

DOWNEY POLICE DEPARTMENT

TRAINING



BULLETIN

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Chief of Police

No. 18-04

Immigration Violations / ICE Requests

Effective immediately the attached "Immigration Policy" will be used when dealing with situations involving immigration violations and interactions with Immigration and Customs Enforcement (ICE). Below is a brief overview of the procedures to follow when faced with situations involving ICE agents. Please refer to the attached policy for further.

A. ICE Interviews

Before an individual in custody is made available for an interview with ICE (whether in person or by phone, and including by being located in an area of the jail where ICE has the ability to approach the individual) for questioning the following directives shall be followed:

- The individual must be given a copy of the attached written consent form, titled: "Consent Form for Immigration and Customs Enforcement Interview", which explains that the purpose of the interview is to investigate potential immigration violations, that the interview is voluntary, and that he or she may decline to be interviewed and/or may choose to be interviewed only with his or her attorney present.
- The consent form shall be provided in the individual's preferred language, as indicated by the individual.
- The individual may indicate whether he or she consents to the interview by marking the form.
- If the individual does not affirmatively consent to the interview by signing the form, the individual shall not be made available for an ICE interview.
- If the individual indicates that he or she is only willing to speak to ICE with an attorney present, the individual shall not be made available for an interview until ICE has scheduled a meeting with the individual's attorney, and the attorney is present.
- The officer must also sign and date the form, indicating that it has been provided to the individual in his or her preferred language and when this occurred.

B. ICE Hold, Notification, or Transfer Requests

Upon receiving an ICE hold, notification, or transfer request for any individual:

- The individual shall promptly be given a copy of the request.
- The individual shall be given a copy of the attached notification form, titled: "Immigration and Customs Enforcement Request", indicating whether the Department intends to comply with the request. Any decision to comply shall be made in conformance with Department policy and Gov. Code §§ 7282-7282.5. If the Department has not yet made a decision about whether it intends to comply, it shall so inform the individual, and shall also inform the individual when it expects to make a decision and the criteria it will use in making that decision.
 - If the Department intends to comply with an ICE notification request, or has not yet made a decision about compliance, the individual shall be given the opportunity to complete the notification form with contact information for his or her attorney or any other individual the inmate chooses to designate.
 - If the Department notifies ICE that an individual is being, or will be, released on a certain date and time, the officer providing that information to ICE shall promptly provide the same notice, using form titled: "Immigration and Customs Enforcement Notified of Your Release", to the individual. The Department also shall notify the individual's attorney or other designee, using the contact information provided by the individual on the form titled: "Immigration and Customs Enforcement Request." If notification to the attorney or designee is provided by phone, the Department shall subsequently provide, by email, the attorney or designee with a written copy of the notice given on the form titled: "Immigration and Customs Enforcement Notified of Your Release."

C. Public Access to Records

Upon receiving any request pursuant to the California Public Records Act, GOVT. CODE §§ 6250 - 6276.48 for information related to ICE's access to individuals, responsive records shall be produced consistent with the Act's requirements.

The described forms can be located in Sharepoint under "Forms, Reports and Publications" in both Spanish and English. If the form is needed in another language, the forms can be located at <http://caimmigrantlaws.weebly.com/resources.html>



Consent Form for Immigration and Customs Enforcement Interview

DR# _____ - _____

- Solicito recibir este formulario en español. / I request to receive this form in Spanish.
- 請寄來中文表格。 / I request to receive this form in Chinese.
- Nais ko pong makiusap na matanggap ang forma na ito sa Tagalog. / I request to receive this form in Tagalog.
- Tôi yêu cầu để nhận mẫu đơn này trong tiếng Việt. / I request to receive this form in Vietnamese.
- 저는 이서류를 한국어로 번역된 것으로 받고 싶습니다 / I request to receive this form in Korean.

Re: Consent Form for Immigration and Customs Enforcement Interview

This notice is to inform you that Immigration and Customs Enforcement ("ICE") wants to interview you, either in person or by phone, to get information regarding your immigration status. **You have the right to agree or to refuse this interview.**

This notice is intended to provide you with information about your rights:

- (1) **ICE interviews are voluntary.** You can say no to an interview by ICE.
- (2) **You have the right to remain silent.** Even if you decide to say yes to an interview, you can refuse to answer any questions, including questions about your immigration status. This includes where you were born and how you came to the United States. Anything you say may be used against you in criminal and/or immigration proceedings. You should not sign any forms you do not understand.
- (3) **You may request to have an attorney present during any interview.** If you request an attorney in this form below, the jail may not bring you to an ICE interview without your attorney present.
- (4) **If you are already in removal (deportation) proceedings,** you have the right to have your immigration lawyer present during any questioning. You should tell ICE to contact your attorney (if you have one) before the interview.

