

Contacts With Foreign Nationals

417.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines concerning contacts with foreign nationals, whether as suspects, victims of crimes, witnesses in investigations, or other related police operations. For the purposes of this policy, the term "foreign national" shall be defined as a person who is not a citizen of the United States.

417.2 POLICY

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry. When assisting ICE at its 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 Title 8, U.S.C., §§ 1304, 1324, 1325 and 1326, this department may assist in the enforcement of federal immigration laws.

When local police officers are perceived to be engaged in the enforcement of immigration laws, members of the immigrant community, their families and friends lose trust and confidence in their police department. Significant numbers of community members become less inclined to report crimes, identify criminals and participate in the criminal justice system. Therefore, the Riverside Police Department shall not normally undertake immigration investigations nor inquire into the citizenship/immigration status of persons encountered during police operations. This does not prohibit employees of the Department from cooperating with federal immigration officials when requested, or from notifying those officials when a threat to public safety is reasonably perceived.

A person's right to utilize police services is not contingent upon citizenship or immigration status. Therefore, Department personnel should not question victims, witnesses or arrested persons about their citizenship/immigration status except when the issue of immigration is relevant to the crime being investigated. For example; the victim of a violent crime may qualify for a U-Visa or a T-Visa (see 428.4.1), or officers are investigating a human smuggling case and the immigration status of a witness or victim is an integral part of the investigation. In the case of traffic stops or any other infraction, Department personnel shall not inquire to the citizenship/immigration status of the driver of the vehicle and any passenger.

417.3 NOTIFICATION TO IMMIGRATION AUTHORITIES

It is understood that persons booked into the county jail will be subjected to a review of their immigration status by personnel of the Riverside County Sheriff's Department and the appropriate notifications to immigration authorities will be made as a matter of course when required. On occasion, in order to protect public safety, it may be necessary for a member of the Department to ensure that federal immigration authorities are notified of the arrest of a person who is reasonably suspected of being in the United States unlawfully and/or whose lawful status may be subject to revocation due to that person's involvement in criminal activity. Such notification will be done to

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avoid the release of dangerous persons into the community on bail or when state charges are disposed of.

For example, direct notification by members of this Department to immigration authorities of the arrest or detention of a foreign national would be permitted when the following circumstances apply AND it would be in the best interest of public safety that the detainee not be released into the community:

- (a) The person is arrested for a serious or violent felony or violent misdemeanor crime, or any offense involving the possession or use of a dangerous weapon.
- (b) The person is arrested for a terrorism-related offense or is reasonably suspected of involvement in terrorism and/or subversive activities.
- (c) The person is arrested for or is reasonably suspected of involvement in human smuggling or human trafficking.
- (d) The person is arrested for or is reasonably suspected of participating in a sophisticated or organized criminal activity.
- (e) The person is arrested for or is reasonably suspected of participating in criminal street gang activity.
- (f) The person is detained, arrested or is reasonably suspected of a serious felony but due to time restraints, there is a risk the person will be released prior to the processing of physical evidence.

When an officer concludes that notification to federal immigration authorities pursuant to one of the above situations, or similar circumstances, is warranted, such notification shall only take place with the approval of a supervisor of the rank of lieutenant or above.

417.4 U-VISA / 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)). A law enforcement certification for a U visa may be completed by an officer in order for a U visa to be issued.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T visa may be completed by an officer in order for a T visa to be issued.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigative Division Commander. The Investigative Division Commander or designee shall:

- (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.

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- (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.
- (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.

417.4.1 HUMAN TRAFFICKING T-VISA

Officers and their supervisors who are assigned to investigate a case of human trafficking shall complete the above process and the documents needed for a 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 for a U visa application pursuant to Penal Code § 679.10 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.