	PARADISE VALLEY POLICE GENERAL ORDER Immigration	Order Number
		41.17
		Date
		01-12-17

41.17 Immigration

41.17.1 Policy

Law enforcement *officers shall* conduct contacts with individuals suspected of being unlawfully present in the United States in a manner consistent with federal and state laws. See A.R.S. § 11-1051(L). *Officers shall* protect the civil rights, privileges, and immunities of all persons. *Officers shall* not prolong a *stop*, detention, or *arrest* solely for the purpose of verifying immigration status. If an *officer* deviates from this policy, the *officer must* notify a *supervisor* at the first reasonable opportunity. *Officers shall* not contact, *stop*, detain, or *arrest* an individual based on race, color, or national origin, except when it is part of a suspect description linking that individual to a particular unlawful incident and said description is timely, reliable, and geographically relevant or when otherwise authorized by law. See A.R.S. § 11-1051(B).

This policy does not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law. Officers must understand and abide by current federal case law that limits their authority to enforce federal immigration law. Specifically, *Rodriguez v. United States* (SCOTUS 2015), which prohibits extending a stop or detention beyond the time lawful to perform the original authorized 4th Amendment seizure (unless a separate legal justification arises) and *Peoria v. Gonzales* (9th Cir.), which made clear that Arizona police officers do not have authority to enforce civil violations of federal immigration law.

Officers do not have the authority, under Arizona law, to demand a person identify themselves, except pursuant to specific statutory authority, such as 28-1595.B or 13-2412.

41.17.2 Consensual Contacts

State laws related to immigration enforcement neither expand nor limit an *officer's* ability to approach an individual and engage in a consensual contact. During a consensual contact, the *officer may* inquire about any subject matter. However, the individual contacted does not have to answer questions or produce any identification, but *may* choose to do so voluntarily.



PARADISE VALLEY POLICE GENERAL ORDER

Immigration

Order Number

41.17

Date

01-12-17

41.17.3 Individuals Lawfully *Stopped* or Detained

- A. *Officers shall* not prolong a *stop* or detention for an immigration inquiry to request or obtain verification of immigration status or prolong a criminal investigation or inquiry in order to accommodate or complete civil immigration-related tasks.

Officers must be aware of the potential interplay between Gonzales and Rodriguez (above), given that the 9th Circuit has ruled that officers (state, county, or municipal) do not have legal authority to detain a person or take other enforcement action for civil violations of federal immigration law. Therefore, unless the person consents or the officer knows the elements of a specific federal criminal immigration violation and has reasonable suspicion for that federal criminal immigration violation, the officer shall not prolong the original stop or detention beyond the time authorized for that original stop or detention. This means the reasonable attempt to determine the person's immigration status may have to be made after the person has been released from the original stop or detention. If an officer cannot determine if a federal immigration violation is criminal or civil within the time authorized for the original stop or detention, the officer is not legally authorized to prolong the detention for the purpose of determining immigration status.

- B. An *officer shall* presume that a person is lawfully present in the United States if the person provides any of the following: a valid Arizona driver license or non-operating identification license; a valid tribal enrollment card or other form of tribal identification; or any valid United States federal, state or local government issued identification, provided the issuing entity requires proof of legal presence in the United States. A.R.S. § 11-1051(B)(1)-(4).
- C. If an *officer* has *reasonable suspicion* that an individual is unlawfully present in the United States, based on all available facts, except race or ethnicity, the *officer shall* make a reasonable attempt to verify the individual's immigration status by contacting ICE/CBP, unless doing so would prolong the *stop* or detention, or the circumstances listed below apply. The *officer shall*, consistent with *Department* policies, document the verification attempt, including the basis for the *officer's reasonable suspicion* as to unlawful presence in a *Case Report*.

1. If it is not practicable for an *officer* to investigate or verify an individual's immigration status due to factors such as call load, staffing, emergencies,



PARADISE VALLEY POLICE GENERAL ORDER

Immigration

Order Number

41.17

Date

01-12-17

other present duties, availability of *personnel* on scene, location, available back-up, ability to contact *ICE/CBP*, or the availability of *ICE/CBP*, the *officer may*, consistent with *Department* policies, use discretion not to pursue an investigation into the individual's immigration status, but *shall* document the justification for such a decision in a *Case Report*.

2. If an *officer* has *reasonable suspicion* that an individual is unlawfully present, but believes that investigating or verifying immigration status *may* hinder or obstruct an investigation, the *officer may*, consistent with *Department* policies, use discretion not to inquire into the individual's immigration status. A.R.S. § 11-1051(B). The *officer shall*, consistent with *Department* policies, document the justification for such a decision in a *Case Report*. Factors to consider that *may* indicate an immigration inquiry could hinder or obstruct an investigation *may* include the need for suspect, *victim*, and witness cooperation in any investigation.

