



**Town of Framingham
Police Department**

Policy on Enforcement of Immigration Laws #200-15

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Level: Department ()	Police Division (X)	Town Wide ()

Policy Statement

Enforcing federal immigration law is not a mission of the Framingham Police. Accordingly, it is not appropriate for a member of the Department to inquire about, or investigate a non-citizen's immigration or travel status if the sole purpose is to determine an individual's immigration status or whether the person is in the country lawfully, or to facilitate a person's detention or deportation by the U.S. Immigration & Customs Enforcement (ICE).

A member of the Department may investigate a person's immigration or travel status if the inquiry or investigation is part of, and reasonably likely to facilitate, the investigation of a violation of state criminal law, state motor vehicle law, federal criminal law (excluding federal immigration law), or conduct that is independent of immigration status that poses a threat to public safety or order.

A person may file a police report, participate in police-community activities, or otherwise benefit from police services without regard to his/her immigration status.

References

Special Terms

Seizure: To take possession of under compulsion of legal authority; to confiscate.

Documents: An article/credential that is, or purports to be issued by a government entity, that is relied upon to record or prove something. Examples include a driver's license from any state or country, ICE issued identity/status cards, documents issued by the Massachusetts RMV, or other official governmental motor vehicle organizations, and passports issued by the U.S. or any other sovereign nation.

I. Policy Description

1. The enforcement of the nation's immigration laws is a primary responsibility of the federal government. Accordingly, the Framingham Police Department shall not undertake immigration-related investigations and shall not routinely inquire into the immigration status of persons encountered during police operations with the exceptions listed below in section A.

This prohibition does not preclude the department from cooperating with federal immigration officials when requested, or from notifying those officials in serious situations where a potential threat to the public is perceived, **or from obtaining the nationality of a detainee** in order to comply with the U.S. State Department's requirement for Consular Notification and Access (see policy #400-6).

A. Exceptions

Pursuant to the Memorandum Of Understanding (MOU) between this Department and with the Department of Homeland Security / U.S. Immigration and Customs Enforcement (ICE) and under the authority of Title 8 of the US Code, §287(g) of the Immigration and Nationality Act, officers assigned by the Chief of Police, who successfully complete the training program offered by ICE on §287g enforcement shall have **limited** authority to perform certain immigration functions related to the investigation of violent crimes to include but not limited to: homicide, narcotic sales, firearms violations, gang activities and organized document fraud. Officers assigned to this initiative are prohibited from engaging in administrative immigration enforcement or utilizing their authority, training or ICE computer access to investigate non-violent crimes. Authority granted to 287(g) authorized officers shall be

limited to these MOU limitations and / or whatever limitations the Chief of Police deems appropriate.

II. Procedure

1. Officers shall not question any person about his/her immigration status unless that person is reasonably believed to be involved in one or more of the activities identified below in subsection A:

A.

- is arrested for any violent felony
- has been convicted of any felony, regardless of whether that felony involved violence
- is arrested for terrorism-related offence, or is otherwise reasonably suspected of involvement in terrorism and/or subversive activities
- is arrested for any offence involving the entry or fraudulent assimilation of undocumented foreigners into the country, or is reasonably suspected of participating in an organized venture to bring or fraudulently assimilate undocumented foreigners into the country.
- is a previously deported felon under arrest
- is reasonably suspected of participating in criminal street gang activity.

B. An individual who is suspected of being an undocumented alien alone shall not be the basis for contact, detention, or arrest.

2. Document Seizure- A motor vehicle operator/passenger's documents may be seized if they are contraband, the fruits or instrumentalities of a crime, evidence of a crime, or the mere possession of the document is illegal. Examples may include, when the operator provides the officer with a forged or altered license regardless of the state or country of origin, he/she may be charged with Ch. 90, Sec. 24B or Ch. 267, Sec. 1.

3. Passport Seizure- Passports may only be seized if they are contraband, the fruits or instrumentalities of a crime, evidence of a violation of state criminal law, federal criminal law, or illegally possessed. Passports seized for these purposes should be processed like any evidence. Once the case is adjudicated, the passport should be forwarded to the originally intended owner, or Department of State, Lost or Stolen Passport Section, 1111 19th St. NW, Room 500, Washington, DC 20522-1705.
4. An international driver's license/permit is simply a translation of an operator's foreign driver's license into English. This document is not required to operate a motor vehicle in Massachusetts. The international license/permit is not a substitute for a person's actual driver's license issued by their country of origin. A visiting foreign national who is licensed in another country is required to carry only his/her valid foreign driver's license while operating a motor vehicle. Not all foreign licensed operators are authorized to drive in Massachusetts.
5. Officers shall not ask any witness or victim their immigration status (unless they become the focus of the investigation or are under arrest).
6. Officers are not precluded from inquiring country of birth during the booking process in order to properly enter information into NLETS or for Consulate Notification.

III.Procedures for someone taken into custody.

1. All arrestees brought to the Framingham Police Station shall be fingerprinted according to policy. AFIS will receive the fingerprints through our fingerprint scanning system and will notify our department (approximately 20 minutes later) if the arrestee is "subject to removal proceedings".
2. Dispatch personnel will enter the person's information into the ICE/ INS query screen. ICE will then transmit a confirmation number that the information was received.
3. An INS representative will call to inform us of the person's status and will fax us a "detainer". Note: Framingham Police Officers specially trained in 287g can also prepare a detainer (for felony crimes only in accordance with the Memorandum of Understanding as outlined in section 1A).
4. The officer/dispatcher speaking with the INS duty agent must ask if the arrestee will be transported from the police station or from the courthouse.

5. A person subject to removal proceedings is still entitled to have a Bail Commissioner review his/her situation. The booking officer will notify the Bail Commissioner and advise him/her that the person under arrest is subject to an immigration detainer (NOTE: this only applies if the person was arrested for another offence in addition to the detainer).
6. The booking officer will also advise the prisoner of their rights regarding Consulate Notification and Access (see Policy on Consulate Notification).
7. The prisoner will be advised of the detainer and shall be so noted on the booking form.
8. A copy of the detainer will be attached with the booking sheet
9. The prisoner will be transported by our department to the courthouse for the next available session and delivered to the court officials.
10. INS will arrange transportation from the courthouse.