

IMMIGRATION PROCEDURES	Operations Order 4.48
PHOENIX POLICE DEPARTMENT	Rev. 07/17 PAGE 1

1. **GENERAL INFORMATION**

- A. Sanctity of Life – The Department respects the dignity of all persons and recognizes the sanctity of human life, rights, and liberty.
- B. The Department shall conduct all immigration enforcement activities in a manner consistent with federal and state laws regulating immigration and protecting the civil rights, privileges, and immunities of all persons.
- This policy will not limit the enforcement of federal and state immigration laws to less than the full extent permitted by law.
- C. Officers **will not** arrest, stop, detain, or contact an individual based on race, religion, national origin, gender, sexual orientation, or economic status, unless it is part of a suspect description or otherwise authorized by law.
- D. If officers need to contact ICE to verify any person's immigration status, a VCB desk sergeant **must first** be contacted, [REDACTED] for approval.
- If the VCB sergeant is not available, officers must contact an on-duty sergeant for approval.
 - Any contact with ICE **must be** documented by VCB desk personnel who will collect immigration related data.
 - A legal advisor will be on-call 24/7 for immigration related questions.
- E. There are two situations where officers are mandated by [Arizona Revised Statute \(ARS\) 11-1051](#) to contact the federal government [U.S. Immigration and Customs Enforcement (ICE)] to verify a person's immigration status:
- (1) A person is under ARREST based on probable cause (adult or juvenile) (see section 4 of this order for more information).
 - This means ALL persons ARRESTED regardless of lawful status in the United States (U.S.), race, color, national origin, OR presumptive ID; the arrestee shall have their immigration status verified by the federal government prior to release of the arrestee.
 - (2) When a person is lawfully stopped/detained for a state or local crime AND only when the officer develops further reasonable suspicion the detained person is unlawfully present in the U.S. (see section 5 of this order for more information).
- F. Consensual Contacts - Officers **may not** make immigration status inquiries during initial consensual contacts with members of the public.
- There is generally no obligation on the part of the persons contacted to cooperate with law enforcement or to assist in an investigation.
- G. Victims/Witnesses - Because victims and witnesses are not arrested or lawfully stopped/detained for purposes of the 4th Amendment, officers **must not** ask about immigration status or call ICE to verify victims' or witnesses' immigration status.

IMMIGRATION PROCEDURES	Operations Order 4.48
PHOENIX POLICE DEPARTMENT	Rev. 07/17 PAGE 2

1. H. Traffic Enforcement (Drivers/Passengers) – Officers **must not** ask immigration related questions or verify immigration status while conducting traffic enforcement unless required by state law as specified above in sections 1.E.(1) and (2) of this order.
 - Current state law does not place a legal requirement on passengers to produce identification and officers **must not** ask for identification for immigration purposes.
 - I. Officers **must not** hold a person for longer than the purpose of the original stop to verify immigration status.
 - J. The only time an officer will transport a person to ICE is under one of the following conditions:
 - (1) ICE verifies the person is wanted for a **criminal immigration** violation AND there are no state criminal charges.
 - (2) The person has a civil immigration violation **only** and **consents** to a transport.
2. **SCHOOL RESOURCE OFFICERS (SROS)** - The mission of the SRO Program is to foster trust and cooperation when interacting with students and to provide for the overall safety and security of everyone on school campuses.
 - A. To achieve this mission, the Department has adopted the triad concept of community policing with respect to SRO duties.
 - B. SROs shall first place emphasis on being educators and mentors and only act as enforcement officers when necessary.
 - C. SROs or any other officers **must not** ask immigration questions or contact ICE for any purposes while on school grounds.
 - When off school grounds, if officers need to contact ICE to verify any person's immigration status, a VCB desk sergeant **must first** be contacted, [REDACTED] for approval.
 - * If the VCB sergeant is not available, officers must contact an on-duty sergeant for approval.
 - * Any contact with ICE **must be** documented by VCB desk personnel who will collect immigration related data.

