09/20/17

San Francisco Police Department

GENERAL ORDER

DRAFT

5.15

Rev.

ENFORCEMENT OF IMMIGRATION LAWS

The purpose of this order is to establish policies regarding the San Francisco Police Department's role in the enforcement of immigration laws and cooperation with U.S. Immigration and Customs Enforcement ("ICE"), U.S. Customs and Border Protection ("CBP") or successor agencies whose role is to enforce immigration laws, in conformity with state and federal laws and San Francisco Administrative Code Chapters 12H and 12I.

I. POLICY.

It is the policy of the San Francisco Police Department to foster respect and trust between law enforcement and residents, to protect limited local resources, to encourage cooperation ~~between~~ among residents, City officials, and law enforcement, and to ensure community security. It is also Department policy, consistent with its obligations under state and federal law, to adhere to San Francisco Administrative Code Chapters 12H and 12I. These Chapters generally prohibit the use of City resources to assist in the enforcement of federal immigration laws, except as required by federal or state law.

II. STATE AND LOCAL LAW.

In accordance with Chapter 12H and state law, members of the Department shall, in performing their official duties, adhere to all of the following:

A. **DETENTION:** Members shall not stop, question, or detain any individual ~~solely~~ because of the individual's national origin, foreign appearance~~, inability to speak English, or~~ immigration status, or who are Limited English Proficient. ~~also~~ see S.F. Administrative Code section 91.2; DGO 5.20, Language Access Services, 5.03, Investigative Detentions). Members shall not inquire into an individual's immigration status for the purpose of enforcing immigration laws.

B. **DOCUMENTS:** In the course and scope of their duties e.g., traffic enforcement, investigations, and taking reports, members shall not require individuals to produce any document to prove their immigration status.

C. **ASSISTING ICE/CBP:** Members shall not cooperate with or assist ICE/CBP in any investigation, detention, or arrest procedures, public or clandestine, where in any such instance the express or implied ~~the~~ purpose is the ~~enforcementing~~ of federal immigration laws.

D. INFORMATION GATHERING/DISSEMINATION FOR IMMIGRATION ENFORCEMENT PURPOSES:

1) **Release Status/Confidential Information for immigration enforcement purposes.** Members shall not request information about, or disseminate information, regarding the release status of any individual, or other "Personal Information" including but not limited to date, time, or location or any other confidential, identifying information such as home, work, or family or emergency contact information, except as required by federal or state law. Members shall not threaten to release any personal information to federal immigration authorities or threaten individuals with deportation or removal proceedings.

2) **Benefits, Services, or Opportunities.** The Department shall not include on any application, questionnaire, or interview form it uses in relation to benefits, services, or opportunities provided by the City and County of San Francisco, any questions regarding immigration status other than those required by federal or state law.

E. ICE/CBP DETAINERS/ADMINISTRATIVE (CIVIL) WARRANTS:
Members shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, solely on the basis of an administrative (civil) warrant, prior deportation order, or other civil immigration document that only addresses alleged violations of the civil provisions of immigration laws. Members shall not place an administrative (civil) immigration hold or detainer on an individual who is in custody. National Crime Information Center ("NCIC") or California Law Enforcement Telecommunication System ("CLETS") warrant responses currently make clear whether the warrant is administrative (civil) or criminal.

Members shall adhere to all of the following when reviewing or examining outstanding warrants in the NCIC or CLETS system. Members:

1) Shall contact the Sheriff's Central Warrant Bureau ("CWB") to confirm any warrant before taking action on the warrant.
2) Shall not enforce federal administrative (civil) warrants for arrest (currently Department Homeland Security ("DHS") Form I-200) or for removal/deportation (currently DHS Form I-205).
3) Shall not enforce Administrative Immigration Detainer – Notice of Action (currently DHS Form I-247A, former forms I247-D, I-247N, and I-247X, or any other versions of these forms).
4) May enforce criminal warrants after consulting with CWB and confirming the criminal warrant.
5) Shall record the name of the individual from CWB staff who confirmed the criminal warrant in the incident report. (See DGO 6.18, Warrant Arrests).

