

- I. Policy
- II. Definitions
- III. Procedures Concerning Immigration Violations
- IV. Arresting Foreign Nationals
- V. Assisting Federal Authorities
- VI. Asylum
- VII. Notification Information

I. Policy

It is the policy of the M-NCPPC Park Police to treat all persons with respect, compassion, courtesy, equality, and professionalism regardless of citizenship or immigration status. In consideration of the delicate balance between crime prevention, immigration concerns, and unwillingness of eyewitnesses to come forward; unless mandated by Federal or State law, we will endeavor not to inquire about the immigration status of a person in the normal course of fulfilling our duties. This includes interviewing witnesses and victims of crime. This Directive also establishes guidelines when dealing with possible violations of immigration statutes; arrests of foreign nationals; and responding to aliens' requests for asylum.

II. Definitions

- A. Asylum: a form of protection that allows individuals in the United States to remain in the United States.
- B. Consular Officer: A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country.
- C. Foreign National: Any person who is not a U.S. citizen.
- D. USCIS: United States Citizenship and Immigration Services, is a component of the United States Department of Homeland Security (DHS). It performs many administrative functions formerly carried out by the former United States Immigration and Naturalization Service (INS), which was part of the Department of Justice.
- E. ICE: U.S. Immigration and Customs Enforcement enforces federal laws governing border control, customs, trade and immigration to promote homeland security and public safety.
- F. Administrative Warrant: An Administrative (civil) warrant is issued by an immigration official for suspected violations of immigration laws. An administrative (civil) warrant does not include a criminal warrant signed by a judge or a magistrate and it will not be used by officers of the Maryland-National Capital Park Police as the basis to detain or

arrest a person.

- G. State-law Release Date: the date on which the probable cause to detain or legal ability to constitutionally hold an individual expires; generally after service of the charges, release on own recognizance, release from incarceration after pre-trial bail has been posted, or sentence has been served.
- H. Judicial Warrant: A warrant issued by a neutral magistrate or judge based upon probable cause that a law has been violated (typically a criminal law).

III. Procedures Concerning Interaction with Foreign Nationals and Potential Immigration Violations

A. Contacts with Persons believed to be Foreign Nationals:

- 1. Officers will not initiate an investigation or otherwise take law enforcement action solely based on the actual or perceived immigration status of an individual, including the initiation of a stop, apprehension, arrest or any other field contact.
- 2. Persons are not required to prove their citizenship status, country of origin, or information related to their immigration status in the United States.
- 3. Officers will not request identification for the sole purpose of determining a person's immigration status.
- 4. A stop may not be prolonged, and an individual may not be detained solely for questions related to a person's immigration status.
- 5. When persons are being interviewed about potential criminal or traffic violations, Officers may not question about the person's immigration status; nor should immigration status be a part of routine questioning.

B. Administrative (Civil) Immigration Warrants

- 1. "Administrative Warrants" for deportation and removal are civil in nature, and not criminal.
- 2. The enforcement of civil federal immigration laws falls exclusively within the authority of ICE. Thus, state and local law enforcement officers do not have the legal

grounds to stop, detain, search or arrest an individual based solely on an administrative warrant, unless they have been deputized by ICE to do so (287(g) agreement). The Commission is not party to a 287(g) Agreement.

3. When an officer receives information in an NCIC database on a person, the officer must attempt to determine whether the warrant is an administrative warrant. To make this determination, the officer must review the introductory message at the beginning of the “notice” from NCIC. If it is administrative in nature, it will contain the following language:
 - a. “SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL/DEPORTATION FROM THE UNITED STATES”; or
 - b. “SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS”.
4. Officers conducting a stop or arrest of a person found to be the subject of an administrative warrant shall contact the On Duty Officer/Commander and advise the ODO.
5. In no event may any Officer(s) detain the person longer than required for the initial stop or for the arrest.
6. If the officer is unable to determine the nature of the warrant, the officer will promptly contact his or her shift supervisor for consultation and a final decision. The shift supervisor will exercise due diligence to determine the existence of an administrative (civil) warrant, and, if necessary, detain the individual for a reasonable amount of time until such determination can be made. For purposes of this policy, a reasonable amount of time shall not exceed sixty (60) minutes, in accordance with routine NCIC “hit” confirmation procedures. Once the shift supervisor concludes that the NCIC “hit” was for an administrative (civil) immigration warrant as opposed to a criminal warrant, then the person will immediately be released. An Incident Report detailing the encounter must be completed. Release of a detained individual is only prudent when the warrant is an administrative warrant.
7. The 4th Amendment does not consider the detention of a Foreign National to be reasonable, if the basis for continued detention is an administrative warrant. *Santos v. Frederick County Bd. of Cm’rs, et al.*, 346 F.Supp.3d 785 (D.Md 2018). **Officers may have personal liability as well as bringing liability onto the Commission for such a detention.**
8. See Appendix A for sample NCIC notices for administrative and criminal warrants.

