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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 reluctance of eyewitnesses to come forward, unless mandated by Federal or State law, we will not 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 requests for asylum.

II. Definitions

- A. Asylum: a form of protection that allows non-citizens in United States to remain in the United States to avoid persecution in their home country.
- B. Consular Officer: A government official who works at an embassy or consulate to provide services to its same government's citizens abroad.
- 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: A non-criminal (civil) legal document issued by an immigration official for suspected violations of immigration laws. An administrative (civil) warrant 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. This generally occurs either after the service of criminal charges or when a judicial officer has ordered release on own recognizance, release from incarceration after pre-trial bail has been posted, or when 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 to officers.
 - 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 a person 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 within the authority of ICE. Thus, Park Police 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 under (287(g)) of the Federal Immigration and Nationality Act (INA)-("287(g) Agreement"). The Commission is not party to a 287(g) Agreement.

3. When an officer receives information from an NCIC database regarding an outstanding warrant, 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, when 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 based on 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 carried out, 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, it is determined that no criminal warrant exists, then the incident will be documented in 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 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.
- D. Officers are not prohibited from sharing information about a detainee’s citizenship or immigration status with federal immigration officials, but officers are not required to share information.
- E. Officers are generally prohibited from sharing personal information about a detainee, such as their name and address, with federal immigration officials for purposes of immigration enforcements, absent a judicial warrant.

V. Arresting Foreign Nationals

- A. Upon the arrest of a foreign national, the Division will offer to contact the arrestee’s appropriate Consulate and, in those instances where required, the appropriate Consulate will be contacted regardless of the arrestee’s wishes.
- B. If the officer becomes aware that the arrestee is a foreign national, the officer must advise the arrestee of the right to have their consular officials notified.

1. After determining the country of origin, the Division 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 phones 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 (including law enforcement) 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.

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- 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 or (800) 375-5283, 0800-1630 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

End of Directive

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Example: Administrative Warrant

WARNING REGARDING FOLLOWING RECORD - SUBJECT OF
NIC/ (N) 123456789 IS A PREVIOUSLY DEPORTED FELON.
SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT
OF ARREST FOR IMMIGRATION VIOLATIONS. CONTACT LESC AT
(877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND
AVAILABILITY OF BUREAU OF IMMIGRATION AND CUSTOMS
ENFORCEMENT DETAINER.
MKE/IMMIGRATION VIOLATION - DEPORTED FELON
ORI/VTINS1000 NAM/TEST, TEST SEX/M RAC/W POB/DF
DOB/19000101
HGT/505 WGT/145 EYE/BR0 HAI/BLK FBI/123456RA1 SKN/MED
SMT/SC R HND
FPC/12AB12345678A123AB12 MNU/AR-A123456789 SOC/123456789
OFF/SUBJECT IS A DEPORTED CRIMINAL/AGGRAVATED FELON
OCA/A12345678
VLD/20250325
MIS/ELP-DATE OF DEPORTATION 19971225 DEPORTATION CHARGE
D2A3
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW
ENFORCEMENT SUPPORT CENTER 877 999-5372
AKA/TESTER,TEST
AKA/TEST,TESTER
NIC/ N123456789 DTE/20250325 0000 EDT DLU/20250325 1332
EDT
***** THIS RECORD MAY ONLY BE USED BY CRIMINAL JUSTICE
AGENCIES FOR
CRIMINAL JUSTICE PURPOSES.
***** END OF IMMIGRATION VIOLATOR FILE RESPONSE. *****

Review Language Within the Narrative Portion of the NCIC Message

Administrative Warrant:

SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL, OR
SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS.

Criminal Warrant:

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

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Example: Criminal Warrant

***MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FELONY 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/WANTED PERSON

EXL/1 - FULL EXTRADITION UNLESS OTHERWISE NOTED IN THE MIS
FIELD ORI/MDICE1234 NAM/TEST, TEST SEX/M RAC/W ETN/H POB/EY
DOB/19000101 HGT/510 WGT/175 EYE/BRO HAI/BRO
SKN/LGT

MNU/PP-1234567 SOC/123456789

OFF/FRAUD - FALSE STATEMENT

DOW/20250325 OCA/2-M-TEST

VLD/20250325

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

MIS/STATEMENT ON A PASSPORT APPLICATION; ISSUED BY THE U S
DISTRICT COURT,

MIS/EASTERN DISTRICT OF VIRGINIA

DNA/N

ORI IS ICE LESC 802 872-6020

DOB/19000101

MNU/PP-1234567

SOC/123456789

NIC/ W 123456789 DTE/20253025 1428 EST DLU/20250325
1428 EST

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

Review Language Within the Narrative Portion of the NCIC Message

Administrative Warrant:

SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL, OR
SUBJECT HAS AN OUTSTANDING ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS.

Criminal Warrant:

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