upon the totality of the circumstances presented at the time. Officers who determine that no inquiry regarding a detained person's immigration status is warranted should notify a supervisor and document the reason for no inquiry or for an incomplete inquiry in an associated dispatch log or report.

414.3.3 IMMIGRATION CHECKS

Immigration status may be determined through any of the following sources:

- (a) A law enforcement officer who is authorized by the federal government under 8 USC § 1357 to verify or ascertain an alien's immigration status (sometimes referred to as a 287(g) certified officer)
- (b) Immigration and Customs Enforcement (ICE)
- (c) U.S. Customs and Border Protection (CBP)

An officer shall verify from a 287(g) certified officer, ICE or CBP whether the person's presence in the United States relates to a federal civil violation or a criminal violation.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request ICE or CBP to respond to the location to take custody of the detained person. In addition, the officer should notify a supervisor as soon as practicable. No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities or the potential to obstruct a separate investigation outweigh the need for the detention.

414.3.4 SUPERVISOR RESPONSIBILITIES

When notified that an officer has detained a person and established probable cause to believe the person has violated a criminal immigration offense, the supervisor should:

- (a) Confirm that the detained person's immigration status was properly verified.
- (b) Ensure that the detained person is taken into custody when appropriate. Take any additional steps necessary that may include, but are not limited to:
 - 1. Transfer to federal authorities.
 - 2. Lawful arrest for a criminal offense or warrant.

414.4 ARRESTS

Any person who is arrested shall have his/her immigration status checked. Unless the arrestee continues to be suspected of some crime for which he/she may be held, custody should not be prolonged for the immigration inquiry. The result of an immigration inquiry should be documented, even if the arrestee has been released (ARS § 11-1051).

Oro Valley Police Department

Oro Valley PD Policy Manual

Immigration Violations

Supervisor notification is required prior to any arrest or vehicle impound related to or based upon a person's immigration status.

414.5 U-VISA/T-VISA NON-IMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)). A law enforcement certification for a U visa may be completed by an officer in order for a U visa to be issued.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T visa may be completed by an officer in order for a T visa to be issued.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Criminal Investigations Unit supervisor assigned to oversee the handling of any related case. The Criminal Investigations Unit supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

414.6 PROCEDURES FOR IMMIGRATION COMPLAINTS

Reasonable options when a person reports immigration violations include referrals to ICE and/or the Arizona Attorney General's office if the report relates to employment violations.

414.7 ICE REQUEST FOR ASSISTANCE

Requests by ICE, or any other federal agency, for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts, to ICE or other federal agencies.

414.8 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/

Immigration Violations

or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, color or national origin in any way that would violate the United States or Arizona Constitutions.

414.9 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

- (a) Sending information to, or requesting or receiving such information from ICE
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state or local government entity
- (d) Members will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law (ARS § 11-1051).

414.9.1 IMMIGRATION HOLDS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

414.10 TRAINING

The Training Coordinator shall ensure that all applicable employees receive appropriate immigration training supplied by Arizona POST.

Pima County Sheriff's Department Policy– Border Related Issues

Working Draft 3/7/2018

Department Rules and Regulations
Chapter 10: Arrest, Detention, and Transportation Procedures

XII. International Border Related Issues

Pima County shares approximately 125 miles of border with Mexico which allows trans-national traffic to pass, including illegal drug and human trafficking. The Department will act to detect, deter, and investigate state and local crimes related to cross-border traffic while also cooperating with federal authorities.

A. Definitions

1. Racial or bias-based profiling- An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, economic status, age, cultural group, disability, or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service.
2. Federal immigration authorities- Law enforcement officers authorized by the federal government under 8 USC § 1357 to verify or ascertain immigration status including Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Border Patrol (USBP).

B. Department members shall not proactively pursue investigations regarding federal immigration law.

C. Department members shall not engage in racial or bias-based profiling. Department members may consider factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

D. Where reasonable suspicion exists a person is unlawfully present in the United States, a reasonable attempt shall be made to determine the immigration status of the person.

