

<p style="text-align: center;">East Haven Police Department</p> 	Type of Directive: Policies & Procedures		No. 428.3
	Subject/Title: Arrest or Detention of Foreign Nationals		Issue Date: December 17, 2019
	Issuing Authority: Honorable Board of Police Commissioners		Effective Date: January 1, 2020
	References/Attachments: N/A Policies and Procedures #: 304 Connecticut General Statute: §54-192h Connecticut Public Act's 19-20 and 19-23		Review Date: Annually
		Rescinds: 428.2	Amends: N/A

I. PURPOSE

- A. The purpose of this directive is to set forth the policies and procedures of the East Haven Police Department (EHPD) regarding the arrest or detention of foreign nationals and how the East Haven Police Department interfaces with federal immigration policies and procedures.

II. POLICY

- A. The enforcement of the nation’s civil immigration laws is the responsibility of the federal government. Accordingly, the East Haven Police Department shall not undertake immigration-related investigations or perform any function of a federal immigration law enforcement agency as outlined in the Connecticut General Statutes. The Department’s personnel shall not routinely inquire into the specific immigration status of any person(s) encountered during normal police operations.
- B. This prohibition does not preclude the East Haven Police Department from cooperating and assisting with federal immigration officials from the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE) Agency when formally requested as part of an on-going criminal investigation, or from notifying those federal officials in serious situations where a threat to public safety or national security is perceived, as set forth in this directive.

III. DEFINITIONS

- A. Administrative Warrant: A warrant, notice to appear, removal order or warrant of deportation issued by an agent of a federal agency that enforces immigration laws and/or

responsible for the security of the borders (ICE and US Customs and Border Protection), but does not include a warrant issued or signed by a judicial officer.

- B. Civil Immigration Detainer: Pursuant to 8 CFR 287.7, a request from a federal immigration law enforcement agency to a local or state law enforcement agency for a purpose including, but not limited to:
 - 1. Detaining an individual suspected of violating a federal immigration law or who has been issued a final order of removal.
 - 2. Facilitating the arrest of an individual by a federal immigration law enforcement agency, or the transfer of an individual to the custody of a federal immigration law enforcement agency.
 - 3. Providing notification of the release date and time of an individual in custody.
 - 4. Notifying a law enforcement agency, through DHS Form I-247A, or any other form used by the United States Department of Homeland Security or any successor agency thereto, of the federal immigration law enforcement agency's intent to take custody of an individual.
- C. Confidential Information: Any information obtained and maintained by a law enforcement agency relating to an individual's sexual orientation, status as a victim of domestic violence or sexual assault; whether such individual is a crime witness or a recipient of public assistance; or an individual's income tax or other financial records, including, but not limited to social security numbers.
- D. Judicial Officer: Any judge of the state or federal judicial branches and any federal magistrate judge. A "judicial officer" does not mean an immigration judge.

IV. GENERAL GUIDELINES AND CONSIDERATIONS

- A. The Department values the diversity of the community it serves. Many who live and work in and visit the Town of East Haven have emigrated to this community from other countries and some may not be citizens or legal residents of the United States. The Town of East Haven and the Department are committed to promoting safety and providing proactive community policing services to everyone in our community. In furtherance of the Department's Community Policing philosophy, all community members should know they are encouraged to seek and obtain police assistance and protection regardless of their specific immigration and/or documentation status.
- B. The Department relies upon the cooperation of all persons to achieve our important goals of protecting life and property, investigating and preventing crime, and resolving recurring neighborhood issues. Assistance from immigrant populations is especially important when an immigrant, whether documented or not, is the victim of or witness to a crime. It is absolutely essential that these individuals do not feel uncomfortable or intimidated in coming forward with the requisite information and general firsthand knowledge to aid in investigating a particular crime. This type of mutual trust and cooperation is absolutely crucial in preventing and solving criminal incidents, as well as maintaining public order, safety and security in the entire community.

