
Immigration Violations

413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Easton Police Department relating to immigration and interacting with federal immigration officials.

413.2 POLICY

It is the policy of the Easton 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 national origin or immigration status.

Racial profiling, the practice of stopping, detaining, or searching a person based solely on factors such as race, gender, age, color, citizenship or ethnicity is strictly prohibited.

413.3 DEFINITIONS

Form I-247: Immigration Detainer Notice

Is used by U.S. Immigration and Customs Enforcement (ICE) to request members of the Department to detain a subject in reference to a violation of immigration law.

413.4 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/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Maryland constitutions.

413.5 ENFORCEMENT

Pursuant to the Immigration and Nationality Act and regulations promulgated by the Attorney General and the Secretary of the Department of Homeland Security, only officers and employees of U.S. Immigration and Customs Enforcement (ICE) and certain specifically designated local law enforcement officers may arrest persons for being in this country illegally. This means State and local law enforcement may not detain or arrest an individual solely based on known or suspected violations of federal immigration law. Officers therefore, shall not independently undertake to approach, interview, interrogate, detain or arrest any suspected illegal alien or refugee when potential violation of the federal immigration law is the principal issue. Neither shall the officer independently seek to ascertain a suspected illegal alien's status.

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413.6 NCIC IMMIGRATION RELATED RESPONSES

Officers may not detain or arrest an individual solely based on a U.S. Immigrations and Custom Administrative Warrant for Arrest or Removal entered by ICE into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation (FBI). These include administrative immigration warrants for persons with outstanding removal, deportation, or exclusion orders. Easton Police Department Officers lack the authority to arrest persons on these civil warrants. Officers can and will act upon an ICE criminal arrest warrant that is entered into NCIC, based on confirmation of an active warrant through Teletype, as with any other criminal arrest warrant.

Officers will not conduct self-initiated stops and/or NCIC checks of subjects solely for the purpose of determining their immigration status.

Officers may receive immigration violation responses indicating they should contact ICE when conducting inquires of subjects using the NCIC system.

- (a) Officers will not detain subjects solely for the purpose of confirming the existence of an ICE document (e.g., Forms I-247D, etc.) or immigration violation. Officers will release subjects when the legal justification for the stop/detention no longer exists based upon Maryland Law. After the encounter has ended Officers will contact the ICE Law Enforcement Support Center (LESC) after and provide:
 1. The suspect's name
 2. Any information that was obtained during the encounter (e.g., address, phone number, etc.)
- (b) If a subject is arrested in reference to a violation of Maryland Law, notification will be done upon arrival at headquarters and a copy of the NCIC response will be attached to the subject's arrest documents.

Officer's will not delay or postpone an arrestee's appearance in front of a court commissioner or release on a citation:

- (a) To confirm the existence of an ICE document or criminal violation of the immigration laws.
- (b) At the request of an ICE agent or Form I-247D.

Officers will not detain an arrestee following his/her appearance in front of a court commissioner due to a request from an ICE agent or Form I-247.

413.7 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

Generally, an officer will not need to notify ICE when booking arrestees at the detention center absent an NCIC request. Immigration officials routinely interview suspected undocumented aliens who are booked into the detention center on criminal charges. Notification will be handled according to detention center operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

Arresting officers may notify ICE when booking Individuals who have been arrested and charged with serious felonies where the release of the individual creates a substantial risk to public safety.

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When making notification, the arresting officer should notify ICE by telephone as soon as possible and:

- (a) Provide the ICE Investigator with the:
 - 1. Name of the subject arrested.
 - 2. Date and place of birth.
 - 3. Charge(s), case number, and date of arrest.
 - 4. Registered Alien File Number (on alien's identification card).
- (b) State in the field arrest report the fact that the person arrested is an alien, and the name of the ICE Investigator contacted, date and time contacted and registered alien identification number, if available.

413.8 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.

413.9 U VISA AND 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 Division supervisor assigned to oversee the handling of any related case. The Criminal Investigations Division 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.

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