C. Judicial Warrants (Criminal ICE Warrants)

1. A Judicial Warrant is a warrant that is issued by a Judge after he or she has determined that sufficient probable cause exists to show that the subject of the warrant has committed a crime. (Judicially issued body attachments also fall within this category.) As such, it is not a violation of the 4th Amendment to arrest an individual on the basis of a judicially issued warrant.
2. Criminal ICE Warrants are a type of Judicial Warrant that has been issued by a Judge after he or she has determined that sufficient probable cause exists to show that the subject of the warrant has committed a crime and for which the individual is subject to immigration consequences. See Appendix A. For convenience, we will refer to these simply as, "Judicial Warrants."
3. When a Judicial Warrant is located in the NCIC database during a traffic stop or an investigation, the individual will be detained and confirmation with ICE will be made.
4. Before any further detention, arrest or search (incident to arrest) is made, it must be confirmed that the Judicial Warrant is both active and is for a criminal offense.
5. If after a thorough investigation which includes consultation with the shift supervisor that concludes the determination that no criminal warrant exists, then the incident will be documented on an Incident Report.
6. If ICE is unable to immediately determine the nature of the warrant, the officer shall promptly contact his or her shift supervisor for consultation and a final decision. The shift supervisor will exercise due diligence to determine the existence of a Judicially issued warrant, and, if necessary, detain the individual for a reasonable period of time until such determination can be made. For purposes of this policy, a reasonable amount of time will not exceed sixty (60) minutes, in accordance with routine NCIC "hit" confirmation procedures.
7. Upon confirmation from ICE that a Judicial Warrant exists, the person will be arrested and processed.
8. *The arresting officer will notify ICE by telephone (refer to section VI) as soon as possible after the arrest **for specific offenses**, and provide the following information:*
 - a. *Full name of the arrested subject*

- b. Date and place of birth*
- c. When and where the foreign national entered the United States (if known)*
- d. Charges against the foreign national or the reason for the arrest*
- e. The registered alien file number (this number appears on the Resident Alien Card or "green card" issued to registered resident foreign nationals and should be in their possession). If no card is available, ICE will advise the officer of what action to take. The Resident Alien Card is known by many as a "green card," however the color of the card depends on the date it was issued.*

IV. Assisting Federal Authorities

- A. Maryland-National Capital Park Police officers are permitted to assist ICE officers and employees in matters such as: customs violations, money laundering, narcotics cases, gang cases, human trafficking, terrorist activities, and execution of criminal warrant or court orders issued by a federal judge or magistrate.
- B. All operational requests for assistance made by ICE or other immigration officials that do not have a nexus to criminal activity will require the approval of the Chief of Police on a case by case basis.
- C. Nothing in this directive prohibits Maryland-National Capital Park Police officers from responding to or remaining on the scene of any federal criminal law enforcement investigation, or to assist with officer or public safety.

V. Arresting Foreign Nationals

- A. Upon arrest of a foreign national, the Division will offer to contact the appropriate Consulate and, in those instances where required, the appropriate Consulate will be contacted regardless of the arrestee's wishes.
- B. When foreign nationals are arrested or detained, they must be advised of the right to have their consular officials notified.
 - 1. After determining the country of origin, personnel will, without delay, notify the foreign national of their rights to consular notification and if the foreign national desires notification, that country's consular representatives should be notified of the

arrest as soon as possible. *Officers may obtain assistance and advice from the U.S. Department of State's 24-hour Operations Center at (202) 647-1512.*

2. Notification is mandatory for some foreign nationals. A list of mandatory notification countries, jurisdictions and phone numbers are available at <https://travel.state.gov/content/travel/en/consularnotification/countries-and-jurisdictions-with-mandatory-notifications.html>
 3. In all cases, make notifications without delay. The type of notification, mandatory or requested, must appear in the narrative of the report and be made via Notification of Detention/Arrest of Foreign National form.
 4. Lawful permanent resident aliens, who have a *Permanent Resident Card (Form I-551, commonly referred to as a "Green Card")* retain their foreign nationality and must be considered "foreign nationals" for the purposes of consular notification.
- C. Consular officials are entitled access to their nationals in detention and are entitled to provide consular assistance.
- D. When a government official becomes aware of the death of a foreign national, consular officials must be notified.
- E. When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or is incompetent, consular officials must be notified.
- F. When a foreign ship or aircraft wrecks or crashes, consular officials must be notified.
- G. Information on the closest consular office may be obtained 24 hours a day by telephoning the U.S. Department of State Operations Center at (202) 647-1512.
- H. In general, officers should permit a consular officer the same access to a foreign national that would be appropriate for an American consular in a similar situation in a foreign country.