- C. The Department is responsible for providing effective police services to every individual in the Town of East Haven in an equal, fair, and just manner. The Department is concerned primarily for the safety and welfare of all individuals found within its territorial jurisdiction. Thus, detection of criminal behavior is of primary interest and concern in dealing with any subject suspected of violating the law. Race, religion, gender, sexual orientation, age, occupation, immigration status or any other arbitrary characteristic pertaining to any specific individual have absolutely no bearing on any decision for a police officer of the Department to effectuate a stop, detain an individual, or effect an arrest.
- D. The immigration status of an individual or group of individuals in and of itself is not and shall not be a matter of police concern or subsequent enforcement action. It is incumbent upon all members of the Department to make an unyielding personal commitment to equal enforcement of the law and equal service to the public regardless of one's immigration status. Confidence in this valued commitment will not only protect an individual's rights and freedoms from being adversely affected, but shall also increase the public's confidence in the Department's effectiveness and efficiency in protecting and serving the members of the entire community.
- E. The State of Connecticut participates in the Federal Secure Communities Program. Fingerprints of all persons arrested by state and local law enforcement agencies are submitted electronically to various databases as part of the booking process to confirm the identities of the arrested subjects. Under the Secure Communities Program, the FBI receives the submitted fingerprints and forwards the fingerprints to ICE. ICE checks the arrestee's personal information against the DHS-ICE immigration databases. If ICE determines that it has an actionable interest in the local arrestee, the agency then determines the specific enforcement action, if any, to take based on DHS enforcement priorities. If the local arrestee appears to have violated the federal immigration laws and the arrestee is deemed to fall within any of the enforcement priorities, ICE decides whether to issue a Civil Immigration Detainer (Detainer) for the arrested individual.

V. PROCEDURES

- A. Inquiries into Immigration Status
 - 1. A person's right to file a police report, participate in any police-community activities, or otherwise benefit from general police services shall not be contingent upon the individual providing proof of citizenship or any type of documented immigration status.
 - 2. Officers shall not question any persons about their specific citizenship or immigration status unless that person is reasonably believed to be or have been involved in the commission of a felony.
 - 3. Officers shall not request passports, visas, resident alien cards (i.e., "green cards") or travel documents in lieu of, or in addition to, driver's licenses and other standard forms of identification. Such other documents shall be requested only when standard forms of identification are unavailable.

- a. An exception to the above could occur if an operator of a lawfully stopped motor vehicle presents what appears to be a valid Foreign Country's Driver's License in which the license is valid in this state for only one (1) year and requires the operator to produce proof to the investigating officer of the most recent admission date to the United States so as to effectively toll the one-year time period. (e.g., Form I-94 or Passport with the entry stamp).

B. Interactions with Persons Potentially in Violation of Civil Immigration Laws

1. No person shall be detained or taken into custody solely because he/she is not legally in the United States.
2. If an individual is in the Department's custody due to criminal activity and ICE requests a notification of the release date and time of that individual who is suspected of violating an immigration law or has been issued a final order of removal, the request shall be forwarded to the Chief of Police or his/her designee for review prior to responding to the notification request.
3. Except as outlined in this directive, members of the Department shall not contact ICE concerning any person and shall not participate in any civil immigration-related investigation of any person.

C. Civil Immigration Detainer

1. Officers shall not arrest or detain an individual solely pursuant to a civil immigration detainer unless one of the following applies:
 - a. The detainer is accompanied by a warrant issued or signed by a judicial officer (judge).
 - 1) Officers, however, shall not detain or arrest an individual based on an administrative warrant. (An administrative warrant does not include a warrant issued or signed by a judge.)
 - b. The individual has been convicted of class A or B felony offense.
 - c. The individual is identified as a possible match in the Federal Terrorist Screening Database or a similar database.
2. Upon receipt of a civil immigration detainer, the officer shall provide a copy of the detainer to the affected individual and inform the affected individual of whether or not the Department intends to comply with the detainer.
3. If the Department complies with the detainer and the subject is detained, the officer or a member of the East Haven Public Communications Center (EHPSCC) shall inform ICE that the individual will be held for a maximum of forty-eight (48) hours, excluding Saturdays, Sundays, and federal holidays.
 - a. If ICE fails to take custody of the individual within the forty-eight-hour (48) period, the individual shall be released unless the individual is the subject of a warrant that was issued or signed by a judicial officer.

