

Burleson Police Department

Administrative Policy and Procedures

Number: 08-004

Document Title: Immigration and Customs Enforcement

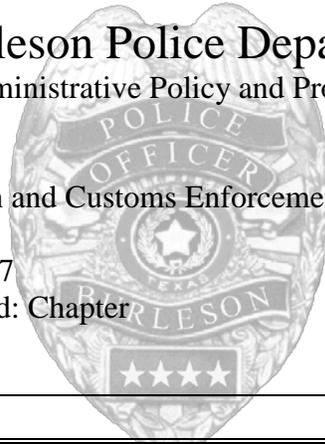
Effective Date: 08/25/2017

Last Revised Date: 08/18/2017

CALEA Standards Referenced: Chapter

ISSUING AUTHORITY: _____

Billy Cordell, Chief of Police



I. Purpose:

The purpose of this policy is to establish procedures outlining immigration enforcement for sworn officers and civilian employees (Communication Operators) of the Burleson Police Department.

II. Policy:

It is the policy of the Burleson Police Department that sworn officers and civilian employees shall comply with all applicable state and federal laws regarding immigration enforcement issues and the constitutional limitations on that authority. Sworn officer may not consider race, color, religion, language, or national origin while enforcing laws except to the extent permitted by the Constitution of the United States or of the State of Texas.

III. DEFINITIONS:

ICE: "U.S. Immigration and Customs Enforcement" – A federal law enforcement agency under the United States Department of Homeland Security.

Officer: A sworn peace officer as defined by the Code of Criminal Procedure of the State of Texas that is employed by the Burleson Police Department and acting under the scope of their employment with the Department.

Departmental Employees: Sworn officers or civilian employees of the Burleson Police Department.

Proof of Lawful Immigration Status: Shall include a U.S. government issued photographic identification card or a document issued by the federal government indicating current legal immigrant status. It shall also include, for these limited purposes, a Texas driver's license or a similar government issued identification.

Detainer Request: A 48-hour hold issued by ICE based upon probable cause that a person has violated immigration restrictions and is a civil in nature.

Lawful Detention: A detention based upon reasonable suspicion that the detainee has committed, is committing or is about to commit a criminal offense other than an immigration violation. For purposes of this directive, the term “lawful detention” shall not include detention of a person who is a victim or witness of an offense or is reporting a criminal offense.

Lawful Arrest: An arrest based upon probable cause that the arrestee has committed a criminal offense other than an immigration violation.

IV. Inquiries Regarding Immigration Status

Officers will follow this policy when inquiring about the immigration status of an individual. Nothing in this section is intended to prohibit an officer’s sending information to or receiving information to or from any federal agency charged with enforcing immigration issues or from any local campus police agency.

- A. During a lawful detention or arrest, officers may inquire about the detainee’s immigration status, Officers should be mindful that if the detainee has provided Proof of Lawful Immigration Status, further inquiries about immigration status are not necessary.
- B. During a lawful detention or arrest, officers may make inquiries via TCIC/NCIC to determine if the detainee is the subject of any ICE warrants or detainer request. Officers shall not take the detainee into custody based solely upon an ICE detainer request.
- C. During a lawful detention or arrest, officers may make inquiries via the local ICE agent representative. Officers shall be mindful that a person cannot be detained for an extended period of time to await the response of an ICE agent or representative. An ICE agent must respond to the officer’s location to take charge of the individual if the person is not arrested on a separate criminal charge. If the person is not arrested for a separate criminal charge, the officer shall not transport the individual to any facility to await the arrival of an ICE agent.
- D. Officers are reminded that a person who is lawfully detained is not obligated to respond to questions, including questions about their identity and immigration status. Officers shall not compel a detained person to provide identification. Officers shall not arrest a person who refuses to identify themselves during a lawful detention, unless such a refusal violates state law. Officers may arrest a lawfully detained person if the person is untruthful about their identity pursuant to Penal Code 38.02.

- E. Officers are reminded that a person under arrest is not required to answer any questions except to provide their name, residence address and date of birth.
- F. Officers may not inquire into the immigration status of a victim of, or witness to an alleged criminal offense unless, as provided by Article 2.13 Code of Criminal Procedure, the officer determines that the inquiry is necessary to investigate the offense or provide the victim or witness with information about federal visa designed to protect individuals providing assistance to law enforcement. If the officer determines that there is probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense, the officer may inquire into the nationality or immigration status of a victim of or witness to a criminal offense.

V. Detainers:

- A. The Burleson Police Department shall honor ICE detainers for a period no longer than 48 hours after the point the arrested person has posted bond or is to be released on a personal bond.
- B. If an arrested person produces Proof of Lawful Immigration Status, the Department shall not honor a detainer request. The arrested person may be released following standard procedures. The officer shall make photocopies establishing Proof of Lawful Immigration Status. These records shall be retained per Department policy and will be noted in the police report.
- C. If an arrested person fails to show proof of Lawful Immigration Status, Officer may contact ICE to determine if ICE wants to respond to the detention center for additional investigation.
- D. The presence or absence of a detainer shall not affect normal transport procedures. Arrested persons shall be transported to the detention center as per standard operating procedures. ICE shall be notified of the transport, if applicable.
- E. Should personnel receive a writ or other court notice regarding the person detained for an ICE hold, the employee will contact the on-duty supervisor.

VI. Enforcement Cooperation:

Pursuant to Government Code Section 752.053, the City does not prohibit or materially limit Officer or civilian staff from assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance. Officers and civilian staff are authorized to assist immigration officials in enforcement actions pursuant to the following rules.

1. Officers will not interfere with a request from ICE to interview an arrested person.
2. Any officer or who receives a request to assist in ICE enforcement actions, other than a detainer request, shall immediately contact their on-duty supervisor for direction.