

Fresno Police Department Policy Manual

Immigration Violations

428.1 POLICY

Members of this Department will provide, to the best of their ability, equal enforcement of the law and equal service to the public, regardless of alien status. It is the policy of the Department that officers shall not enforce violations of immigration law/status.

428.1.1 PURPOSE AND SCOPE

Immigration status alone is not a matter for police action. Awareness of this will increase the effectiveness of the Department in protecting and serving the entire community.

428.2 JURISDICTION AND ENFORCEMENT

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry, etc. When assisting ICE at their specific request, this Department may assist in the enforcement of any suspected criminal violations discovered as a result of inquiries or investigations initiated by ICE.

428.3 SWEEPS

The Fresno Police Department does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, socioeconomic status, or other group.

The disposition of each contact (e.g., warning, citation, arrest, etc.), while discretionary in each case, should not be affected by such factors as race, ethnicity, sexual orientation, etc.

428.3.1 BASIS FOR CONTACT

The fact that an individual is suspected of being an undocumented alien shall not be the basis for contact, detention, or arrest.

428.4 ICE REQUEST FOR ASSISTANCE

If a specific request is made by ICE or any other federal agency, this Department will provide available support services, such as traffic control or keep-the-peace efforts, during the federal operation.

Members of this Department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis or for officer safety. Any detention by a member of this Department should be based upon the reasonable belief that an individual is involved in criminal activity.

428.5 VALID IDENTIFICATION CARDS/"MATRICULA CONSULAR"

The identification card known as the "Matrícula Consular" is issued by the Mexican Consulate to Mexican citizens who have established residency in the United States. This valid form of identification includes the person's photograph, name, address, date of birth, and a serial number. Department members shall familiarize themselves with the card's security features to determine its authenticity. Department members shall recognize this card as a valid form of identification when attempting to establish a person's identity during an investigation and/or while issuing a misdemeanor citation. This identification card is not to be considered as a valid driver's license.

428.6 CONSIDERATIONS PRIOR TO REPORTING TO ICE

The Fresno Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any subject. Race, gender, religion, sexual orientation, age, occupation or other arbitrary aspects are of no bearing on the decision to arrest.

428.6.1 U-VISA NONIMMIGRANT STATUS

Penal Code section 679.10 mandates that certain state and local agencies and officials complete U-Visa certifications, upon request, for immigrant crime victims who have been helpful, are being helpful, or likely to be helpful in the detection, investigation, or prosecution of specified qualifying crimes. A petition for a U-Visa from the U.S. Citizenship and Immigration Services must be completed on DHS Form I-918 Supplement B by the U-Visa Coordinator or the assigned prosecutor and must include information on how the individual can assist in a criminal investigation or prosecution in order for a U-Visa to be issued.

Any request for assistance in applying for U-Visa status should be forwarded in a timely fashion to the U-Visa Coordinator. The coordinator should do the following:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether an update on the case is warranted;
- (b) Review the instructions for completing the certification if necessary. Instructions for completing Form I-918 Supplement B can be found on the DHS website at <http://www.uscis.gov/i-918>
- (c) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification has not already been completed and that certification is warranted;
- (d) Complete the certification within 90 days (or 14 days if the individual is in removal proceedings); and
- (e) Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor. A copy of any completed certification shall be included in the case file.