

Immigration Violations

428.1 PURPOSE AND SCOPE

The immigration status of individuals alone is not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of alien status. Confidence in this commitment will increase the effectiveness of the department in protecting and serving the entire community. (Please refer to SCLECA Protocol 99-1 "Immigration".)

Adopted 5-22-13 by Chief Thomas E. Schwedhelm.

428.2 DEPARTMENT POLICY

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of United States Code Title 8, dealing with illegal entry, etc. When assisting ICE at their specific request, or when suspected criminal violations are discovered as a result of inquiry or investigation based on probable cause originating from activities other than the isolated violations of United States Code Title 8, §§ 1304, 1324, 1325 and 1326, this department may assist in the enforcement of federal immigration laws.

428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS

Persons wishing to report immigration violations should be referred to the local office of the U.S. Immigration and Customs Enforcement (ICE). The Employer Sanction Unit of ICE has primary jurisdiction for enforcement of United States Code Title 8.

428.3.1 BASIS FOR CONTACT

The fact that an individual is suspected of being an undocumented alien alone shall not be the basis for contact, detention, or arrest.

428.3.2 SWEEPS

The Santa Rosa Police Department does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, socioeconomic status, or other group.

The disposition of each contact (e.g., warning, citation, arrest), while discretionary in each case, should not be affected by such factors as race, ethnicity, sexual orientation, etc.

428.3.3 DETERMINATION OF IMMIGRANT STATUS

Determination of immigration status is primarily the jurisdiction of the U.S. Immigration and Customs Enforcement. United States Code Title 8, § 1304(e), provides: "Every alien, 18 years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d) of

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this section. Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both."

428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE

The Santa Rosa Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any subject. Race, gender, religion, sexual orientation, age, occupation or other arbitrary aspects are of no bearing on the decision to arrest.

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement during times of crisis or to report suspicious or criminal activity will not make them vulnerable to deportation. Employees of this department should not attempt to determine the immigration status of crime victims and witnesses absent exigent circumstances or reasonable cause to believe a crime victim or witness is involved in violating other criminal laws. If it is determined a victim or witness is an illegal immigrant, he/she need not be reported to ICE unless circumstances indicate such reporting is reasonably necessary.