1. Department members shall not inquire of victims and witnesses about immigration status unless the crime involved includes an element related to immigration status.
2. Such efforts should not be made if determination of immigration status may hinder or obstruct an investigation.
3. Attempts to determine the immigration status of a person should not prolong the time it takes to complete the original investigation or other enforcement action.
4. Persons determined to be unlawfully in the United States by federal immigration authorities shall be turned over to their custody.
5. Persons booked into the adult detention center shall have immigration status determined before the person is released.

E. Verification

1. Immigration status shall be verified with federal immigration authorities.

2. A person is presumed to be lawfully present in the United States if the person provides any of the following:

3. A valid Arizona driver license;

4. A valid Arizona non-operating identification license;

5. A valid tribal enrollment card or other form of tribal identification;

6. Any other valid United States federal, state or local government issued identification, if such entity requires proof of legal presence before issuance.

F. Interaction with Federal Immigration Authorities

1. Department members shall cooperate with federal immigration authorities.

2. Department members shall not participate in immigration checkpoints except when requested to respond to enforce a specific state or local statute.

3. Department members may participate in border security missions when approved by a bureau chief.

4. Department members shall comply with all federal and department reporting requirements.

South Tucson Police Department Policy – Immigration

Effective Date 1/31/2016

Immigration contact sheet created 10/2014

2.3.3 Arizona Department of Public Safety (DPS)

The Arizona Department of Public Safety (DPS) is the State law enforcement agency and handles most traffic matters on Interstate 10, Interstate 19 and the on ramps accessing those roadways. DPS is also responsible by state statute for a variety of other duties, including being the central state agency for the ACIC and NCIC computer systems.

2.3.4 Arizona Department of Corrections (DOC)

The Arizona Department of Corrections manages all publicly run state prison facilities. DOC officers accompany inmates who are participating in off-site work crews and who are being treated at medical facilities, and provide court transports for inmate court appearances. DOC officers are authorized to carry firearms, though most are not fully certified peace officers. DOC does maintain an authorized peace officer staff for purposes of investigating and processing criminal incidents that occur at the state prisons.

2.3.5 Arizona Department of Transportation

The Arizona Department of Transportation (ADOT) is responsible for the physical maintenance and construction of state roadways. The Motor Vehicle Division, a Division of ADOT, oversee the issuance of all driver licenses and motor vehicle registrations in the State. MVD administers the license and registration suspension and revocation hearings. Certain MVD officers are certified peace officers and handle investigations of certain criminal violations of MVD statutes and regulations including commercial vehicle inspections.

2.3.6 Arizona Department of Liquor Licenses and Control

The Arizona Department of Liquor Licenses and Control is responsible for licensing and regulating the service and sale of spirituous liquors in the State. The agency's enforcement agents are authorized to investigation violations and take enforcement action against liquor establishments; copies of DR's reporting liquor license violations are forwarded to this Department for action.

2.3.7 Federal Law Enforcement Agencies

✱ Numerous federal agencies may operate in and around the City at various times. Officers may contact federal agencies for assistance when investigating an incident within the agency's jurisdiction. In addition, officers may be asked to provide back-up assistance to any of these agencies at any time; questions concerning specific activities should be referred to an on-duty supervisor.

2.3.8 The Federal Bureau of Investigation

The FBI investigates violations of federal law, including robberies of federally insured financial institutions, allegations of civil rights and constitutional violations by public officials, and allegations of misconduct or corruption by public officials. Patrol and investigative units may work cooperatively with the FBI at certain crime scenes, such as bank robberies.

2.3.9 Bureau of Alcohol, Tobacco and Firearms (ATF)

ATF is responsible for the enforcement of federal laws and regulations relating to firearms. ATF will assist with issues related to the enforcement of these laws and may be willing to assume certain investigations.

