



# COTTAGE CITY POLICE DEPARTMENT

## GENERAL ORDER

### SUBJECT: **ALIENS AND FOREIGN SPEAKING NATIONALS**

### NEW REVISED RESCINDS

APPROVED: *GM*  
GEORGIA MILTENBERGER  
ACTING CHIEF OF POLICE

Effective Date 8/22/2018

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#### **I. POLICY**

The purpose of this General Order is to establish guidelines for the questioning, arrest, and/or investigation of aliens/foreign speaking persons.

#### **II. POLICY**

It is the policy of this Department not to pursue deportation during the judicial process. It is a higher priority to prosecute the perpetrators of crimes rather than initiate deportation proceedings against victims/witnesses who happen to be illegal aliens. All individuals, regardless of citizenship, are entitled to basic rights and privileges which are set forth in common law, State and Federal law, and the Maryland and United States Constitution. In addition, aliens/foreign speaking persons may be entitled to rights and privileges set forth in the Vienna Convention and other international laws. It is the policy of this department to exercise its duties in conformance with all applicable laws, regardless of nationality or racial/ethnic background.

#### **III. QUESTIONING OF ALIENS OR FOREIGN SPEAKING PERSONS/ARREST POLICY**

- A. The indiscriminate questioning of foreign speaking persons about their citizenship status (possession of their "green card") without a reasonable basis for suspicion of state/local traffic or criminal charges is unconstitutional according to the Supreme Court decisions.

Furthermore, the intimidating effect of such questioning creates fear, suspicion and distrust of the police.

- B. Officers have no statutory authority to arrest an undocumented alien for violations of federal immigration laws. If an alien is arrested, the basis of that arrest must rest solely on state/local traffic or criminal charges.
- C. If an individual who is stopped for a traffic violation is not wanted for other charges and has a valid permit, he should be treated the same as any other violator and not subjected to arrest or further questioning because of this nationality. Without reasonable suspicion of criminal activity, the individual cannot be detained longer than necessary for the traffic stop to be completed.
- D. Officers do not have the authority to confiscate Resident Alien Cards (slang term - "Green Cards") or Employment Authorization Cards without the express authorization of an Immigration and Naturalization Service (INS) Department of Justice Officer.

#### **IV. ALIENS AS VICTIMS/WITNESSES**

A police report/investigation is not contingent upon a person's citizenship status. It is not the policy of this department to pursue deportation proceedings. However, if it becomes known that a victim/witness is facing possible deportation and the officer needs the victim/witness for the case, the officer must notify Immigration and Custom Enforcement (ICE) in writing, through the office of the Chief. This is to ensure that ICE is aware of the situation and may delay deportation of the individual. Approval by ICE to remain in the country does not constitute employment authorization or confer any benefit. Furthermore, if the victim/witness has a criminal history, they may not qualify for consideration for a delay in deportation.

#### **V. ARREST PROCEDURES**

When aliens, who are not United States citizens, are arrested for violations of criminal or traffic laws (those where a physical arrest is made), the following procedure will be followed after normal processing:

- A. The arresting officer will notify the ICE by telephone as soon as possible after the arrest and provide the following information:
  - 1. Full name of the arrested subject;
  - 2. Date and place of birth;

3. When and where the alien entered the United States (if known);
  4. Charges against alien; and,
  5. The Registered Alien File Number. This number appears on the "green" identification card issued to the alien and should be in his/her possession. If no card is available, the investigator will advise the officer of what action to take. (The "green" card is actually pink or white in color but is known by all aliens as the "green card.")
- B. The arresting officer's report will include:
1. A statement that the person arrested is in fact an alien;
  2. The name of the U.S. Immigration Investigator and the date and time notified; and,
  3. Registered alien file number if available.

## **VI. VIENNA CONVENTION ON CONSULAR RELATIONS (1963)**

- A. Certain provisions of the Vienna Convention on Consular Relations (1963) and customary international laws require that appropriate authorities of the United States, including state and local authorities, provide assistance to foreign consul officers in the performance of their duties.
- B. The United States is obligated under international treaties and customary international law to notify foreign authorities when foreign nationals are arrested or otherwise detained in the United States. Officers should follow these procedures:
1. Immediately inform the foreign national of the foreign national's right to his government notified concerning the arrest/detention.
  2. If the foreign national asks that such notification be made, do so without delay by informing the nearest consulate or embassy and note that fact in the event report. Consulate phone number can be obtained from communications.
  3. In the case of certain countries, such notification must be made without delay regardless of whether the arrestee/detainee so wishes. A list of these countries can be obtained from the same sources mentioned above.

- C. Consul Officers should be given timely notification concerning the death of a foreign national and disposition of the deceased's property.
- D. When requested, assistance should be given to any consul in ascertaining the whereabouts of their nationals. This does not include disclosing any information obtained through MILES or NCIC. This information is restricted to law enforcement only.

**VII. TELEPHONE INFORMATION**

- A. When seeking information from or making notifications to ICE, the following numbers should be used:
  - 1. 410-962-7449 (0800 -1630 weekdays)
  - 2. 410-377-1500 (1630 - 0800 and weekends this number is an answering service ask for the duty agent)
- B. Should an officer require from the Department of State, their Operations Center is manned 24 hours a day and can be reached at 202-647-1512.
- C. If assistance is requested or a notification was made, a notation should be made in the incident report.