

**The Los Angeles Police Department
and Federal Immigration Enforcement
*Frequently Asked Questions***



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Federal Immigration Enforcement and the LAPD

Frequently Asked Questions

The purpose of this document is to answer frequently asked questions about the LAPD's roles, responsibilities and restrictions regarding immigration enforcement in Los Angeles.

The Los Angeles Police Department

The LAPD is a municipal police agency responsible for enforcing state and local criminal laws within the jurisdiction of the City of Los Angeles. The Department's nearly 10,000 officers and 3,000 civilian professionals are dedicated to protecting Los Angeles's four million residents and the millions more who visit, work and travel through this dynamic, vibrant, and diverse City every day. We do this through a robust community policing strategy that focuses on preventing crime through community partnerships, collaborative problem solving, and building public trust—essential components to reducing crime and protecting the public from harm. In addition, the LAPD is steadfastly committed to constitutional policing principles which require a reverence for, and strict adherence to, the law and Constitution.

The LAPD is neither responsible for, nor has the authority to, enforce federal civil immigration laws which are used to detain and remove undocumented immigrants from the United States. Therefore, the LAPD does not serve as a civil immigration enforcement agency for the federal government. Although in some cases LAPD officers may arrest criminal suspects wanted for violating criminal provisions of federal immigration law, the Department does not take on the responsibility of performing immigration functions unrelated to investigating and enforcing criminal violations.

Federal Immigration Authorities

Federal agencies, such as U.S. Citizenship and Immigration Service (US-CIS), Customs and Border Protection (US-CBP), and Immigration and Customs Enforcement (US-ICE), are responsible for administering and enforcing federal civil and criminal immigration laws. These agencies, headquartered in Washington, D.C., are responsible for the administrative functions of granting immigration status and removing individuals who are not in compliance with

federal immigration laws and regulations. In addition, US-CBP and US-ICE investigate federal criminal violations of immigration laws in coordination with federal prosecutors who seek criminal penalties, including prison terms and fines, in United States District Courts.

Laws and Policies

The LAPD's role in immigration enforcement is defined by the policies and procedures adopted by the Mayor, City Council, and Los Angeles Board of Police Commissioners consistent with the limitations of federal, state, and local laws.

Recently, California enacted the "California Values Act," also known as SB 54, which placed restrictions on local law enforcement agencies' participation in federal immigration enforcement. Most of these new restrictions are consistent with long-standing LAPD policies and practices which promote community partnerships and public safety.

The following Frequently Asked Questions are designed to provide useful information regarding the LAPD's role in immigration enforcement based on existing Department policies and practices; federal, state and local laws; and the California Values Act.

Frequently Asked Questions

1. Does the LAPD arrest individuals for or otherwise enforce federal civil immigration violations?

No. Under federal and state law, Department personnel are prohibited 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. Long-standing LAPD policy and current state law restricts officers from stopping, detaining, or questioning a person based solely on the person's suspected immigration status. (See Question No. 7 for an explanation of "Special Order 40").

The LAPD adopted this policy over 38 years ago to ensure that immigrants are not afraid to contact the LAPD if they are victims of or witnesses to a crime. The policy affirms that the LAPD has an obligation to protect all Angelenos from crime and victimization and that the full cooperation of victims and witnesses, regardless of immigration status, is essential to hold criminals accountable in a court of law.

In addition, state law prohibits Department personnel from investigating, interrogating, detaining, detecting, or arresting a person for civil immigration purposes. (See Question No. 26 for an explanation of the "California Values Act").

Department personnel are also prohibited from inquiring into an individual's civil immigration status except to provide victim services such as T or U Visa information or certifications, to investigate a criminal offense (e.g., sexual exploitation, human trafficking, involuntary servitude, extortion, etc.), or when 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 generally civil in nature, there are limited circumstances when an undocumented immigrant may have committed a federal crime for improperly entering or re-entering the U.S. under federal immigration laws. For example, 8 U.S.C. § 1325 makes it a federal misdemeanor crime to improperly enter the U.S. at a time, place, or manner other than as designated by immigration authorities. In addition, it is a felony under 8 U.S.C. § 1326 for a person to enter or be present in the U.S. without permission of the U.S. Attorney General after having previously been denied admission, excluded, deported, or removed. Federal immigration authorities have the primary responsibility to investigate and enforce these and other criminal immigration offenses.