2.3.10 United States Immigration and Customs Enforcement (ICE)

✶ The United States Immigration and Customs Enforcement (ICE) is part of the Department of Homeland Security (DHS). ICE's focus is the enforcement of federal immigration and customs laws and regulations. Border Patrol is a division of ICE; Border Patrol agents are generally available to assist Department personnel with issues related to undocumented aliens.

2.3.11 United States Secret Service (USSS)

The United States Secret Service investigates federal offenses involving counterfeiting, wire fraud, credit card and financial crimes, and provides security to certain designated officials, including the President of the United States.

2.3.12 United States Marshal Service

The United States Marshal Service provides security at the federal courthouses in Arizona and is responsible for the transportation and custody of persons charged with federal offenses.

2.3.13 United States Drug Enforcement Administration (DEA)

The Drug Enforcement Administration is the federal agency charged with enforcement of federal controlled substances laws.

2.3.14 United States Postal Service

The United States Postal Service enforces federal laws regarding use of the mail system; postal inspectors may be of assistance in cases involving the mail or destruction of mailboxes.

2.3.15 United States Department of State

The Department of State is the main contact agency to verify claims of diplomatic immunity. They will generally only have agents in the area if providing security for

rights, privileges and immunities of all persons. This policy will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

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. 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. 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.

C. Police officers shall not contact or stop a person merely on suspicion that the person is present in the United States illegally.

D. Federal agents with Immigration and Customs Enforcement (ICE) and the ICE Division of Customs and Border Protection (CBP) may be of assistance when dealing with immigration issues.

↓ ☆ **41.17.1 Undocumented Persons** ↓

A. During contact with suspected undocumented persons, officers shall follow the same procedures when contacting or stopping any person. If, after a person is contacted or stopped, the officer reasonably suspects that person is an undocumented person:

the officer may request an ICE/CBP agent to respond. The subject shall not be detained longer than necessary to complete the original stop/contact.

If the contacted agency does not respond prior to the officer completing the contact with the subject, and the subject is going to be released without further law enforcement action being taken, the subject shall be released.

If the subject is to be cited and released, and the contacted agency has not responded prior to the completion of the citation, the subject shall be cited and released.

If the subject is arrested for a felony, or a misdemeanor for which the subject will be taken into custody, the subject shall be booked with an ICE hold. ICE shall be notified of the arrest by the arresting officer.

41.17.1.1 Federal civil or criminal charges

A. If officers contact ICE/CBE during the course of an investigation, and the officer is advised that there are pending federal civil charges, the officer may not extend the initial lawful stop based solely upon those charges.

1. Once the investigation related to the initial lawful stop has been completed, if there is no probable cause to arrest, the person must be released, unless the officer develops reasonable suspicion to detain further to investigate a violation of other criminal activity.

2. The officer shall not extend the detention to wait for ICE/CBE to respond. Without the person's consent, officers will not transport the person based solely upon a federal civil violation unless the person is already under arrest. If the person is released an ICE referral form will be completed.

3. If officers contact ICE/CBE during the course of an investigation, and the officer is advised that there are federal criminal charges against the person, then the officer shall determine whether the agent/officer will respond to take the person into custody or whether the officer should arrest the detainee and transport to ICE, jail, or a federal facility.

B. If it is not clear whether the federal charge against the detainee is civil or criminal, then the officer will treat the charge as civil.

C. If ICE is unable to verify a person's status, this does not mean that the person is or is not lawfully present in the United States.

IMMIGRATION CONTACT

Officer:	Date:	Case/Event #:
Reason: (Stop)		Time: (Immigration Check)
Reason: (Immigration Check)		Contacted: ICE <input type="checkbox"/> CBP <input type="checkbox"/>
Results of Status Check: Federal Civil Charges <input type="checkbox"/> No Record Found <input type="checkbox"/>		Time:
Federal Criminal Charges <input type="checkbox"/>		Other Agency Arrival Time:
Time Stop Concluded:		
Citation: <input type="checkbox"/>	Release: <input type="checkbox"/>	Arrest: <input type="checkbox"/>
Subject Transferred to Federal Custody: Yes <input type="checkbox"/> No <input type="checkbox"/>		If Yes. Time:
South Tucson Police Officers Involved: (Name & Badge #)		
Federal Officers Involved: (Name & badge #)		
Subject Name: Last:	First:	Middle:
Comments:		
Officers Signature:		