3. **DEFINITIONS**

A. Bias-Based Profiling	Selecting a person or persons for enforcement action based on a common trait of the group; this includes, but is not limited to race, ethnic background, cultural group, religion, national origin, gender, age, sexual orientation, or economic status; this includes "racial profiling"
B. Consensual Contact	Voluntary interaction with a person where a reasonable person would clearly understand they are free to leave or decline the officer's request
C. Presumptive Identification (For persons lawfully stopped or detained/not under arrest)	A person is presumed not to be unlawfully present in the U.S. if the person provides to a law enforcement officer or agency any of the following: <ul style="list-style-type: none"> • A valid Arizona driver license • A valid Arizona non-operating identification license • A valid tribal enrollment card or other form of tribal identification • If the entity requires proof of legal presence in the U.S. before issuance; any valid U.S. federal, state, or local government issued identification.
D. Probable Cause to Arrest	Facts and circumstances, and any rational inferences therefrom, that would lead a reasonable and prudent officer to believe a crime has been or is being committed, and the subject to be arrested committed the crime; an officer may arrest based on probable cause
E. Racial Profiling	The reliance on race, skin color, and/or ethnicity as an indication of criminality, including reasonable suspicion or probable cause, except when part of a suspect description

IMMIGRATION PROCEDURES		Operations Order 4.48
PHOENIX POLICE DEPARTMENT	Rev. 07/17	PAGE 3

3. **DEFINITIONS** (Continued)

F. Reasonable Suspicion	Facts and circumstances, and any rational inferences therefrom, that would lead a reasonable and prudent officer to believe crime is/was afoot (has been, is being, or is about to be committed); the officer need not know the exact nature of the crime; an officer may stop or detain a person based on reasonable suspicion, but may not arrest or search absent probable cause or reasonable suspicion the detained person is armed and dangerous
G. Stop/Lawful Detention	A temporary detention of a person for investigation (a temporary detention is considered a seizure of a person and is, therefore, governed by the Fourth Amendment); a stop occurs when a reasonable person under the circumstances would believe that he/she is not free to go; a stop must be based on at least reasonable suspicion; a person is stopped when such person submits to a show of authority or physical force.

4. **ARRESTS**

A. **ALL** arrested persons (adults and juveniles whether booked/detained **or** cited in lieu of detention (CLD'd)/referred and released) regardless of lawful status in the U.S., race, color, national origin, or presumptive ID, **shall** have their immigration status verified by the federal government.

- Presentation by the arrestee of presumptive ID **does not** meet the requirement to verify immigration status under state law.
- (1) Officers **must not** detain a person solely for determining immigration status longer than completion of the original stop/detention (once the purpose for the original stop/detention is complete or the ATTC/juvenile referral is complete, officers cannot continue detaining the person to verify immigration status).
- (2) If booking an adult, jail personnel will verify immigration status.
- (3) If issuing a CLD to an adult or for all arrested juveniles [CLD'd, referred and released for a crime, or detained at the Juvenile Court Center (JCC)], the officer **must first** contact the VCB desk sergeant, [REDACTED] for approval to contact ICE.
 - If the VCB sergeant is not available, officers must contact an on-duty sergeant for approval.
 - Any contact with ICE **must be** documented by VCB desk personnel who will collect immigration related data

5. **LAWFUL DETENTION AND REASONABLE SUSPICION OF AN IMMIGRATION VIOLATION**

A. If a person is detained for a violation of any law and during this detention an officer develops reasonable suspicion the detained person is unlawfully present in the U.S., the officer shall make a reasonable attempt to contact ICE and verify the person's immigration status (ARS 11-1051.B).

- Officers **must not** hold a person for longer than the purpose of the original stop to verify immigration status.

B. There are three **EXCEPTIONS** when it is **NOT** necessary to contact ICE to verify immigration status for persons lawfully stopped/detained and there is reasonable suspicion the person is unlawfully present in the U.S:

(1) When it is not practicable

- For example: work load, criticality of incident and other present duties, available personnel on scene, location, available back-up, and ability to contact ICE.

(2) When the determination may hinder or obstruct an investigation

- The officer should consider when or whether to investigate immigration status in light of the need for suspect, victim, and witness cooperation in an investigation.