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

Yes. If an LAPD officer learns that a suspect has a criminal arrest warrant issued by a federal judge for an immigration-related offense, such as a violation of 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. Once the suspect is taken into custody, the LAPD will transfer the suspect to federal authorities to appear before a federal judge.

5. Can an LAPD officer make a *warrantless* arrest of someone who is suspected of entering the U.S. improperly in violation of 8 U.S.C. § 1325 (Improper Entry)?

No. State law authorizes a police officer to make a warrantless arrest for a misdemeanor offense only if the crime occurred in his or her presence, with limited exceptions for specified crimes. Under federal law, the crime of improperly entering into the United States is completed upon entry. Therefore, a police officer must witness the improper entry in order to make a warrantless arrest. LAPD policy is consistent with these legal restrictions and prohibits an officer from making a warrantless arrest for the misdemeanor violation of improper entry.

6. Can an LAPD officer temporarily detain someone who was previously deported and re-entered the U.S. in violation of 8 U.S.C. § 1326 (Illegal Re-Entry)?

While conducting law enforcement activities unrelated to immigration enforcement (see Question No. 2), LAPD officers may receive a National Crime Information Center Immigration Violator's Record stating that a person may have illegally re-entered the U.S. 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). LAPD officers are permitted to detain such individual for a reasonable period not to exceed four hours to determine if the prior felony conviction is a "serious or violent felony" under state law. A list of "serious" and "violent" felonies under California law are attached to this FAQ.

If officers confirm that the detained individual has a prior "serious or violent felony" conviction, officers must obtain approval from the Department's Immigration Liaison Officer (ILO), a Deputy Chief of Police, to arrest or transfer the individual to federal authorities. (See Question No. 13 regarding notifying US-ICE).

If, during their investigation, officers determine there is no longer reasonable suspicion to believe the individual violated § 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 individual for a non-immigration local, state, or federal criminal offense.

7. What is "Special Order 40"?

Special Order 40 refers to an LAPD policy, adopted by the Los Angeles Board of Police Commissioners in 1979, that restricts an officer from initiating a police action with the objective of discovering a person's immigration status. Special Order 40 also prohibits an officer from arresting a person for the misdemeanor offense of improperly entering

the U.S. in violation of 8 U.S.C. § 1325. Both prohibitions are consistent with state and federal law and remain in effect today.

8. Does Special Order 40 limit an officer's ability to arrest a person suspected of committing a crime under state, local, or federal law?

No. Nothing in Special Order 40 restricts an officer from lawfully stopping, detaining, questioning, or arresting a person for committing a local, state, or federal crime.

9. Does the LAPD interview arrestees to determine their immigration status?

No. The LAPD does not interview arrestees to determine their immigration status. Under state law, Department personnel are prohibited from investigating or interrogating a person for civil immigration purposes. Department personnel are also prohibited from inquiring into an individual's civil immigration status except to provide victim services such as T or U Visa information or certifications, to investigate a criminal offense (e.g., sexual exploitation, human trafficking, involuntary servitude, extortion, etc.) or when otherwise required by law.

10. Does the LAPD ask individuals for their place of birth?

When an officer asks about a person's place of birth, some members of the immigrant community may mistakenly believe the officer is asking the question to determine the person's immigration status. To minimize the potential misperception and possible degradation of public trust, LAPD officers no longer ask victims, witnesses, or temporarily-detained individuals for their place of birth unless necessary under the particular circumstances to investigate a criminal offense.

The Department's Field Interview Report (FI card) has been redesigned and the "Birthplace" field removed so officers do not ask or record the birthplace of victims, witnesses, or temporarily-detained individuals unless an exception applies.

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

11. Does the LAPD notify US-ICE that they have arrested someone who may be in violation of civil immigration laws?

State law prohibits Department personnel from interrogating or interviewing a person regarding his or her immigration status. Therefore, LAPD employees are generally unaware of a person's immigration status and do not have an obligation to personally contact ICE.

Federal law, however, precludes an agency from prohibiting or in any way restricting personnel from sending to, or receiving from, the U.S. Department of Homeland Security (DHS) or US-ICE information regarding the citizenship or immigration status, lawful or unlawful, of any individual. See 8 U.S.C. § 1373.