F. TRUTH ACT

If an individual is in SFPD's custody and a member receives "any ICE hold, notification, or transfer request, [the member] shall provide a copy of the request to the individual" pursuant to Cal. Govt. Code section 7283.1(b). The member shall notify the individual that SFPD will not comply with any ICE hold, notification, or transfer request.

III. PROVIDING EMERGENCY ASSISTANCE TO ICE/CBP.

A. ICE/CBP REQUESTS FOR EMERGENCY ASSISTANCE: Members may provide emergency assistance to ICE/CBP to the same extent members would respond to emergency assistance to any other law enforcement agency. For example, 10-25, Code 3, respond as back-up; and 406, officer needs emergency help. Generally, these calls require an emergency response. Members may provide emergency assistance when the member determines there is an emergency posing a significant and immediate danger to public safety or to the ICE/CBP agents.

B. DUTIES OF MEMBERS: Members providing emergency assistance to ICE/CBP shall immediately notify their supervisor and complete an incident report describing the reasons for their assistance.

C. DUTIES OF SUPERVISORS: When notified that a member is providing emergency assistance to ICE/CBP, supervisors shall immediately respond to the location and ensure that such assistance is warranted.

D. TRANSPORTATION: Members shall not assist ICE/CBP in transporting individuals suspected solely of violating federal immigration laws.

E. ASSISTANCE: Members shall not provide assistance to ICE/CBP agents for routine ICE/CBP operations, investigations, or raids. If ICE/CBP requests assistance that does not amount to an emergency as outlined in this section, members shall follow the protocols listed for Interagency Operations (see DGO 5.14, Interagency Operations).

IV. ASSISTING OTHER LAW ENFORCEMENT AGENCIES AND FOREIGN GOVERNMENT.

A. INTERAGENCY OPERATIONS: If ICE/CBP requests assistance with a planned, unplanned, or spontaneous operation, members must obtain approval from the member's Assistant Chief. (See DGO 5.14, Interagency Operations.)

B. **JOINT CRIMINAL OPERATIONS:** Members may continue to collaborate with other federal, state, and local law enforcement agencies on matters other than the enforcement of immigration laws, with approval of the member's Assistant Chief, to protect public safety and participate in joint criminal investigations that are permitted under Department policy or applicable city or state law. When a member becomes aware that the criminal investigation involves the enforcement of immigration laws, the member shall:

1) Notify a Supervisor; and
2) Cease operations if doing so would not pose a risk to the officers or the public; ~~and~~
3) Suspend Interagency Operations~~.~~; and
4) Document in a memorandum the factual circumstances surrounding the incident and route through the chain of command, to the Chief's Office.

The Chief of Police shall report to the Commission at its earliest opportunity, information about the Joint Criminal Operation where the criminal investigation also included the enforcement of immigration laws information. The Chief's report may not include information that would not compromise an on-going criminal investigation or endanger the safety of individuals or members.

C. **ASSISTING FOREIGN GOVERNMENT:** Members shall not assist or cooperate with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of City and County, State, or Federal criminal laws. (See DGO 8.10, Guidelines for First Amendment Activities.) Any assistance or cooperation with a foreign government must be approved by the member's Assistant Chief. (See DGO 5.14, Interagency Operations.) Members requesting approval of the Interagency Operation shall notify the Officer-In-Charge ("OIC") of the Special Investigations Division ("SID") who will evaluate whether the U.S. State Department should be notified of the assistance or cooperation.

V. DEPARTMENT BULLETINS. Department Bulletins describing current versions or relevant examples of DHS forms and the most current samples of NCIC or CLETS print-outs of both administrative (civil) and criminal warrants will be issued as necessary.

VI. COMPLIANCE WITH OTHER STATE OR LOCAL LAWS. Nothing in this General Order prohibits members from performing their duties in enforcing state and local laws.

References
DGO 5.03, Investigative Detentions
DGO 5.06, Citation Release
DGO 5.14, Interagency Operations
DGO 6.18, Warrant Arrests
DGO 8.10, Guidelines for First Amendment Activities
S.F. Adminstrative Code 91
S.F. Adminsitrative Code 12H

S.F. Administrative Code 12I
Cal. Govt. Code section 7283.1