41.17.4 Civil and Criminal Immigration Violations

If, after contacting *ICE/CBP*, an *officer* has *probable cause* to believe that an individual has committed a civil immigration violation, the *officer* has no authority to *arrest* the individual and *shall* not detain the individual longer than necessary to complete the state law basis for the contact.

If after contacting *ICE/CBP*, an *officer* has *probable cause* to believe that an individual has committed a federal criminal immigration violation, the officer should determine if *ICE/CBP* or the County Jail will take custody of the person, then the *officer may arrest* the individual. *Officers may* wait a reasonable time period for *ICE/CBP* response regarding whether they will take custody of the person and *should* document any response or direction from *ICE/CBP*. If *ICE/CBP* fails to respond or take disposition within a reasonable amount of time and there is no other criminal violation, the *officer shall* release the individual.

If *ICE/CBP* agrees to take disposition of the individual, *officers may* assist by transporting the individual to an *ICE/CBP* facility if *ICE/CBP* so directs. A.R.S. § 11-1051(D). When making the determination to transport, *officers shall*, consistent with *Department* policies, consider *Department* and division priorities.

Officers shall not *arrest* an individual simply because the individual lacks proper documentation.



PARADISE VALLEY POLICE GENERAL ORDER

Immigration

Order Number

41.17

Date

01-12-17

41.17.5 Arrests

An *officer shall* not prolong an *arrest* or detention for an immigration inquiry, including to request or obtain verification of immigration status.

If, after reviewing all available facts (except race or ethnicity) and/or *evidence*, an *officer* has *reasonable suspicion* that an arrestee is unlawfully present in the United States, a reasonable attempt *shall* be made to contact *ICE/CBP* to verify the arrestee's immigration status prior to releasing the arrestee, but release *may* not be delayed in order to request or obtain verification. The presumptions and the exceptions listed in this policy apply to this paragraph. *Officers shall*, consistent with *Department* policies, document any response or direction from *ICE/CBP* in a *Case Report*.

The *officer shall* proceed to handle the arrestee according to *Department* policy, which *may* result in the issuance of a citation, referral, and the release of the arrestee.


41.17.6 Contact with ICE/CBP

Officers attempting to verify an individual's immigration status *shall* do so by contacting Communications. Communications *shall* submit an inquiry through the *National Law Enforcement Telecommunications System (NLETS)* for verification of an individual's immigration status. After a response is received from *ICE/CBP*, Communications *shall* forward the information to the *officer*. If information verifying an individual's immigration status is received from another source (such as an *ICE/CBP* officer on scene), the verification *shall*, consistent with *Department* policies, be documented in a *Case Report*.

If an *officer* wishes to request verification prior to the release of an individual or arrestee, Communications *may* follow the *NLETS* submission with a phone call to the *Law Enforcement Support Center (LESC)*. As explained above, however, *officers may* not extend a *stop* or detention in order to make a verification request or to wait for a verification response.

41.17.7 Consular Notification

Officers should follow consular notification procedures set forth in the *Vienna Convention on Consular Relations* (the Convention) and Arizona statute. See G.O. #1.6.7.

	PARADISE VALLEY POLICE GENERAL ORDER Immigration	Order Number 41.17
		Date 01-12-17

41.17.8 U-Visas

- A. *U-Visas* are available through *United States Citizenship and Immigration Services* for immigrants who are assisting or who have assisted officials in the criminal justice system in criminal investigations or prosecutions. To qualify for a *U-Visa*, the person *must* be a current or former *victim*, witness, or affected family member. If an *officer* or detective believes a *victim* or witness is an appropriate candidate, the *victim* or witness *may* be referred to the appropriate prosecuting agency or to a private attorney for assistance.
- B. The *Criminal Investigations Unit* has been designated as the *Department's* certifying officials for the *U-Visa* program. It is this *officer's* responsibility to determine if the applicant meets the conditions required on the *U-Nonimmigrant Status Certification Federal Form (I-918, Supplement B)*, a copy of which *will* be provided by the person requesting the *U-Visa*. If the qualifying criteria have been met, the certifying official *shall* complete the form in detail and sign and return the form.

If the applicant is requesting a *U-Visa* based upon past cooperation, the Criminal Investigations Unit may document specific details they believe merit consideration and forward it to the Division Commander for approval. The ultimate decision regarding the issuance of the *U-Visa* is made by the federal government; the applicant cannot proceed, however, without the completion of the form by the Department.