Therefore, federal authorities may become aware of a person who, according to ICE, is undocumented when the person is arrested and processed into an LAPD detention facility when the individual's fingerprints and other identifiers are submitted to the FBI as part of the booking process, or otherwise pursuant to 8 U.S.C. § 1373 (See Question No. 19 regarding how US-ICE may learn of someone in LAPD custody).

12. Does the LAPD notify US-ICE if a suspect or arrestee has an immigration related criminal arrest warrant?

Yes. If an LAPD officer learns that an arrestee has an arrest warrant for a violation of federal criminal immigration law, the LAPD will notify US-ICE or the originating agency 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.

13. Does the LAPD notify US-ICE if a suspect or arrestee does not have a warrant but there is probable cause to believe that the person may have illegally re-entered the U.S. in violation of 8 U.S.C. § 1326, a felony?

In limited circumstances, LAPD officers are permitted to detain an individual when they have reasonable suspicion that the individual illegally re-entered the U.S. 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 Department ILO, the officer may notify US-ICE, arrest the individual based on probable cause, and transfer custody of the arrestee to federal authorities. (Also see Question No. 6).

14. Does the LAPD allow US-ICE personnel to interview arrestees at LAPD jail facilities?

The LAPD complies with state law and only allows US-ICE personnel to interview an arrestee at LAPD jail facilities when the arrestee consents to the interview, in writing, after having been advised of his or her rights set forth in California’s TRUTH Act. Among other rights, the arrestee may consult with and require that an attorney be present during an interview.

US-ICE personnel are not present in LAPD jail facilities to screen arrestees for immigration status and must make interview requests on an individual basis.

15. Does the LAPD maintain records that reflect the immigration status of an arrestee, witness, or victim?

The LAPD neither requests nor records the citizenship or immigration status of individuals unless necessary to provide services such as T or U Visa information and certification, to investigate a criminal offense (e.g., sexual exploitation, trafficking, involuntary servitude, extortion, etc.), for consular notification purposes, or as otherwise required or permitted by state or federal law.

16. What is an “Immigration Detainer Request”?

When DHS becomes aware that someone in LAPD’s custody may be in violation of federal civil immigration laws, US-ICE may transmit an “Immigration Detainer – Notice of Action” form to the LAPD. This form asks a local agency to voluntarily hold an arrestee in jail for an additional 48 hours after the arrestee would otherwise be released so US-ICE personnel can assume custody of the arrestee. An Immigration Detainer Request is neither an arrest warrant nor a judicial order requiring the detention of an arrestee.

17. Does the LAPD extend an arrestee’s time in jail based solely on an Immigration Detainer Request?

No. Under state law, Department personnel are prohibited from detaining an individual based on a “hold” or Immigration Detainer Request. Federal courts have also ruled that a local agency cannot keep a person in custody without a probable cause determination by a neutral magistrate, and that detaining an individual based solely on an Immigration Detainer Request violates the Fourth Amendment of the U.S. Constitution.

18. Will the LAPD extend an arrestee’s time in custody if an Immigration Detainer Request is accompanied by a Form I-200 “Warrant for Arrest of Alien” or Form I-205 “Warrant of Removal/Deportation”?

No. A “Warrant for Arrest of Alien” and “Warrant of Removal/Deportation” are administrative directions to federal immigration officers to take a person into custody for civil immigration proceedings. These documents are not arrest warrants based on probable cause of a criminal violation and are not issued by a neutral magistrate as required under the Fourth Amendment of the U.S. Constitution. Therefore, the LAPD will not extend an arrestee’s time in custody based on an Immigration Detainer Request accompanied with either document. The LAPD requires a judicial probable cause determination or judicial warrant authorizing an officer to arrest and take

into custody the individual for a federal criminal immigration offense or other crime.

19. How does DHS and US-ICE know that LAPD has someone in custody if LAPD does not notify them?

While the LAPD does not investigate whether an arrestee has violated civil immigration laws, when an arrestee is booked in an LAPD facility his or her fingerprints are transmitted to the FBI to confirm the arrestee's identity and obtain his or her criminal history. The DHS and US-ICE have access to the FBI's database and, therefore, may learn that the individual has been taken into LAPD custody. (Also see Question No. 11).

