



CHEVY CHASE
VILLAGE
POLICE
DEPARTMENT

GENERAL ORDER: 5-42; ALIENS/FOREIGN NATIONALS

DATE: 10/01/2018 Pages: 2 ◇ New ♦ Amended

DISTRIBUTION: Sworn Personnel


Police Chief: John Fitzgerald

I. PURPOSE

The purpose of this General Order is to establish guidelines for the questioning, arrest, and/or investigation of aliens/foreign speaking persons.

II. POLICY

It is the policy of this Department not to pursue deportation during the judicial process. It is a higher priority to prosecute the perpetrators of crimes rather than initiate deportation proceedings against victims/witnesses who happen to be illegal aliens. All individuals, regardless of citizenship, are entitled to basic rights and privileges which are set forth in common law, State and Federal law, and the Maryland and United States Constitution. In addition, aliens/foreign speaking persons may be entitled to rights and privileges set forth in the Vienna Convention and other international laws. It is the policy of this department to exercise its duties in conformance with all applicable laws, regardless of nationality or racial/ethnic background.

III. QUESTIONING OF ALIENS OR FOREIGN SPEAKING PERSONS/ARREST POLICY

- A. The indiscriminate questioning of foreign speaking persons about their citizenship status (possession of their "green card") without a reasonable basis for suspicion of state/local traffic or criminal charges is unconstitutional according to Supreme Court decisions. Furthermore, the intimidating effect of such questioning creates fear, suspicion and distrust of the police.
- B. Officers have no statutory authority to arrest an undocumented alien for violations of federal immigration laws. If an alien is arrested, the basis of that arrest must rest solely on state/local traffic or criminal charges.
- C. **Officers are prohibited from taking any police action (demanding identification, stopping, detaining, searching or arresting any person) based solely on an ICE civil or administrative warrant.** Any such police action must be based on existing state or local law.

D. If an individual who is stopped for a traffic violation is not wanted for other charges and has a valid permit, he should be treated the same as any other violator and not subjected to arrest or further questioning because of his nationality. Without reasonable suspicion of criminal activity, the individual cannot be detained longer than necessary for the traffic stop to be completed.

E. **If a lawful stop or detention has been made for a separate lawful purpose (say, a traffic stop for speeding), and the officer gets a 'hit' for an ICE warrant, officers are prohibited from detaining the person for any length of time on the ICE warrant—not even for one minute—after the lawful purpose of the stop has ended.** For instance, officers are prohibited from 'holding' a person until ICE agents arrive. Doing so would be an unlawful detention, and would violate the law and our policy.

F. **At a later time (after contact with the individual is ended), officers may notify ICE of the person's identity as well as the circumstances and location of the encounter.** ICE may elect to follow up at their discretion.

G. **Officers are prohibited from participating in ICE raids.** This does not prohibit officers from responding to or being on the scene of any federal warrant service in order to maintain safety in exigent circumstances.

H. Officers do not have the authority to confiscate Resident Alien Cards (a.k.a. "Green Cards") or Employment Authorization Cards without the express authorization of an Immigration and Naturalization Service (INS) Department of Justice Officer.

IV. ALIENS AS VICTIMS/WITNESSES

A police report/investigation is not contingent upon a person's citizenship status. It is not the policy of this department to pursue deportation proceedings. However, if it becomes known that a victim/witness is facing possible deportation and the officer needs the victim/witness for the case, the officer must notify INS in

writing, through the office of the Chief. This is to ensure that INS is aware of the situation and may delay deportation of the individual. Approval by INS to remain in the country does not constitute employment authorization or confer any benefit. Furthermore, if the victim/witness has a criminal history, they may not qualify for consideration for a delay in deportation.

V. ARREST PROCEDURES

When aliens, who are not United States citizens, are arrested for violations of criminal or traffic laws (those where a physical arrest is made), the following procedure will be followed after normal processing:

- A. The arresting officer will notify the INS by telephone as soon as possible after arrest and provide the following information:
 1. Full name of the arrested subject;
 2. Date and place of birth;
 3. When and where the alien entered the United States (if known);
 4. Charges against alien; and,
 5. The Registered Alien File Number. This number appears on the "green" identification card issued to the alien and should be in his/her possession. If no card is available, the investigator will advise the officer of what action to take. (The "green" card is actually pink or white in color but is known by all aliens as the "green card.")
- B. The arresting officer's report will include:
 1. A statement that the person arrested is in fact an alien;
 2. The name of the U.S. Immigration Investigator and the date and time notified; and,
 3. Registered alien file number if available.

VI. VIENNA CONVENTION ON CONSULAR RELATIONS (1963)

- A. Certain provisions of the Vienna Convention on Consular Relations (1963) and customary international laws require that appropriate authorities of the United States, including state and local authorities, provide assistance to foreign consul officers in the performance of their duties.

- B. The United States is obligated under international treaties and customary international law to notify foreign authorities when foreign nationals are arrested or otherwise detained in the United States. Officers should follow these procedures:
 1. Immediately inform the foreign national of the foreign national's right to his government notified concerning the arrest detention.
 2. If the foreign national asks that such notification be made, do so without delay by informing the nearest consulate or embassy and note that fact in the event report. Consulate phone numbers can be obtained from the Bethesda District Station, ECC, and CPU.
 3. In the case of certain countries, such notification must be made without delay regardless of whether the arrestee/detainee so wishes. A list of these countries can be obtained from the same sources mentioned above.
- C. Consul officers should be given timely notification concerning the death of a foreign national and disposition of the deceased's property.
- D. When requested, assistance should be given to any consul in ascertaining the whereabouts of their nationals. This does not include disclosing any information obtained through MILES or NCIC. This information is restricted to law enforcement only.

VII. CONTACT INFORMATION

- A. Immigration and Customs Enforcement (ICE)
When seeking information from or making notifications to ICE, the following numbers should be used:
 1. Officers are encouraged to seek assistance 24 hours a day from the ICE Law Enforcement Support Center (LESC) at 1-802-872-6020. They can also be contacted by sending a message via NCIC.
 2. Agents at the Baltimore Field Office can be reached at (410) 962-7449 (0800-1630 weekdays).
- B. U.S. Department of State
The U.S. Department of State's 24-hour Operations Center can be reached at (202) 647-1512.
- C. If assistance is requested or a notification was made, a notation should be made in the incident report.

This directive voids the previous version dated 8/27/2018 and incorporates language from MCPD Directive 520: Dealing With Foreign Nationals