IMMIGRATION PROCEDURES	Operations Order 4.48
PHOENIX POLICE DEPARTMENT	Rev. 07/17 PAGE 4

5. B. (2) (Continued)

- * This consideration is not limited to the investigation for which the person has been detained, such as domestic violence investigations, complex investigations of money laundering, human trafficking, and drug smuggling, which may require significant cooperation of those involved.

(3) When the person provides presumptive identification

- See section 3.C of this order for a list of presumptive identification.

6. **DOCUMENTATION**

- Any contact with ICE **must be** documented by VCB desk personnel who will collect immigration related data.

7. **CONTACT WITH ICE**

A. When officers contact ICE at any time and ICE advises there are federal charges, officers must ask if the charges are federal criminal charges or federal civil charges.

- State and local officers have no authority to enforce federal civil immigration violations.
- A legal advisor will be on-call 24/7 for immigration related questions

B. Federal Civil Charges

(1) When ICE advises there are only **federal civil** charges and there are **NO state and/or local** charges, refer to the below procedures:

- (a) The officer may not extend a stop/detention based upon the federal civil charges.
- (b) The officer will not extend the stop/detention to wait for ICE to respond.
- (c) Officers will not transport the person based solely upon a federal civil violation without the person's consent.
- (d) If the person has been stopped/detained, he/she must be released after the initial investigation is complete unless the officer has developed additional reasonable suspicion to detain the person to investigate a violation of criminal activity.

(2) If there is a **federal civil** charge and the person **is under arrest for a state and/or local** charge/s:

- The person will be booked into jail on the state and/or local charge/s.
- * A HOLD for the federal charge will be placed on the person for ICE or other appropriate federal agency.

C. Federal Criminal Charges

(1) When ICE advises there are **federal criminal** charges and there are **NO state and/or local** charges, refer to the below procedures:

- The officer shall determine whether ICE will respond to take the person into custody or whether the officer should arrest the person and transport to ICE or a local, state, or federal jail facility.

IMMIGRATION PROCEDURES	Operations Order 4.48
PHOENIX POLICE DEPARTMENT	Rev. 07/17 PAGE 5

7. C. (2) If there is a **federal criminal** charge and the person **is under arrest for a state and/or local** charge/s:

- Follow the procedures as outlined above in section 7.B.(2) of this order.

D. **ICE Is Unable To Determine Federal Civil or Criminal Charges**

- (1) If ICE is unable to verify whether the federal charge is civil or criminal, then the charge will be treated as civil.

- (a) If there are **NO** state and/or local charges, the procedures outlined above in section 7.B.(1) of this order will be followed.

- (b) If the person **is under arrest** for state and/or local charges, the procedures outlined above in section 7.B.(2) of this order will be followed.

8. **DETENTION AND REMOVAL ORDER (DRO) HOLDS**

- A. The Detention and Removal Office (DRO) is a unit of ICE that has the responsibility of detaining and transporting undocumented persons apprehended by ICE, Customs and Border Protection (CBP), or local law enforcement.

- B. Once ICE has determined a person is unlawfully present in the U.S., ICE will issue a DRO hold, which can be for criminal or civil violations.

- This hold will be similar to a hit from a warrant when a person's information is run through the National Crime Information Center (NCIC).

- C. If an officer receives a DRO notification from ICE, he/she must call the phone number on the DRO notification to determine whether the DRO hold is criminal or civil.

9. **ASSISTANCE WITH DROP HOUSES, HUMAN SMUGGLING, AND LOAD VEHICLES**

- A. When contact with ICE is deemed necessary, the following steps will be taken:

- A patrol supervisor will contact the Violent Crimes Bureau (VCB) desk sergeant and provide a detailed account of the situation.
 - * The VCB desk sergeant will contact ICE and based upon the ICE Criteria Checklist for Response form, determine if ICE will respond, or if the incident requires notification of the VCB Home Invasion Kidnapping Enforcement (HIKE) sergeant and/or other investigative detail supervisor/s (Department of Public Safety (DPS) Illegal Immigration Prevention Apprehension Co-op Team-IIMPACT).
 - * The VCB desk sergeant will document each reported incident along with the response by ICE.
 - * The VCB desk sergeant will advise the patrol supervisor of a response by ICE and/or other investigative detail.