MANDATORY TIME STAMP

form # STPD-14-1001

Tucson Police Department

General Orders – Immigration

Effective Date 09/2012

Revised Date 12/19/2017



2300 IMMIGRATION POLICY

The Department shall conduct all immigration enforcement activities in a manner consistent with federal and state laws regulating immigration and protecting the civil rights, privileges and immunities of all persons. This policy will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law. The Department expressly acknowledges that mere unauthorized presence in the United States is not a criminal offense, and enforcement of such civil violations is reserved for federal authorities. To that end, the Department recognizes and will seek to further the efforts of federal immigration authorities by considering guidelines and policies established by the federal government.

The need for community trust and cooperation is an essential component of effective policing and public safety. In furtherance of this principle, victims and witnesses of crime should not be the focus of immigration inquiries and should be encouraged to cooperate in the reporting and investigation of crime.

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.

The operational needs of the agency and the overall safety of the community necessarily take priority when deciding how best to use limited department resources. Supervisors and commanders may direct law enforcement resources as the needs of the agency, or particular situations dictate, based upon existing circumstances.

2310 DEFINITIONS

Consensual Contact-

Voluntary interaction with a person where a reasonable person would clearly understand they are free to leave or decline the officer's request.

Presumptive Identification-

A person is presumed to be lawfully present in the United States if the person provides to a law enforcement officer or agency any of the following during a lawful detention or following an arrest:

- A valid Arizona Driver License
- A valid Arizona non-operating Identification License
- A valid Tribal Enrollment Card or other form of tribal identification
- If the entity requires proof of legal presence in the United States before issuance, any valid United States (U.S.) federal, state, or local government issued identification. Example--a U.S. Passport or U.S. Permanent Resident (Resident Alien) Card

ICE/CBP-

Refers to Immigration and Customs Enforcement or Customs and Border Protection.



Racial Profiling-

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 specific suspect description. Racial profiling is prohibited.

2320 CONSENSUAL CONTACTS

2321 Officers have discretion to approach a person and seek to engage that person in a voluntary conversation. The person contacted is not required to answer questions or produce any identification or other documentation, but may choose to do so voluntarily. 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 *General Order 2330*.

2322 Officers will not make immigration status inquiries during consensual contacts with members of the public. There is generally no obligation on the part of victims and witnesses to cooperate with law enforcement or assist in an investigation, so these encounters should be treated as consensual encounters. Accordingly, officers will not make such inquiries of victims or witnesses, since discouraging cooperation will likely hinder or obstruct investigations and can negatively impact overall community trust and confidence. Immigration status inquiries should only be made when necessary to further an investigation.

2330 PERSONS LAWFULLY STOPPED OR DETAINED

2331 Officers shall not stop or detain a person without reasonable suspicion that the person is, has been, or is about to be engaged in criminal activity. Suspicion of unlawful presence in the United States is not a legal basis for a stop or detention. A vehicle may not be stopped to determine the immigration status of the driver or occupants. Passengers in a lawfully stopped vehicle are not required to provide identification or a true name unless they are suspected of a criminal violation or a violation of Title 28.

Arizona law provides that if, during a lawful stop or detention of a person ("detainee"), an officer subsequently develops reasonable suspicion to believe a detainee is unlawfully present in the U.S., the officer must make a reasonable attempt to determine the immigration status of the detainee with either ICE/CBP), unless doing so would not be practicable or would hinder or obstruct the investigation. Officers shall be mindful of discouraging persons to cooperate with law enforcement out of concern regarding their immigration status.

▪ **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.

▪ **When the determination may hinder or obstruct an investigation-**



Revised: December 19, 2017

2300 IMMIGRATION
Issued September 2012

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 limited to the investigation for which you have detained the person, but rather overall cooperation with law enforcement). For example, domestic violence situations or complex investigations of money laundering, human trafficking and drug smuggling may require significant cooperation of those involved.

