



# Roll Call Training Bulletin

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Volume 25-8

## **Immigration Enforcement and SB54 – The Values Act**

02-28-2025

### **The Sacramento Police Department Immigration Violation Guidance**

The Sacramento Police Department (SPD) is not responsible or authorized to enforce federal civil immigration laws which are used to detain and remove undocumented immigrants from the United States of America. Therefore, the SPD shall not serve as a civil immigration enforcement agency for the U.S. Federal Government. Although in some cases, SPD officers may arrest suspects wanted for violating criminal provisions of federal immigration laws, however the SPD does not take the responsibility for performing immigration functions unrelated to investigating and enforcing criminal acts. California Senate Bill 54 (California Values Act) prohibits state and local law enforcement agencies from enforcing federal civil immigration laws. Officers should be familiar with and reference General Order 523.07 (Contacts with Foreign Nationals) for specific guidance.

### **Laws and Policies**

It shall be the policy of the SPD to provide equal enforcement of the law and equal service to all members of the public, regardless of an individual's immigration status. Because the responsibility for enforcement of federal immigration laws rests solely with the U.S. Immigration and Customs Enforcement Agency (ICE) under the direction of the Department of Homeland Security (DHS) and not with state or local law enforcement agencies, the SPD shall not initiate police action based solely on an individual's immigration status.

Effective January 1, 2018, SB-54 places restrictions on local law enforcement agencies' participation in federal immigration enforcement. SB-54 prohibits the use of department funds or personnel to investigate, interrogate, detain, or arrest persons for immigration enforcement purposes. The SPD's policies and procedures regarding immigration enforcement comply fully with the California Values Act and all other federal, state, and local laws.

There is a distinction between a Civil Arrest Warrant (I-205 Administrative Deportation Warrant) and a Federal Criminal Arrest Warrant. The SPD is prohibited from taking enforcement action on Civil Arrest Warrants (I-205). See the examples at the end of this document.

When conducting a criminal history check (QPER) in Versadex, officers shall refrain from selecting Immigration Enforcement in the "Purpose" box when justifying a check. This field shall remain the default 'C' (Criminal Justice) to indicate your query is related to a criminal investigation.



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## State Law and SPD Policy Immigration FAQs

### 1. Does the SPD arrest subjects for or to enforce federal civil immigration violations?

No. Federal and state law prohibits SPD personnel from investigating or arresting a person for civil immigration purposes.

### 2. Can an officer stop a person to determine the person's immigration status?

No. SPD personnel are prohibited from inquiring into an individual's civil immigration status except to provide victim services such as U-Visa information, criminal offense investigations, or otherwise required by law.

### 3. Are there any federal immigration-related laws that make it a crime for someone who is undocumented to be in the United States?

Yes. Although immigration status violations are civil in nature, there are limited circumstances when an undocumented immigrant may have committed a federal crime for improperly entering or remaining in the US under federal immigration laws. For example, 8 U.S.C 1325 established improper entry into the US at a time, place, or manner (other than as designated by immigration authorities) a federal misdemeanor. In addition, 8 U.S.C 1326 codifies that a person to enter or be present in the US without permission of the US Attorney General after having previously been denied admission, excluded, deported, or removed as a federal felony. Federal immigration authorities have primary responsibility to investigate and enforce these and other criminal immigration offenses.

### 4. Can an SPD officer arrest someone who has an outstanding arrest warrant for violating a federal criminal immigration offense?

Yes. If an SPD officer learns that a suspect has a criminal arrest warrant issued by a federal judge for an immigration-related offense, such as **8 U.S.C. § 1325** (improper entry) or **8 U.S.C. § 1326** (illegal re-entry), the officer may detain and arrest the suspect pursuant to the warrant.

### 5. Can an SPD officer make a warrantless arrest of someone who is suspected of entering the US improperly in violation of 8 U.S.C. § 1326 (improper entry)?

