

**LEESBURG POLICE DEPARTMENT
REGULATIONS AND GENERAL ORDERS MANUAL**

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226

Section:
OPERATIONS

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Title:

IMMIGRATION ENFORCEMENT

Accreditation Standards:

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Chief of Police:



I. Policy

- A. It is the responsibility of the federal government to enforce immigration laws. Federal agencies, such as the US Bureau of Immigration and Customs Enforcement (ICE), have specific authority to investigate an individual's immigration status and deport persons who have no legal authority to be in the United States. The primary mission of the Leesburg Police Department (LPD) is to protect and serve our community. In order to carry out our mission, the need to foster trust and cooperation from the public to solve crimes, maintain public safety and keep the peace is paramount. Enforcing immigration laws by local law enforcement is complex and involves issues of civil and criminal violations as well as jurisdictional questions regarding local law enforcement's ability to enforce federal immigration statutes. The guiding principle regarding local enforcement of federal immigration statutes is what state code allows. Virginia Code Section 19.2-81.6, Authority of law-enforcement officers to arrest illegal aliens, gives law enforcement officers in Virginia limited authority to enforce the immigration laws of the United States, and requires that, several key conditions be satisfied prior to an officer making an arrest:
1. The officer must have reasonable suspicion that an individual has committed or is committing a crime.
 2. Confirmation that the person in question is illegally in the United States, and
 3. Confirmation that the person has previously been convicted of a felony in the United States, and
 4. Confirmation that the person was deported or left the United States after such conviction
- B. LPD does not and will not engage in the practice of stopping, detaining, questioning, or arresting any person based solely on the suspicion that the individual may be illegally in the United States.
- C. No person shall be physically arrested in order to determine their residency status if they otherwise would have been eligible for release on a summons.
- D. No other person such as the victim, or witness to a crime will be questioned as to their residency status unless they are subject to a physical arrest for a violation of the law.

II. PROCEDURES

- A. An officer processing a full-custody physical arrest will ask the arrested person their country of origin, residency status as needed for the purpose of foreign national consular notification and the completion of arrest report documentation.
- B. If an officer concludes that an arrestee is in the United States illegally and has been arrested for a serious/violent offense, the officer shall notify the Criminal Investigations Section Commander for the purpose of coordination with Federal agencies, such as the US Bureau of Immigration and Customs Enforcement (ICE), that have specific authority to investigate an individual's immigration status and deport persons who have no legal authority to be in the United States.

III. Wanted Checks showing Immigration Hits

It is the policy of the Leesburg Police Department to serve criminal warrants as a result of hits originating via NCIC/VCIN wanted checks. This includes criminal warrants entered by the Immigration and Customs Enforcement (ICE). However, some ICE hits may be for administrative violations that are civil violations of immigration law. NCIC hits indicating "OUTSTANDING ADMINISTRATIVE WARRANT FOR REMOVAL" and "OUTSTANDING WARRANT FOR IMMIGRATION VIOLATIONS" are civil administrative warrants, and Officers shall not make arrests based on these civil administrative warrants. The underlying charge for an administrative immigration warrant is civil in nature and it is the guidance from the Commonwealth's Attorney General's Office that local police do not have the authority to enforce/serve these administrative civil warrants.

A. Procedure:

If you get a hit from ICE when you run a name through NCIC or VCIN, handle it as follows.

1. Let your supervisor know.
2. Read the computer screen sent back to you in response to the hit. You will have received one of two possible responses. Several lines down from the top of the response, you will see either of the following:
 - a. PREVIOUSLY DEPORTED FELON
 - b. OUTSTANDING ADMINISTRATIVE WARRANT FOR REMOVAL
 - c. OUTSTANDING WARRANT FOR IMMIGRATION VIOLATIONS
3. If you see "PREVIOUSLY DEPORTED FELON," call the phone number listed in the response to confirm the hit and handle the hit as you would with a normal criminal arrest resulting from a NCIC/VCIN hit.
4. If you have a state or local criminal charge against the person, or if there is an outstanding criminal arrest warrant for the person, and there is also an "OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL" ICE hit, proceed with the criminal arrest charges, contact the ICE phone number and advise them of your local charges.
5. If you see "OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL" or "OUTSTANDING WARRANT FOR IMMIGRATION VIOLATIONS" and you have no local criminal charges, **DO NOT CALL** the phone number and do not confirm the hit.
 - a. The reason that we will not confirm hits in these cases is that, even though ICE has put these names into the NCIC database, they are NOT CRIMINAL. These are strictly civil matters that will be brought before civil hearings. We do not have authority to take persons into custody for civil matters.

B. Information Sharing

Nothing in this general order shall be construed to prohibit any officer or employee from cooperating with federal immigration authorities as required by law. Information obtained from the Law Enforcement Service Center (LESC) is for law enforcement/ criminal justice agencies only and their official usage. Department employees are to treat this information in a similar fashion to information received through NCIC or VCIN. Information regarding residency status obtained via LESL cannot be shared with non-law enforcement agencies.