2332 In establishing whether there is reasonable suspicion to believe a person is unlawfully present in the U.S., an officer shall not consider the detainee's race, color or national origin, except when it is part of a specific suspect description. An officer may ask about a person's citizenship after arrest for booking purposes.

2333 **If a detainee presents a form of presumptive identification as defined previously, the officer shall presume that the detainee is lawfully present in the U.S.**

No further investigation into the person's status is necessary or appropriate, unless there are additional facts that reasonably cast doubt on the person's lawful presence.

2334 If reasonable suspicion exists to believe a detainee is unlawfully present, and the detainee does not or cannot provide presumptive identification, then the officer will make a reasonable attempt to determine the person's immigration status. Officers shall document the reasonable suspicion that existed in their case report or citation narrative.

In determining whether reasonable suspicion of unlawful presence exists, officers should consider all possible relevant factors, including, but not limited to:

- Lack of or false identification (if otherwise required by law),
- Possession of foreign identification,
- Flight and/or preparation for flight, engaging in evasive maneuvers, in vehicle, on foot, etc.
- Voluntary statements by the person regarding their citizenship or lawful presence
 - **Note that 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.**
- Foreign vehicle registration,
- Counter-surveillance or lookout activity,
- In company of other unlawfully present persons,
- In a location known for human smuggling or known smuggling routes,
- Vehicles traveling in tandem,
- Vehicle is overcrowded or rides heavily,
- Prior information about the person,
- Inability to provide their residential address,
- Claim of not knowing others in same vehicle or at same location,
- Providing inconsistent or illogical information,
- Demeanor, e.g., unusual or unexplained nervousness, erratic behavior, refusal to make eye contact, and,
- Significant difficulty speaking English



Revised: December 19, 2017

2300 IMMIGRATION
Issued September 2012

Except for admissions that a person is unlawfully present, no single factor constitutes reasonable suspicion and all factors must be viewed in their totality.

2335 When reasonable suspicion exists to believe a detainee is unlawfully present in the U.S. but there are no state or local criminal violations, or any other lawful basis to continue the detention (i.e. completion of a traffic stop), the officer shall release the detainee without delay.

If reasonable suspicion exists to believe a detainee is an unlawfully present person during a valid detention, the officer will attempt to contact ICE/CBP via TPD TWX. If no information concerning the subject is obtained from ICE/CBP by the time that the basis for the detention is concluded, the detainee shall be released without delay.

- The fact that ICE/CBP cannot verify a person's status does not mean a person is lawfully or unlawfully present in the United States and provides no basis for any enforcement action to include transport or continued detention.
- If ICE/CBP advises 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 the CBP Detention Facility. If an officer decides that transport is not feasible for operational reasons, such a determination shall be approved by a supervisor.
- If ICE/CBP advises that the detainee only has **federal civil charges**, then the officer shall ask whether ICE/CBP will respond. The detainee shall not be detained any longer than necessary to complete the officer's initial reason for the stop or detention. The officer shall not extend the detention to wait for ICE/CBP to respond.
- Courts have clearly held that state and local peace officers do not have the authority to transport a person or take any other enforcement action for a civil violation of federal law.

2336 Juveniles who are detained based upon reasonable suspicion to believe they are involved in criminal activity shall not be asked about immigration status without the presence of a parent, guardian or attorney.

2337 School Resource Officers (SROs) shall remain mindful of their unique position as liaisons between the Department and one of the most vulnerable and impressionable segments of the community, students. SROs shall seek to foster a sense of trust, cooperation and safety among the students with whom they interact. SROs and other officers who respond to a school shall not compromise the ability of students to interact and cooperate with an SRO or other officers without fear of repercussion based upon their immigration status. Accordingly, when interacting with students, School Resource Officers and/or other officers who respond to a school shall refrain from asking about immigration status.

