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DEPARTMENT BULLETIN

A
17-015
1/19/17

Enforcement of Immigration Laws

(Supersedes DB 16-015)

Members are reminded that 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 residents and City officials, including law enforcement and public health officers and employees; and to ensure community security. It is also Department policy, consistent with its obligations under state and federal law, to adhere to the City of Refuge Ordinance, San Francisco Administrative Code Section 12H.2. This ordinance prohibits the use of City resources to assist in the enforcement of federal immigration laws or to gather or disseminate information regarding release status of individuals or any other such personal information as defined in Chapter 12I. Administrative Code 12I.2 defines "personal information" as "any confidential, identifying information about an individual, including, but not limited to home or work contact information, and family or emergency contact information unless required by Federal or State statute, regulation or court decision.

In accordance with the City of Refuge Ordinance and state law, members of the Department shall adhere to the following:

1. DETENTION/DOCUMENTS. Members shall not:
   a. Stop, question, or detain any individual solely because of the individual's national origin, foreign appearance, inability to speak English, or immigration status (also see DGO 5.03, Investigative Detentions). The mere presence of so called "illegal aliens," "undocumented individuals" is not a criminal offense.

   b. Ask for documents regarding an individual's immigration status in the course of their duties, e.g., traffic enforcement, investigations, taking reports, officers.

2. ASSISTING THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT- (ICE) Members shall not enforce immigration laws or assist ICE in the enforcement of immigration laws or gather or disseminate information regarding release status of individuals or any other personal information as defined in Administrative Code Admin. Code 12I.

Nothing in this bulletin precludes officers from providing emergency assistance to members of outside law enforcement agencies when there is a significant danger, as outlined in DGO 5.15. In such cases, once scene safety has been established, members shall notify their immediate supervisor of the incident. That supervisor shall respond to the scene and ensure that such assistance was warranted. Members involved in providing emergency back-up assistance shall file an incident report describing their reasons for their assistance.

TONEY D. CHAPLIN
Interim Chief of Police

Per DB 15-141, both sworn and non-sworn members are required to electronically acknowledge this Department Bulletin in HRMS.

ENFORCEMENT OF IMMIGRATION LAWS

The purpose of this order is to establish policies regarding the enforcement of immigration laws and cooperation with the Immigration and Naturalization Service (INS) in conformity with state and federal laws and the City of Refuge Ordinance, San Francisco Administrative Code Section 12H.2-1.

I. POLICY

A. It is the policy of the San Francisco Police Department to foster trust and cooperation with all people of this City and to encourage them to communicate with San Francisco police officers without fear of inquiry regarding their immigration status. It is also Department policy, consistent with its obligations under state and federal law, to adhere to the City of Refuge Ordinance. This ordinance prohibits the use of City resources to assist in the enforcement of federal immigration laws except in certain limited circumstances listed below.

B. In accordance with the City of Refuge Ordinance and state law, members of the Department shall adhere to the following:

1. DETENTION/DOCUMENTS. 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 (also see DGO 5.03, Investigative Detentions). The mere presence of so-called "illegal aliens" is not a criminal offense.

a. In the course of their duties, e.g., traffic enforcement, investigations, taking reports, officers shall not ask for documents regarding an individual's immigration status.

2. ASSISTING THE INS. Members shall not enforce immigration laws or assist the INS in the enforcement of immigration laws.

3. REQUESTS FOR BACKUP ASSISTANCE. Members may provide backup assistance to the INS only when the member determines that there is a significant danger of personal injury or serious property damage. Backup assistance is justified only in rare circumstances where INS agents are in "significant" danger. Examples include, but are not limited to:

   - When firearms or weapons are involved.
   - When a subject to be detained has a history of violence.
   - When agents are physically attacked.

   Backup assistance shall not be provided to INS agents for routine operations or raids.

   a. INTERAGENCY OPERATIONS. If a request for backup assistance is made in advance, the member's Deputy Chief must approve (see DGO 5.14, Interagency Operations).

   b. DUTIES OF MEMBERS. Members providing backup assistance to the INS, shall immediately notify their supervisor and file an incident report describing the reasons for their assistance.

   c. DUTIES OF SUPERVISORS. When notified that a member is providing backup assistance to the INS, supervisors shall immediately respond to the location and ensure that such assistance is warranted.

   d. TRANSPORTATION. Members shall not assist the INS in transporting persons suspected solely of violating federal immigration laws.

   e. ENFORCEMENT OF STATE AND LOCAL LAWS. Nothing in this order prohibits a member from performing his/her duties in enforcing state and local laws.

4. WHEN INFORMATION MAY BE RELEASED. A member shall not inquire into an individual's immigration status or release or threaten to release information to the INS regarding an individual's identity or immigration status except:

   a. CONTROLLED SUBSTANCES BOOKINGS (HEALTH & SAFETY CODE 11369). When a person has been arrested for any of the following offenses involving controlled substances: Health and Safety Code Sections 11350, 11351, 11351.5, 11352, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, 11550, and there is reason to believe that the person may not be a citizen of the United States. Such belief cannot be based solely upon a person's inability to speak English or his/her "foreign" appearance.

   b. FELONY BOOKINGS (S.F. ADMIN. CODE 12H. 2-1). When a person is in custody after being booked for the alleged commission of a felony and is suspected of violating the civil provisions of the immigration laws. Such suspicion cannot be based solely upon a person's inability to speak English or his/her "foreign" appearance.

   c. PRIOR FELONY CONVICTION (S.F. ADMIN. CODE 12H. 2-1 (a)(b)(c)).

      (1) When a person has been booked at any county jail facility and has previously been convicted of a felony committed in violation of the laws of the State of California which is still considered a felony under state law; or

      (2) When the INS makes a request for information about a person and the person has previously been convicted of a felony committed in violation of the laws of the State of California which is still considered a felony under state law.

   d. NO RELEASE FOR PUBLIC DEMONSTRATIONS (S.F. ADMIN. CODE 12H.2-1). The City of Refuge ordinance prohibits release of information to the INS in a case where a person has been arrested or convicted for failing to obey a lawful order of a police officer during a public assembly, or for failing to disperse after a police officer has declared an assembly to be unlawful and ordered dispersal (Penal Code Section 409).

5. RELEASE OF INFORMATION TO THE INS

a. Generally, any release of information to the INS will be handled by Police Department personnel at the County Jail pursuant to authorized procedures.

b. Before release can be made by personnel other that those assigned to the County Jail, a member must have the authorization of his/her Watch Lieutenant or Officer-in-Charge.

C. COOPERATION WITH FOREIGN GOVERNMENTS. Members shall not assist or cooperate with any investigation, surveillance or information gathering conducted by a foreign government unless it is related to an investigation, authorized by the Police Department, into a violation of city and county, state or federal criminal laws. (See DGO 8.10, Guidelines for First Amendment Activities.)

D. DEPARTMENT EMPLOYEES. Nothing in this General Order prevents the Department, when required by federal or state law, from inquiring into the immigration status of an individual seeking employment with the Department.

E. COMPLIANCE. Failure to comply with any provision of this General Order shall subject the member to disciplinary action.

References

DGO 5.03, Investigative Detentions
DGO 5.14, Interagency Operations