20. Does the LAPD transfer arrestees to US-ICE personnel for civil immigration violations?

No. The LAPD does not transfer arrestees to ICE custody for civil immigration violations. However, once an arrestee is released from an LAPD jail facility, US-ICE personnel may take that person into custody when the person is in public.

21. What is the "287(g)" Program?

The DHS's "287(g) Program" refers to Section 287(g) of the Immigration and Nationality Act which allows US-ICE to delegate its authority to local police agencies that volunteer to take on civil immigration enforcement responsibilities. Participation in the 287(g) program is prohibited under state law. Therefore, the LAPD has not obtained any civil immigration enforcement authority through this, or any other, federal program.

22. Does the LAPD assist US-ICE with civil immigration enforcement operations in Los Angeles?

No. LAPD officers do not participate in or assist US-ICE personnel during civil immigration enforcement operations. LAPD officers, however, will respond to the location of an immigration operation if there is an

emergency, such as a crime in progress or a request for emergency medical assistance.

23. Does the LAPD work with US-ICE on criminal investigations unrelated to immigration?

Yes. The LAPD works closely with US-ICE Special Agents to investigate state and federal criminal offenses such as narcotics trafficking, intellectual property theft, human trafficking, child exploitation, and terrorism. LAPD officers are assigned to federal task forces supported by US-ICE to investigate criminal networks and prosecute criminal offenders. Department personnel may participate in joint task force operations, such as execution of criminal search or arrest warrants, interviewing witnesses, or other criminal investigative activities, involving US-ICE or US-CBP when execution of the operation will not involve civil immigration enforcement by any participant.

LAPD task force officers are prohibited from participating in any civil immigration enforcement-related operations and must comply with LAPD policies and state law.

Department personnel may also participate in non-task force joint operations, such as execution of criminal search or arrest warrants, interviewing witnesses, or other criminal investigative activities, involving US-ICE or US-CBP when execution of the operation will not involve civil immigration enforcement by any participant, a tactical or operational plan identifies all agencies involved in the joint operation, and the joint operation is approved by the corresponding Assistant Chief for the Office of Operations or Office of Special Operations.

24. Does the LAPD have any “Sanctuary City” policies?

“Sanctuary City” or “Sanctuary City Policies” are not terms used by the LAPD and are not defined under federal, state, or local law. Some jurisdictions declare themselves as a “sanctuary jurisdiction” while others may be viewed as a “sanctuary jurisdiction” based on the perception that they may not fully cooperate with federal authorities in the enforcement of federal immigration law.

The LAPD's policies and procedures regarding immigration enforcement comply with local, state, and federal laws and are designed to promote the Department's commitment to Constitutional Policing and public safety.

25. What is Executive Directive No. 20?

Executive Directive No. 20 is a mayoral order issued on March 21, 2017 setting forth the Mayor's longstanding commitment to immigrants in Los Angeles. It directs the Chief of Police to reaffirm and maintain the LAPD's existing policies and procedures regarding immigration enforcement, including the policy that originated in Special Order 40, the policy concerning US-ICE Immigration Detainer Requests, and the policy against partnering with US-ICE to perform civil immigration enforcement.

26. What is the California Values Act (SB 54)?

The California Values Act, commonly referred to as SB 54, is a state law that established restrictions and guidelines on how California law enforcement agencies may cooperate with federal immigration authorities or otherwise participate in actions related to immigration enforcement. The new restrictions, which became effective January 1, 2018, are consistent with long-standing LAPD policies and practices which have successfully promoted strong community partnerships and a safer City for everyone.

The LAPD's policies and procedures regarding immigration enforcement comply fully with the California Values Act and all other federal, state, and local laws.

APPENDIX

Serious Felonies (Cal. Penal Code § 1192.7(c))

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 the 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
Assault by a life prisoner on a noninmate
Assault with a deadly weapon by an inmate
Arson
Exploding a destructive device or any explosive with intent to injure
Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem

Exploding a destructive device or any explosive with intent to murder
Any burglary 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 to 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 victim's 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 Section 186.22
Assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220
Throwing acid or flammable substances, in violation of Section 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 Section 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.

Violent Felonies (Cal. 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 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 (j) 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