2340 ARRESTS

2341 An officer shall not prolong a field release arrest to make an immigration status inquiry or to request verification of immigration status. If an officer has reasonable suspicion that an arrestee



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2300 IMMIGRATION
Issued September 2012

is unlawfully present in the U.S., the officer will make a reasonable attempt to determine the arrestee's immigration status, in the same manner and subject to the same exceptions and presumptions provided under *General Orders 2330* for persons lawfully stopped or detained. If no information concerning the arrestee is obtained from TWX/ICE/CBP by the time that the field release process has concluded, the arrestee shall be released without delay.

- If an arrestee presents a form of presumptive identification as defined previously, the officer shall presume that the arrestee is lawfully present in the U.S. No further investigation into the person's status is necessary or appropriate, unless there are additional facts that reasonably cast doubt on the person's lawful presence.
- Adult arrestees who are booked into jail will undergo immigration verification by jail personnel.

2342 Officers shall comply with agency policies regarding consular notification per *General Orders 2390* for persons who self-identify as being foreign citizens.

2350 CONTACTING ICE OR CUSTOMS AND BORDER PROTECTION

2351 All contact with ICE/CBP for assistance or response shall be done via TWX to facilitate proper recordkeeping. CBP will provide assistance and response in accordance with federal enforcement priorities.

2352 In most instances, ICE/CBP will not provide immigration status unless they are able to physically verify information about a subject. The fact that an ICE/CBP cannot verify a person's status does not mean a person is unlawfully present in the United States.

2353 Any response by CBP shall not occur at a school.

2354 CBP shall not be asked to respond solely to provide translation or other similar services.

2355 A case report shall be generated documenting any field response by CBP. A supervisor shall be notified by phone or other similar means if CBP is requested or responds to a scene.

2360 DETENTION AND REMOVAL ORDER (DRO) HOLDS (usually an NCIC hit)

2361 The Detention and Removal Office is a unit of ICE that has the responsibility of detaining and transporting undocumented persons apprehended by ICE, CBP and local law enforcement.

2362 Once a person has been identified as being in the United States unlawfully, ICE will issue a DRO hold, which can be criminal or civil in nature. ICE/CBP will generally not disclose whether the hold is criminal or civil, so officers shall not take any action based solely upon a DRO hold unless it is clearly identified as criminal.

2363 Consular notification procedures as provided in *General Orders 2390* shall be followed for any criminal detainee taken into custody pursuant to a DRO hold.



2370 NCIC ICE IMMIGRATION VIOLATOR FILE

2371 ICE keeps a record of unlawfully present persons 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.

2372 The Immigration Violator File contains the following additional categories:

- The ICE Absconder category, which contains the records for individuals with an outstanding administrative warrant of removal from the United States who have unlawfully remained in the United States.
- The ICE National Security Entry/Exit Registration System (NSEERS) category, which 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.
- Police officers will not take enforcement action on Administrative Warrants or NSEERS hits, as these are civil or other non-criminal federal matters.

2380 DOCUMENTATION

Officers are reminded of their responsibility to thoroughly document all facts and circumstances supporting their decisions in the application of these statutes.

2390 CONSULAR NOTIFICATION UPON ARREST OF FOREIGN NATIONALS

The United States is obligated under international treaties to notify foreign Consular Officials when foreign nationals of their country are arrested or otherwise detained for an extended period in the United States. These obligations include:

- Immediately informing the foreign national of the right to have their government notified concerning the arrest/detention.
- Informing the appropriate Consulate without delay if the foreign national asks that such notification be made.
- In the case of certain countries, making such notification without delay, regardless of whether the arrestee/detainee wishes to have the notification made.

Due to variations in treaties, consular notification is voluntary in some situations (up to the arrestee), and mandatory in others (notification must be made whether the arrestee requests it or not). Whenever a foreign national from a country, other than Mexico, is arrested or detained for an extended period of time, the arresting officer shall contact Communications to determine whether notification is mandatory or voluntary. Communications has a list of countries that require



mandatory notification as well as a list of fax numbers for Embassies and Consulates around the United States.