10. **NCIC ICE IMMIGRATION VIOLATOR FILE**

- A. ICE keeps a record of aliens who have been convicted of a felony crime in the U.S. and have since been deported to their country of citizenship.

- This record is known as the Deported Felon File which is located in the NCIC Immigration Violator File.

- B. The Immigration Violator File contains the following additional categories:

IMMIGRATION PROCEDURES	Operations Order 4.48
PHOENIX POLICE DEPARTMENT	Rev. 07/17 PAGE 6

10. B. The Immigration Violator File contains the following additional categories:

- (1) The ICE Absconder category, which contains the records for individuals with an outstanding administrative warrant of removal from the U.S. who have unlawfully remained in the U.S.
- (2) The ICE National Security Entry/Exit Registration System (NSEERS) category, which contains the records for individuals whom the Department of Homeland Security (DHS) and ICE have determined have violated registration requirements for entry into the U.S.
 - (a) The NCIC query results will advise whether the information displayed is an Administrative Warrant hit or a Deported Felon File hit.
 - (b) Police officers **must not** take enforcement action on Administrative Warrants or NSEERS hits as these are civil federal matters.

C. If there are **local charges** along with a **Deported Felon File notification**, follow the procedures as outlined in section 7.B.(2) of this order.

D. If an officer runs a person who is the subject of a **Deported Felon File notification**, and there are **NO local charges**, the following steps will be taken:

- (1) Verify through physical description (scars, marks, tattoos, etc.), admission, or other available information, the person on the hit is the same person.
- (2) Contact the ICE Law Enforcement Service Center in Vermont through the communications dispatcher or call directly using the phone number listed for immediate notification confirmation.
- (3) Once the hit has been confirmed, officers will positively identify the subject through LiveScan or fingerprint the individual and fax the fingerprints to ICE.
- (4) After the subject has been positively identified, the ICE Law Enforcement Agency Response (LEAR) Unit (or other local ICE office) may be contacted at [REDACTED] for pick-up and disposition of the subject.
 - Officers may also take the subject to the ICE Detention and Removal Office at 2035 North Central Avenue for subject turnover to an ICE agent.
 - Officers will call the LEAR Unit before transporting a subject.

11. **FEDERAL FIREARMS REGULATIONS**

- Under Title 18, U.S.C., Chapter 44, Section 921(20), any person unlawfully present in the U.S. is prohibited from owning or possessing a firearm.
 - * If the status of a prohibited possessor cannot be verified, an IR will be completed and the firearm impounded as Evidence.
 - * A Gun Squad detective will be on-call 24/7 for questions concerning prohibited possessor status and misconduct involving weapons.

12. **U-VISA CERTIFICATION FORMS**

- A. Available through the United States Citizenship and Immigration Services for immigrants who are current or former victims, or affected eligible family members who are assisting officials in the criminal justice system with the investigation and prosecution of criminal activity.
- B. All requests for U-Visa certifications (form I-918B) will be assigned to the case detective who will determine if the applicant meets the conditions required on form I-918B in regards to the type of crime committed and the victim's involvement: for example, the applicant is a victim and was/is being cooperative and possesses relevant information regarding the case.

IMMIGRATION PROCEDURES	Operations Order 4.48
PHOENIX POLICE DEPARTMENT	Rev. 07/17 PAGE 7

12. C. The assigned detective will forward form I-918B to the authorized certified signer within their respective bureau (designated by the bureau commander/administrator) with a recommendation for the signer to either sign or not sign the form.
- D. Once reviewed and either signed or not signed by the authorized certified signer, the form will be returned to the assigned case detective for disposition (returned to the victim/attorney/representative).
13. **ICE NOTIFICATION**
 - HIKE will be responsible for the daily review of the HIS/ICE Notification Report.
 - * HIKE will forward a copy of the HSI/ICE Notification Report to ICE to ensure compliance with federal and state reporting guidelines.
14. **ICE CONTACT INFORMATION**
 - A. [REDACTED] ICE 24 hour contact (Communications Center) – Call must be made by a custodial officer and request to be transferred to the Phoenix DRO Office
 - B. [REDACTED] ICE Law Enforcement Support Center (NLETS Inquiry Only – No phone support)
 - C. [REDACTED] Tucson CBP