No. Under federal law, the crime of improperly entering the US is completed upon entry. Therefore, a police officer must witness the improper entry to make a warrantless arrest. SPD policy prohibits an officer from making a warrantless arrest for the misdemeanor violation of improper entry.

### 6. Can an SPD officer temporarily detain someone who was previously deported and re-entered the US in violation of 8 U.S.C. § 1326 (illegal re-entry)?

While conducting law enforcement activities unrelated to immigration enforcement, the SPD may receive a National Crime Information Center (NCIC) Immigration Violator's Record that indicates a person may have illegally re-entered the US after having been convicted of an aggravated felony (as defined by federal statute), a violation of 8 U.S.C 1326(a), (b)(2) (illegal re-entry after conviction of an aggravated felony). SPD officers are permitted to detain such a person for a reasonable period of time to determine if the prior felony conviction is a serious or violent felony under state law. If officers confirm that the detained person has a prior serious or violent felony conviction, officers shall obtain approval from the watch commander to arrest or transfer the individual to federal authorities. If, during their investigation, officers determine there is no longer reasonable



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suspicion to believe the individual violated 8 U.S.C 1326(a)(b)(2) with a prior serious or violent felony conviction, officers shall immediately release the individual from custody unless another lawful basis exists to detain or arrest the person for a non-immigration local, state, or federal criminal offense.

A list of serious (Penal Code § 1192.7) and violent (Penal Code § 667.5[c]) felonies under California law is attached.

## **7. Can SPD officers ask individuals for their place of birth?**

An officer may ask for and record an individual's place of birth if the person is in custody for a criminal offense, as required to process the arrestee for a criminal offense, comply with consular notification requirements, investigate a crime, or otherwise comply with the law.

## **8. Does the SPD notify ICE that they have arrested someone who may be in violation of civil immigration laws?**

Under federal law, SPD personnel are not prohibited or restricted from sending to, or receiving, information regarding the citizenship or immigration status, lawful or unlawful, of any person from the DHS or ICE. However, state law prohibits SPD employees from interrogating or interviewing a person regarding their immigration status. Therefore, SPD employees are generally unaware of a person's immigration status and do not have an obligation to personally contact ICE.

Federal authorities may become aware of a person who, according to ICE, is undocumented when the person is arrested and processed in a detention facility when the individual's fingerprints and other identifiers are submitted to the FBI as part of the booking process. See 8 U.S.C. § 1373 for further details.

## **9. Does SPD notify ICE if a suspect or arrestee has an immigration-related criminal arrest warrant?**

Yes. If an SPD officer learns that an arrestee has an arrest warrant for a violation of federal criminal immigration law, the SPD shall notify ICE to determine if the agency will take custody of the arrestee for criminal prosecution. If so, the person will be transferred to federal authorities pursuant to the judicial arrest warrant.

## **10. Does the SPD notify ICE if there exists probable cause (without an active warrant) that a suspect or arrestee has illegally re-entered the US in violation of 8 U.S.C 1326?**

In limited circumstances, SPD officers are permitted to detain an individual when they have reasonable suspicion that the individual illegally re-entered the US with a prior aggravated felony conviction in violation of 8 U.S.C. § 1326(a)(b)(2) (illegal re-entry after conviction of an aggravated felony). If the officer determines that the prior conviction is a serious or violent felony (as defined by state law) and obtains approval by the watch commander, the officers may notify ICE, arrest the person on probable cause, and transfer custody of the arrestee to federal authorities. If federal authorities are not able to respond and take custody, officers can book the arrestee into Sacramento County Jail and ensure that ICE has been notified.



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## 11. Does SPD assist ICE with civil immigration enforcement operations in Sacramento?

No. SPD officers do not participate in or assist ICE personnel during civil immigration enforcement operations. However, SPD officers shall respond to the location of an immigration operation if there's an emergency, such as a crime in progress or a request for emergency medical assistance.