By checking the box and signing below, you are indicating whether or not you agree to an interview with ICE. The jail or police officer will inform ICE of your decision. The jail is only allowed to bring you to an ICE interview if you agree.

Name (Print): _____

Booking #: _____

Signature: _____

_____ I do not agree to speak to ICE.

_____ I agree to speak with ICE, **only** with my attorney present.

_____ I agree to speak with ICE, **without** an attorney present.

FOR LAW ENFORCEMENT PERSONNEL:

Served by : _____ ID #: _____ Date: _____



Immigration and Customs Enforcement Notified of Your Release



DR# _____ - _____

- Solicito recibir este formulario en español. / I request to receive this form in Spanish.
- 請寄來中文表格。 / I request to receive this form in Chinese.
- Nais ko pong makiusap na matanggap ang forma na ito sa Tagalog. / I request to receive this form in Tagalog.
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Date: _____

Dear _____:
Name

Under the Transparent Review of Unjust Transfers and Holds ("TRUTH") Act, we are required to notify you and your attorney or another person that you choose in writing if we inform Immigration and Customs Enforcement ("ICE") of your release.

The purpose of this letter is to inform you that on _____ at _____, we notified ICE
Date of notice to ICE Time of notice to ICE

that you are scheduled to be released on _____ at _____. We have provided this
Date of release Time of release

same information to your _____ attorney / _____ designee:
(check one)

_____ at _____
Name of attorney or designee Email and/or Phone Number

Please contact _____ at 562-861-0771 if you have any questions or concerns.
Name/ID # of Handling Officer

FOR LAW ENFORCEMENT PERSONNEL:

Served by : _____ ID #: _____ Date: _____



Immigration and Customs Enforcement Request



DR# _____ - _____

- Solicito recibir este formulario en español. / I request to receive this form in Spanish.
- 請寄來中文表格。 / I request to receive this form in Chinese.
- Nais ko pong makiusap na matanggap ang forma na ito sa Tagalog. / I request to receive this form in Tagalog.
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- 저는 이서류를 한국어로 번역된 것으로 받고 싶습니다 / I request to receive this form in Korean.

Date: _____

Dear _____:
Name

The purpose of this letter is to inform you that Immigration and Customs Enforcement ("ICE") has requested that we:

- _____ Hold you for up to 48 hours after your release from criminal custody to allow ICE time to take you into immigration detention. (I-247 or I-247D)
- _____ Notify ICE of your release date, so that ICE may detain you. (I-247N)
- _____ Transfer you into immigration detention. (I-247X or other request)

Under the Transparent Review of Unjust Transfers and Holds (TRUTH) Act, we are required to provide you with a copy of ICE's request and inform you whether we intend to comply with the request. A copy of the request is attached.

We _____ DO / _____ DO NOT intend to comply with ICE's request.
(check one)

You will promptly receive a separate letter if we notify ICE of your release date. **We are required to notify both you and your attorney or another person that you choose if we notify ICE of your release. Please provide contact information, including phone number and/or email, for your attorney or another person that you choose on the next page.**

Please contact _____ at 562-861-0771 if you have any questions or concerns.
Name/ID # of Handling Officer

FOR LAW ENFORCEMENT PERSONNEL:

Served by : _____ ID #: _____ Date: _____

Name of Detained Individual: _____

Attorney or Designee (choose one): _____

Name of Attorney or Designee: _____

Email for Attorney or Designee: _____

Phone Number for Attorney or Designee: _____

Immigration Violations

413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Downey Police Department relating to immigration and interacting with federal immigration officials.

413.2 POLICY

It is the policy of the Downey Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

413.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity or national origin in any way that would violate the United States or California constitutions.

413.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

413.5 DETENTIONS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 UCS § 1326(a) (unlawful reentry) that may be subject to enhancement may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

Downey Police Department

CA Policy Manual

Immigration Violations

An officer shall not detain any individual, for any length of time, for any other criminal violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

413.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a), the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Transfer the person to jail.

413.6 FEDERAL REQUESTS FOR ASSISTANCE

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

413.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

413.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

- (a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
- (b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state penitentiary.
- (c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

Downey Police Department

CA Policy Manual

Immigration Violations

- (d) The individual is a current registrant on the California Sex and Arson Registry.
- (e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

413.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification or transfer request along with information as to whether the Downey Police Department intends to comply with the request (Government Code § 7283.1).

If the Downey Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

413.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Downey Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

413.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist:

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

413.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Downey Police Department

CA Policy Manual

Immigration Violations

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Bureau supervisor assigned to oversee the handling of any related case. The Detective Bureau supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
 - 2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
- (e) Inform the victim liaison of any requests and their status.

413.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

413.8.2 REPORTING TO LEGISLATURE

The Detective Bureau supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

413.9 TRAINING

The Training Coordinator should ensure that all appropriate members receive training on immigration issues.

Downey Police Department

CA Policy Manual

Immigration Violations

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.
- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).