VI. Asylum

- A. Foreign nationals who request asylum in the U.S. should be given full opportunity to have their requests considered.
- B. If a member of the Division is contacted by a person who requests asylum, the member will

immediately contact their supervisor who will notify the Chief, *Park Police Division* via chain of command, and refer the matter to the *United States Citizenship and Immigration Services* immediately. The member will also notify the U.S. Department of State - Diplomatic Security Service Command Center at: 1-866-217-2089 or (571) 345-3146

VII. Notification Information

- A. Immigration and Customs Enforcement (ICE)
 - 1. Officers are encouraged to seek assistance 24 hours a day from the ICE Law Enforcement Support Center (LESC) at (802) 872-6050 or via NLETS Administrative Message (AM) to VTINS07S0
 - 2. The agents at the Baltimore Field Office can be reached at (410) 637-4000, (1-800-1630 weekdays).
- B. United States Citizenship and Immigration Services - Officers may contact the USCIS National Customer Service Center line at (800) 375-5283
- C. U.S. Department of State's 24-hour Operations Center at (202) 647-1512.

Issuing Authority:

Chief Darryl McSwain
Maryland-National Capital Park Police
Montgomery County Division

Chief Stanley Johnson
Maryland-National Capital Park Police
Prince George's County Division

End of Directive

Appendix A
Sample Results from NCIC
Inquiry

SAMPLE RESPONSE FROM NCIC INQUIRY: ADMINISTRATIVE (CIVIL) WARRANTS

Administrative Warrant of Removal:

WARNING REGARDING FOLLOWING RECORD - SUBJECT HAS AN OUTSTANDING
ADMINISTRATIVE WARRANT OF REMOVAL FROM THE UNITED STATES CONTACT
LESC
AT(877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - FAILURE TO APPEAR FOR REMOVAL
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN
DOB/19510101
HGT/510 WGT/100 EYE/BRO HAI/BRO CTZ/FN SKN/DRK
SMT/SC LF ARM
SOC/777010000
OFF/ALIEN UNLAWFULLY PRESENT DUE TO ORDER OF REMOVAL OR EXCLUSION FROM THE
USA
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT
SUPPORT CENTER (877) 999-5372
NIC/N307770847 DTE/19980605 0000 EDT DLU/20090101 0600 EST
*****THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR CRIMINAL
JUSTICE PURPOSES.
*****END OF IMMIGRATION VIOLATOR FILE RESPONSE*****

Administrative Warrant of Arrest:

WARNING REGARDING FOLLOWING RECORD - SUBJECT OF NIC/N307770847 HAS AN OUTSTANDING
ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS FOR FAILURE TO COMPLY
WITH NS REGISTRATION. CONTACT LESC AT(877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION
AND AVAILABILITY OF BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - NS REGISTRATION
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN
DOB/19510101
HGT/510 WGT/100 EYE/BRO HAI/BRO CTZ/FN SKN/DRK
SMT/SC LF ARM
SOC/777010000
OFF/SOUGHT FOR VIOLATION OF NS REGISTRATION
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT
SUPPORT CENTER (877) 999-5372
NIC/N307770847 DTE/19980605 0000 EDT DLU/20090101 0600 EST
*****THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR CRIMINAL
JUSTICE PURPOSES.
*****END OF IMMIGRATION VIOLATOR FILE RESPONSE*****

Sample Response from NCIC Inquiry

SAMPLE RESPONSE FROM NCIC INQUIRY: CRIMINAL ICE WARRANT

One Example of a Criminal ICE Warrant:

***MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FOLONY RECORDS REGARDLESS OF EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE INTERSTATE EXTRADITION FROM THE INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS.

MKE/WATNED PERSON

EXL/1 - FULL EXTRADITION UNLES OTHERWISE NOTED IN THE IS FIELD

ORI/VTICE0900 NAM/TEST, TEST SEX/M RAC/W POB/EY

DOB/19000101 HGT/509 WGT/175 EYE/BRO HAI/BLK

SKN/LGT

MNU/PP-1234567 SOC/123456789

OFF/FRAUD - FALSE STATEMENT

DOW/20090114 OCS/2-M-TEST

VLD/20120411

MIS/CRIMINAL WARRANT IN VIOLATION OF TITLE 18 USC, SECTION 1542, FALSE STATEMENT

MIS/ON A PASSPORT APPLICATION; ISSUED BY THE US DISTRICT COURT, EASTERN

MIS/DISTRICT OF VIRGINIA

DNA/N

ORI IS ICE LESC 802-872-6020

DOB/19730515

AKA/TESTER, TEST

AKA/ALPHA, BET

MNU/PP-5678943

SOC/9854321

NIC/W123456789 DTE/20090115 1510 EST DLU/20120411 1301 EST

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI