

	<p style="text-align: center;">BRIDGEPORT POLICE DEPARTMENT</p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	Distribution	General Order Number
		ALL PERSONNEL	<b>5.27</b>
		Original Issue Date	Reissue/Effective Date
		5/21/19	5/6/22
Order Title:  <b>DETENTION AND ARREST OF UNDOCUMENTED PERSONS/ILLEGAL IMMIGRANTS</b>		Accreditation Standard: POSTC:	Section
		5	
		Section Title PATROL FUNCTIONS	
Rescinds: N/A		<b>Rebeca Garcia, Chief of Police</b>	

*This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting*

## **I. PURPOSE:**

The purpose of this order is to establish Department guidelines for the detention and arrest of undocumented persons/illegal immigrants.

## **II. POLICY:**

The Bridgeport Police Department recognizes and values the diversity of the community we serve and the need to cooperate with other law enforcement agencies. Accordingly, the Department will act to ensure the safety and well-being of all persons within its jurisdiction, regardless of their immigration status.

It is the policy of this Department to conform to federal laws and international treaties when detaining foreign nationals or undocumented persons/suspected illegal immigrants. However, the Bridgeport Police Department does not determine alienage. The Immigration and Custom Enforcement (ICE) has primary jurisdiction for the enforcement of the law and of the provisions of Title 8, U.S. Code dealing with illegal entry etc.

## **III. DEFINITIONS:**

Alien: Any person not a citizen or national of the United States.

Civil Immigration Detainer: A detainer request issued pursuant to 8 CFR 287.7. A Civil Immigration Detainer means a request from a federal immigration authority to local or state law enforcement agency for a purpose including, but not limited to:

- A. Detaining an individual suspected of violating a federal immigration law or who has been issued a final order of removal;
- B. Facilitating the (i) arrest of an individual by a federal immigration authority, or (ii) transfer of an individual to the custody of a federal immigration authority;
- C. Providing notification of the release date and time of an individual in custody; and
- D. Notifying a law enforcement officer, through DHS Form I-247A, or any other form used by the United States Department of Homeland Security or any successor agency thereto, of the federal immigration authority's intent to take custody of any individual.

Convicted of a Felony: A person who has been convicted of a felony, as defined in Connecticut General Statutes Section 53a-25 of the general statutes, pursuant to a final judgement of guilt entered by a court in this state or in a court of competent jurisdiction within the United States upon a guilty plea, a plea of nolo contendere, or a finding of guilty by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from such judgement.

Federal Immigration Authority: Any officer, employee or other person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement or any division thereof or any officer, employee or other person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with enforcement of the civil provisions of the Immigration and Nationality Act.

ICE: Immigration and Custom Enforcement (formerly INS).

ICE Access: Any of the following actions taken by a law enforcement officer with respect to an individual who is stopped by a law enforcement officer with or without the individual's consent, arrested, detained or otherwise under the control of a law enforcement official or agency:

- A. Responding to a civil immigration detainer or request for notification concerning such individual;
- B. Providing notification to a federal immigration authority that such individual is being or will be released at a certain date and time through data sharing or otherwise;
- C. Providing a federal immigration authority not publicly available information concerning such individual regarding release date or time, home address or work address, whether obtained through a computer database or otherwise;
- D. Allowing a federal immigration authority to interview such individual under the control of the law enforcement agency;
- E. Allowing a federal immigration authority to use a facility or resources in the control of a law enforcement agency to conduct interviews, administrative proceedings or other immigration enforcement activities concerning such individual; or
- F. Providing a federal immigration authority information regarding dates and times of probation or parole supervision or any other information related to such individual's compliance with the terms of probation or parole;
- G. "ICE access" does not include submission by a law enforcement officer of fingerprints to the Automated Fingerprints Identification system of an arrested individual or the accessing of information from the National Crime Information Center by a law enforcement officer concerning an arrested individual;

Law Enforcement Officer: Each officer, employee or other person otherwise paid by or acting as an agent of the Department of Correction, of a municipal police department, the Division of State Police within the Department of Emergency Services and Public Protection, and each judicial marshal and state marshal.

Judicial Officer: Any judge of the state or federal judicial branches and any federal magistrate judge. Judicial officer does not mean an immigration judge;

National: A citizen of a particular country typically entitled to hold that country's passport.

Undocumented Person/Illegal Immigrant: Any person who has either illegally entered into the country or has entered the country legally but then overstayed his/her Visa, or any person who does not possess the requisite authorization to remain legally in the United States.

#### **IV. PROCEDURES:**

##### **A. Determination of Immigrant Status:**

The determination of immigration status is the jurisdiction of ICE. The Bridgeport Police Department does not determine alienage.

##### **B. Protocols for Suspected Undocumented Persons/Illegal Immigrants Who are Under Arrest:**

Whenever there is suspicion that an arrested party may also be an undocumented person/illegal immigrant:

###### **1. The arresting officer shall:**

- a. Notify his field supervisor of his suspicion and the reasons for the suspicion;
- b. Document the suspicion on a Case Incident Report (CIR); and
- c. Forward a copy of CIR to the Intelligence Division.

###### **2. The Detention Supervisor shall:**

- a. Ensure that an NCIC and in-house check is completed;
- b. Make an FLLQ request to the Law Enforcement Support Center and forward the response to the Intelligence Division; and
- c. Contact the ICE 24-hour service number

A person's immigration status, race, gender, religion, sexual orientation, age, occupation, or other arbitrary aspects shall have no bearing on the officer's decision to arrest.