### Sample Warrant Results from NCIC Inquiry:

#### Sample Administrative (Civil) Warrant

A civil immigration warrant is any warrant for a violation of federal civil immigration law and includes civil immigration warrants entered in the NCIC database.

#### SAMPLE RESPONSE FROM NCIC INQUIRY: ADMINISTRATIVE (CIVIL) WARRANTS

##### Administrative Warrant of Removal:

WARNING REGARDING FOLLOWING RECORD - SUBJECT HAS AN OUTSTANDING  
ADMINISTRATIVE WARRANT OF REMOVAL FROM THE UNITED STATES CONTACT  
LESC

AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF  
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - FAILURE TO APPEAR FOR REMOVAL  
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN  
DOB/19510101  
HGT/510 WGT/100 EYE/BRO HAI/BRO CTZ/FN SKN/DRK  
SMT/SC LF ARM  
SOC/777010000  
OFF/ALIEN UNLAWFULLY PRESENT DUE TO ORDER OF REMOVAL OR EXCLUSION FROM THE  
USA  
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY  
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT  
SUPPORT CENTER (877) 999-5372  
NIC/N307770847 DTE/19980605 0000 EDT DLU/20090101 0600 EST  
\*\*\*\*\*THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR CRIMINAL  
JUSTICE PURPOSES.  
\*\*\*\*\*END OF IMMIGRATION VIOLATOR FILE RESPONSE\*\*\*\*\*

##### Administrative Warrant of Arrest:

WARNING REGARDING FOLLOWING RECORD - SUBJECT OF NIC/N307770847 HAS AN OUTSTANDING  
ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS FOR FAILURE TO COMPLY  
WITH NS REGISTRATION. CONTACT LESC AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION  
AND AVAILABILITY OF BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - NS REGISTRATION  
ORI/VTINS1000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN  
DOB/19510101  
HGT/510 WGT/100 EYE/BRO HAI/BRO CTZ/FN SKN/DRK  
SMT/SC LF ARM  
SOC/777010000  
OFF/SOUGHT FOR VIOLATION OF NS REGISTRATION  
OCA/ASD1234-T MIS/KNOWN AS JOHNNY BOY  
ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT  
SUPPORT CENTER (877) 999-5372  
NIC/N307770847 DTE/19980605 0000 EDT DLU/20090101 0600 EST  
\*\*\*\*\*THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR CRIMINAL  
JUSTICE PURPOSES.  
\*\*\*\*\*END OF IMMIGRATION VIOLATOR FILE RESPONSE\*\*\*\*\*



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## Sample Criminal ICE Warrant

SAMPLE RESPONSE FROM NCIC INQUIRY: CRIMINAL ICE WARRANT

One Example of a Criminal ICE Warrant:

\*\*\*MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FOLONY RECORDS REGARDLESS OF EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE INTERSTATE EXTRADITION FROM THE INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS.  
MKE/WATNED PERSON  
EXL/1 - FULL EXTRADITION UNLES OTHERWISE NOTED IN THE IS FIELD  
ORI/VTICE0900 NAM/TEST, TEST SEX/M RAC/W POB/EY  
DOB/19000101 HGT/509 WGT/175 EYE/BRO HAI/BLK  
SKN/LGT  
MNU/PP-1234567 SOC/123456789  
OFF/FRAUD - FALSE STATEMENT  
DOW/20090114 OCS/2-M-TEST  
VLD/20120411  
MIS/CRIMINAL WARRANT IN VIOLATION OF TITLE 18 USC, SECTION 1542, FALSE STATEMENT  
MIS/ON A PASSPORT APPLICATION; ISSUED BY THE US DISTRICT COURT, EASTERN MIS/DISTRICT OF VIRGINIA  
DNA/N  
ORI IS ICE LESC 802-872-6020  
DOB/19730515  
AKA/TESTER, TEST  
AKA/ALPHA, BET  
MNU/PP-5678943  
SOC/9854321  
NIC/W123456789 DTE/20090115 1510 EST DLU/20120411 1301 EST  
IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