4. If ICE is provided with a notification that the individual is being, or will be released on a certain date, the individual, his/her attorney and/or another person whom the individual may designate shall be promptly provided with a written copy of such notification. The written notification shall include:
 - a. That the Department is complying with the detainer.
 - b. The reason as to why the Department is complying with the detainer.
5. A good faith effort shall be made to contact the other person who was designated by the affected individual to receive the copy of the notification.
6. The Department shall not expend or use time, money, facilities, property, equipment, personnel or other resources to communicate with a federal immigration agency or its members regarding the custody status or release of an individual targeted by a civil immigration detainer unless the Department is complying with a detainer as outlined in this directive and state law.

D. Interface with ICE

1. Federal immigration agencies or any member thereof shall not be given access to interview an individual who is in the Department's custody unless one of the following applies:
 - a. The individual is convicted of a class A or B felony offense.
 - b. The individual is identified as a possible match in the Federal Terrorist Screening Database or similar database.
 - c. The individual is the subject of a court order issued under 8 USC 1225(d)(4)(B).
2. Any confidential information of an individual who comes into contact with an officer may be disclosed to a federal immigration agency and its members only if one of the following applies to such disclosure:
 - a. The disclosure is authorized in writing by the individual to whom the information pertains, or by the parent or guardian of such individual if the individual is a minor or not legally competent to consent to such disclosure.
 - b. The disclosure is necessary in furtherance of a criminal investigation of terrorism.
 - c. Otherwise required by law.
4. ICE Requests for Assistance
 - a. ICE has jurisdiction for enforcement of the provisions to Title 8, U.S. Code dealing with illegal entry into the United States by foreign nationals.
 - 1) East Haven Police officers have no authority to enforce federal immigration laws and shall not make any arrest based solely on a suspected violation of immigration laws.

- b. The Department's officers shall not directly participate in any ICE operations solely for the civil enforcement of federal immigration laws unless at least one of the following conditions is met:
 - 1) Participation is in direct response to a request for assistance on a temporary basis for "Officer Safety" purposes.
 - 2) Participation calls for assistance in the apprehension of any individual who is also wanted on a criminal warrant from Connecticut or other jurisdiction which remains in full force and effect at the time of the request.
5. Any arrest by a member of the Department during the request for assistance by ICE shall be based upon probable cause that the detained individual is or was involved in criminal activity other than a civil violation of federal immigration laws or is wanted by Connecticut or any other jurisdiction on a criminal warrant.

E. Training and Enforcement

1. The Department shall conduct necessary training consistent with this directive. Any alleged violation of this directive is subject to the investigative and complaint procedures of Policies and Procedures # 208 – Internal Affairs Officer and Complaints.

F. Data Collection

1. The Department shall maintain a record of all ICE access, detainers, warrants, or transfers consistent with Connecticut's Record Retention laws.
 - a) Records relating to ICE access include, but are not limited to, data maintained by the law enforcement agency regarding the number and demographic data of individuals to whom the agency has provided ICE access, the date ICE access was provided to an individual, the type of ICE access provided to an individual, the amount of resources expended on providing ICE access and any communication between the Department and any federal immigration agency.
2. Unless otherwise prohibited by law, the Department shall provide a copy upon request of records relating to ICE access, detainers, warrants, or transfers with properly redacted information in accordance with the Freedom of Information Act.
 - a) In addition, the Department shall also advise any person who requests ICE related records as to the number and type of records withheld from disclosure and the reasons therefore.
3. The Head of the Records Division shall provide an Immigration Report to the Legislative Town Council on an ongoing basis every six (6) months. The Immigration Report shall include:
 - a. Data regarding the number and demographic data of individuals to whom the law enforcement agency has provided ICE access;
 - b. The dates ICE was granted access to individuals and whether the ICE access was provided as part of compliance with a civil immigration detainer or through other means.

4. The Head of the Records shall provide notification to the Legislative Town Council by the 15th day of the months of January and July.