C. Protocols for Suspected Undocumented Persons/Illegal Immigrants who are Not Under Arrest:

The Bridgeport Police Department is concerned with the safety of local citizens and thus, detection of criminal behavior is of primary interest in dealing with any subject. Whenever an officer comes into contact with a criminal suspect who is also a suspected undocumented person/illegal immigrant, the officer shall treat the person as any other criminal suspect. This includes complying with the requirements of Terry v. Ohio, et seq, the Miranda decision, and departmental policy regarding investigative detentions and documentation.

Any detention by a member of this Department will be based upon the reasonable suspicion that an individual is involved in criminal activity.

D. Protocols for Victims and Witnesses Who are Suspected to be Undocumented Persons/Illegal Immigrants:

Generally, sworn personnel shall not question victims or witnesses of criminal acts about their immigration status and shall take no action to report a victim or witness of a crime to ICE unless said victim or witness is a suspect in a criminal matter. In such event, sworn personnel shall first obtain authorization to make such a report from Department supervisory personnel.

E. Assisting ICE:

1. If ICE or some other federal agency makes a specific request concerning suspected or actual criminal activity or actors, the Department will provide available support services during the federal operations.
2. Prior to responding to a request for notification of an individual's release date and time from custody of a law enforcement agency, the law enforcement officer shall forward the request to the head of the law enforcement agency for review.
3. Any confidential information of an individual who comes into contact with a law enforcement officer may be disclosed to a federal immigration authority only if such disclosure is:
  - a. Authorized in writing by the individual to whom the information pertains, or by the parent or guardian of such individual if the individual is a minor or not legally competent to consent to such disclosure;
  - b. Necessary in furtherance of a criminal investigation of terrorism; or
  - c. Otherwise required by law.

F. Requests from ICE to Detain:

1. No person, who is in the custody of the Department, shall be detained based upon receipt of a civil immigration detainer unless:
  - a. the detainer is accompanied by a warrant issued or signed by a judicial officer;
  - b. the individual has been convicted of a Class A or B felony; or
  - c. the individual is identified as a possible match in the federal Terrorist Screening Database or similar database.
  
2. Further, no law enforcement officer shall:
  - a. Expend or use time, money, facilities, property, equipment, personnel or other resources to communicate with a federal immigration authority regarding the custody status or release of an individual targeted by a civil immigration detainer, except as listed above in section E.;
  - b. Arrest or detain an individual based on an administrative warrant;
  - c. Give a federal immigration authority access to interview an individual who is in the custody of a law enforcement agency unless the individual has been convicted of a Class A or B felony, is identified as a possible match in the Federal Terrorist Screening Database or similar database, or is the subject of a court order issued under 8 USC 1225(d)(4)(B); or
  - d. Perform any function of a federal immigration authority, whether pursuant to 8 USC 1357(g) or any other law, regulation, agreement, contract or policy, whether formal or informal.

G. The officer shall also document the civil immigration detainer in the incident report and include the following information:

1. The name of the requesting agent,
2. The date and time the request was made,
3. Any specific details regarding why the request was made,
4. Any instructions from ICE, and
5. The date and time ICE will respond.

H. Upon determination that such individual is to be detained or released, the law enforcement officer shall immediately notify ICE, upon approval of the Chief of Police and as authorized above. The officer shall document such notification on the CIR and include the following information:

1. The name of the agent notified,
2. The date and time notification was made to ICE,
3. Any specific details regarding why the request was made,

4. Any instructions from ICE,
  5. The date and time ICE will respond.
- I. If the individual is to be detained, based on the civil immigration detainer, subject to the provisions outlined above, the law enforcement officer shall inform ICE that the individual will be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays and federal holidays. If ICE fails to take custody of the individual within such forty-eight hour period, the individual shall be released from Departmental custody. In no event shall an individual be detained for longer than such forty-eight (48) hour period solely on the basis of a civil immigration detainer.
  - J. Upon receiving a civil immigration detainer, a law enforcement agency shall provide a copy of the detainer to the affected individual who is the subject of the detainer and inform the individual whether the law enforcement agency intends to comply with the detainer. If a law enforcement agency provides ICE with notification that an individual is being, or will be released on a certain date, the law enforcement agency shall promptly provide to the individual and to the individual's attorney or one other individual who the individual may designate, a copy of such notification as well as the reason, in writing, that such law enforcement agency is complying with the detainer.
  - K. The provisions of this policy shall not prohibit submission by a law enforcement officer of fingerprints to the **IDEMIA Fingerprint System** of an arrested individual or the accessing of information from the National Crime Information Center by a law enforcement officer concerning an arrested individual.
  - L. ICE refusal to issue civil detainer
    1. If at any point ICE decides that the individual should not be held, then the officer shall, in accordance with Departmental policies, immediately release the individual unless other criminal matters exist. The officer shall document ICE's decision or subsequent decision to not detain on a CIR and shall include the following information:
      - a. The name of the agent,
      - b. The date and time notification was made to ICE,
      - c. Any details regarding ICE's decision,
      - d. The date and time of ICE's subsequent decision to not detain, and
      - e. The date and time of the release of the individual
  - M. Procedures for Immigration Complaints:

Any civilian wishing to report immigration violations should be referred to the Department of Homeland Security- Immigration and Custom Enforcement Tip Line.