- A *Consular Notification Form and Fax Sheet* (TPD#3208) shall be completed each time a foreign national is arrested or detained for an extended period of time.
- The primary case officer is responsible for ensuring that the appropriate box is checked regarding the Voluntary or Mandatory notification status of the country and if Voluntary notification is declined.

2391 Voluntary Notification

Mexico is a voluntary notification country. If a Mexican national is taken into custody, or any other national from a country where consular notification is voluntary, the arresting officer must read statement number one on the back of the *Consular Notification Form and Fax Sheet* to the arrestee. The officer will then document that the statement was read, as well as the arrestee's indication of understanding and whether or not the arrestee wished for the Consular Officials to be notified in the *Incident Report*.

- If the arrestee indicates that they wish for their Consulate to be notified, the officer shall fax the completed *Consular Notification Form and Fax Sheet* to the local Mexican Consulate, or the appropriate consular or embassy office, should the arrestee be from another voluntary notification country.
- Submit the original copy of the *Consular Notification Form and Fax Sheet* and the fax receipt to Records.

2392 Mandatory Notification

If the arrestee is from a country that requires mandatory notification of Consular Officials, then the arresting officer must read statement number two on the back of *Consular Notification Form and Fax Sheet* to the arrestee. The officer will then document that the statement was read as well as the arrestee's indication of understanding in the *Incident Report*.

- The officer shall fax the completed *Consular Notification Form and Fax Notification Sheet* to the appropriate Consulate or Embassy office
- Submit the original copy of the *Consular Notification Form and Fax Sheet* and the fax receipt to Records.

2393 Notification Response

Once notification of the appropriate Consulate or Embassy has been made it is not necessary to wait for a reply before continuing with the investigation. If the Consulate does contact the officer and asks to talk with the suspect, the Consulate is entitled to reasonable, private access. That access does not take priority over the investigation. The Consulate may not act as an attorney and may not invoke any of the suspect's rights on the suspect's behalf.

**TUCSON POLICE
DEPARTMENT
GENERAL ORDERS**



**VOLUME 2
GENERAL OPERATING PROCEDURES**

Revised: December 19, 2017

2300 IMMIGRATION
Issued September 2012

See *G.O. 2119.1* for U and T Visas.

ATTACHMENT 2



MEMORANDUM

Date: February 22, 2018

To: Wendy Petersen
Assistant County Administrator

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to read "CHH", written over the printed name of the sender.

Re: **Operation Stonegarden Grants to Other Police Jurisdictions**

It has been reported that Operation Stonegarden (OPSG) is also awarding the following amounts to the jurisdictions referenced below.

Overtime and Mileage for OPSG

- AZ Department of Public Safety (\$282,040)
- Marana Police Department (\$165,000)
- Oro Valley Police Department (\$70,000)
- Sahuarita Police Department (\$160,000)
- South Tucson Police Department (\$60,000)
- Tohono O'odham Police Department (\$329,101)
- City of Tucson Police Department (\$500,000)

Equipment for OPSG

- AZ Department of Public Safety (\$24,900)
- Sahuarita Police Department (\$19,800)

For these awards, please inquire of the various the police jurisdictions regarding:

- 1) Do they operate any of their police or law enforcement activities outside the corporate boundary of their jurisdiction or, in the case of Arizona Department of Public Safety, on County or City streets?
- 2) How often does each police agency engage in OPSG operations specifically, the number of operations? How do the number of operations and ours compare with those of the Sheriff?
- 3) What is the process to obtain the daily reports that are required as a condition of grant reporting to the Arizona Department of Homeland Security? Are those daily activity reports available or will public records request be necessary to obtain copies?
- 4) Regarding written policies of the police agency and how they interact with the Border Patrol and OPSG, do all of the police agencies have written policies? If so, please obtain a copy of those polices.

CHH/mp

c: Jan Leshar, Chief Deputy County Administrator
Terrance Cheung, Program Manager
Spencer Graves, Program Coordinator