



SPOKANE POLICE DIVISION
CHIEF OF POLICE
CRAIGN.MEIDL

TRAINING BULLETIN # 18-001

DATE: 01/15/2018

Title: When Officers Contact Persons Believed to Be From a Foreign Country

Learning objectives:

The Spokane Police Department has recently revised three policies related to biased-based policing, arrest of foreign nationals and immigration violations. Please review the policies in their entirety. This Training Bulletin is designed to provide an overview of the different policies. If there are any questions, please contact the SPD Legal Advisor, Mary Muramatsu.

Policy 402 Bias-Based Policing
Policy 422 Arrest of Foreign Nationals
Policy 428 Immigration Violations

POLICY STATEMENT:

The immigration status of individuals is generally not a matter for police action. (Policy 428.1) All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation. (Policy 428.1) Officers shall not contact, question, delay, detain or arrest an individual because s/he is suspected of violating immigration laws. (Policy 428.1; Policy 422.7)

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 immigration status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community. (Policy 428.1)

General Principles:

1. Terry Stops & Arrests

Officers shall not use stops for minor offenses, the provision of assistance during traffic accidents, or requests for voluntary information as a pretext for discovering a person's immigration status. (Policy 422.7)





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Officers will not rely solely on race, ethnicity, national origin or immigration status as a basis for probable cause or reasonable suspicion or as a motivating factor in making law enforcement decisions. (Policy 422.7)

Race alone is not enough to establish reasonable suspicion or probable cause. (Policy 402.3)

Undocumented presence, in and of itself, is not a criminal violation. (Policy 428.1)

Officers may still consider race or ethnicity in combination with other legitimate factors if necessary to establish reasonable suspicion or probable cause (such as when a suspect description identifies an individual from specific race or ethnic group). (Policy 402.3)

2. Requesting Identification

Requesting adequate identification as part of a criminal investigation is necessary and appropriate. However, officers should not request specific documents relating to someone's immigration status such as a passport, alien registration card, or "green card," unless the officers are conducting a criminal investigation where the civil immigration status is relevant to the crime under investigation. (Policy 422.7)

However, when a person fails to produce a driver's license or identity card upon request as required by state law, it is not a violation of this policy for an officer to inquire whether the person has any other form of identification, such as a passport.

3. Arrests

Officers are subject to potential sec. 1983 civil liability for arresting a foreign national unless they have either:

1. Probable Cause that a crime (federal, state or local) was committed; or
2. A Warrant issued by a judge ("judicial warrant") after due process.

(Policy 422.7)





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Note:

- Unless the person has been previously deported after due process and by order of an immigration court, it is not a “criminal law” violation (federal or otherwise) to be in the US illegally.
- Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention or arrest. (Policy 428.3.1)
- Prior to making an arrest on a warrant, officers must verify that it is a valid judicial warrant for the person’s arrest.
- A “detainer” is not a judicial warrant. A detainer is a request for assistance from immigration officials and lacks the due process required for a warrant.

3. Witnesses and Crime Victims

Officers should not attempt to determine the immigration status of crime victims and witnesses or take enforcement action against them due to that immigration status. (Policy 428.1)

4. Immigration Sweeps

The Spokane Police Department does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens. (Policy 428.3.2)

5. Assisting Department of Homeland Security (DHS)

SPD officers may assist DHS (which includes CBP and ICE) in the enforcement of federal immigration laws; however, a request from DHS does not provide the legal basis to stop or detain an individual, or to prolong the detention of an individual. Officers must have an independent legal basis to stop or detain any individual. (Policy 428.2)

6. Information Sharing

Intelligence and information sharing continues to be a priority of the Spokane Police Department. Nothing in this policy is intended to restrict officers from exchanging legitimate law enforcement information with any other federal, state, or local government entity (Title 8 U.S.C. § 1373 and 8 U.S.C. § 1644). (Policy 428.1)





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A. Notification to Foreign Governments

International treaties require law enforcement to notify certain foreign governments when their citizens are arrested or detained in the U.S. for over two hours. Officers who reasonably believe the person detained for this length of time to be a foreign national shall inquire to determine the person's citizenship. If the individual claims citizenship of one of the countries for which notification of the consulate/embassy is mandatory, officers shall provide Radio with the information as soon as practicable, regardless of whether the individual desires that the embassy/consulate be notified. (Policy 422.1)

The list of countries and jurisdictions that require notification can be found on the U.S. Department of State website at:
<https://travel.state.gov/content/travel/en/consularnotification.html>

Note: There are 57 countries currently on this list. Mexico is not currently on the list.

Updated definition of protected classes:

The following protected classes shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law:

Race, sex (including pregnancy, gender identity, and sexual orientation), age (40 or older), religion, creed, color, national origin, ancestry, disability, marital status, familial status, genetic information, veteran or military status. (Policy 402.2)