## **Serious Felonies (as defined in accordance with Penal Code § 1192.7)**

- Murder or voluntary manslaughter.
- Mayhem.
- Rape.
- Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person.
- Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person.
- Lewd or lascivious act on a child under 14 years of age.
- Any felony punishable by death or imprisonment in the state prison for life.
- Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which defendant personally uses a firearm.
- Attempted murder.
- Assault with intent to commit rape or robbery.
- Assault with a deadly weapon or instrument on a peace officer.





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- Assault by a life prisoner on a non-inmate.
- Assault with a deadly weapon by an inmate.
- Arson.
- Exploding a destructive device or any explosion with intent to injure.
- Exploding a destructive device or any explosion causing injury, great bodily injury, or mayhem.
- Exploding a destructive device or any explosion with intent to murder.
- Any burglary or theft of the first degree.
- Robbery or bank robbery.
- Kidnapping.
- Holding of a hostage by a person confined in a state prison.
- Attempt to commit a felony punishable by death or imprisonment in the state prison for life.
- Any felony in which the defendant personally used a dangerous or deadly weapon.
- Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give a minor, any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of section 11055 or subdivision (a) of section 11100 of the Health and Safety Code.
- Any violation of subdivision (a) of section 289 where the act is accomplished against the victims will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- Grand theft involving a firearm.
- Carjacking.
- Any felony offense, which would also constitute a felony violation of 186.22.
- Assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of section 220.
- Throwing acid or flammable substance, in violation of 244.
- Assault with a deadly weapon, firearm, machine gun, assault weapon, or semi-automatic firearm or assault on a peace officer or firefighter, in violation of section 245.
- Assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of section 245.2, 245.3, or 245.5.
- Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of section 246.
- Commission of rape or sexual penetration in concert with another person, in violation of section 264.1.
- Continuous sexual abuse of a child, in violation of section 288.5.
- Shooting from a vehicle, in violation of subdivision (c) or (d) of section 26100.
- Intimidation of victims or witnesses, in violation of 136.1.
- Criminal threats, in violation of section 422.
- Any attempt to commit a crime listed in this subdivision other than an assault.
- Any violation of section 12022.53.
- A violation of subdivision (b) or (c) of section 11418.
- Any conspiracy to commit an offense described in this subdivision.



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## **Violent Felonies (as defined in accordance with Penal Code § 667.5[c])**

- Murder or voluntary manslaughter.
- Mayhem.
- Rape as defined in paragraph (2) or (6) of subdivision (a) of section 261 or paragraph (1) or (4) of subdivision (a) of section 262.
- Sodomy as defined in subdivision (c) or (d) of section of 286.
- Oral copulation as defined in subdivision (c) or (d) of section 288a.
- Lewd or lascivious act as defined in subdivision (a) or (b) of section 288.
- Any felony punishable by death or imprisonment in the state prison for life.
- Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of section 12022.3, or section 12022.5 or 12022.55.
- Any robbery.
- Arson, in violation of subdivision (a) or (b) of section 451.
- Sexual penetration as defined in subdivision (a) or (i) of section 289.
- Attempted murder.
- A violation of section 18745, 18750, or 18755.
- Kidnapping.
- Assault with the intent to commit a specified felony, in violation of section 220.
- Continuous sexual abuse of a child, in violation of section 288.5.
- Carjacking, as defined in subdivision (a) of section 215.
- Rape, spousal rape, or sexual penetration, in concert, in violation of section 264.1.
- Extortion, as defined in section 518, which would constitute a felony violation of section 186.22.
- Threats to victims or witnesses as defined in section 136.1, which would constitute a felony violation of section 186.22.
- Any burglary of the first degree, as defined in subdivision (a) of section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- Any violation of section 12022.53.
- A violation of subdivision (b) or (c) of section 11418.