



Policy Title: Immigration Violations	Policy Number: 414
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414.1 PURPOSE

The purpose of this policy is to provide guidelines and expectations to members of the Livonia Police Department (“LPD” or “Department”) relating to immigration encounters, federal civil immigration enforcement, federal criminal immigration investigations and interacting with federal immigration officials while providing clarification as to their authority as licensed Michigan law enforcement officers and not 287(g) certified federal immigration officers. ((8 U.S.C. § 1357(g) (Section 287(g) of the Immigration and Nationality Act)).

414.2 POLICY

It is the policy of the Livonia Police Department that all members understand their law enforcement authority and make personal and professional commitments to equal enforcement of the law and equal service to the public. Department members’ awareness of their authority will enhance the effectiveness of this Department in protecting and serving the entire community while recognizing the dignity of all people, regardless of their national origin or immigration status. Members of the Livonia Police Department shall, at all times, exercise their Michigan licensed law enforcement authority in a fair, impartial, unbiased and Constitutional manner.

414.3 DEFINITIONS

Alien: means any person not a citizen or national of the United States. 8 U.S.C. § 1101(a)(3).

Civil Immigration Violation: breach of United States federal immigration laws or regulations that is not classified as a criminal offense but rather as a civil matter. Civil immigration violations typically involve conduct that subjects a foreign national to administrative removal proceedings, rather than criminal prosecution. Civil immigration law is found in the United States Code of Federal Regulations.

Code of Federal Regulations (CFR): the annual codification of general and permanent rules published by U.S. federal agencies in the Federal Register. Divided into 50 titles representing broad subject areas, it constitutes the official, legally binding regulations. These laws are investigated and enforced by authorized federal agencies and officers.

Criminal Immigration Violation: conduct that violates United States federal immigration statutes and is classified as a criminal offense, as opposed to a civil violation. Criminal immigration violations typically involve actions that are prosecuted in federal court and may result in criminal penalties such as fines, imprisonment, or both. Criminal immigration law is found in the United States Code of Federal Regulations.

Customs and Border Protection (CBP): a federal agency of the United States government, established within the Department of Homeland Security (DHS) responsible for border security, trade facilitation, and enforcement functions.

Department of Homeland Security (DHS): an executive department of the United States government, established by statute to coordinate and oversee domestic security functions.

Homeland Security Investigations (HSI): the principal investigative arm of the U.S. Department of Homeland Security (DHS), operating under U.S. Immigration and Customs Enforcement (ICE). HSI is an agency of the United States government responsible for investigating a wide range of domestic and international criminal activities that threaten the security of the United States.

Immigration Administrative Warrant: An administrative document, commonly DHS form I-200 (Warrant for Arrest of Alien) or DHS form I-205 (Warrant for Removal or Deportation), issued between one immigration officer to another immigration officer. These documents are not issued between an immigration officer and a local law enforcement agency and are not arrest warrants issued by a Judge.

Immigration Detainer: a request from an ICE or CBP agent that asks a federal, state or local law enforcement agency to notify the requesting agency as early as possible before they release a removable alien and/or to hold the alien for up to 48 hours beyond the time they would ordinarily release them, so DHS has time to assume custody in accordance with federal immigration law. This is also known as DHS Form I-247A. This is signed by an immigration officer and not a Judge.

Immigration and Customs Enforcement (ICE): the principal United States law enforcement agency within the Department of Homeland Security, tasked with enforcing immigration and customs laws, conducting investigations, and managing detention and removal operations.

Michigan Criminal Arrest Warrant: a legal document signed by a Judge or Magistrate authorizing law enforcement to arrest an individual for alleged criminal activity or for failing to comply with court orders. These documents are signed by a Judge or Magistrate and are on a form created by the State Court Administrative Office. It commands and orders a peace officer to take the subject into custody.

Michigan Compiled Laws (MCL): the compilation of Michigan laws in force, arranged without alteration, under appropriate headings and titles. The MCL criminal laws are investigated and enforced by authorized MCOLES certified law enforcement officers.

Michigan Commission on Law Enforcement Standards (MCOLES): the state agency responsible for establishing mandatory recruitment, training, and licensing standards for all law enforcement officers in Michigan.

287(g) Agreement: a Memorandum of Agreement (MOA) between the federal government and the local governmental entity, that constitutes an agreement between United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS) and the local government, pursuant to which ICE delegates to nominated, trained, and certified local law enforcement officers the authority to perform certain immigration enforcement functions.

414.4 CIVIL AND CRIMINAL IMMIGRATION LAW AWARENESS

Civil Immigration Violations: Civil immigration violations are breaches of immigration law that do not constitute crimes but instead result in administrative consequences.

- **Guidance and Expectations:** Members of the Livonia Police Department do not have 287(g) authority to investigate or enforce civil immigration violations. Members of the Livonia Police department shall not investigate or enforce civil immigration violations.

Criminal Immigration Violations: Criminal immigration violations are specific acts defined by statute as crimes, prosecuted in federal court, and punishable by criminal sanctions such as imprisonment or criminal fines.

- **Guidance and Expectations:** Members of the Livonia Police do not have 287(g) authority to investigate or enforce criminal immigration violations. Members of the Livonia Police department shall not initiate, investigate or enforce criminal immigration violations unless and in a manner consistent with this policy.

Civil Liability Exposure in Immigration Law Enforcement: Federal immigration law and alien status is extensive and complex. *Arizona v United States*, 567 U.S. 387, 395 (2012). Michigan police officers have training and a focus on Michigan law and not federal immigration law. Civil immigration enforcement by a non 287(g) certified officer may create officer and departmental civil liability. See *Monell v. Department of Social Services*, 436 U.S. 658 (1978) and *City of Canton v. Harris*, 489 U.S. 378 (1989) and 8 USC 1357(g)(1) and (2).

414.5 OFFICER AUTHORITY

State and Local Law Enforcement Authority

The scope of the authority of the members of the Livonia Police Department is based on their licensure under Michigan law and employment with the City of Livonia. Members of the Livonia Police Department are licensed by MCOLES as “law enforcement officers” and are authorized by Michigan law, to prevent and detect crime and enforce the general criminal laws of Michigan and the Ordinances of the City of Livonia. See MCL 28.602 and Public Act 203 of 1965 and City of Livonia Charter.

- **Guidance and Expectations:** Members of the Livonia Police department shall act within their authority as an MCOLES law enforcement officer employed by the City of Livonia.

Federal Civil Immigration Enforcement Authority

Local police officers, including the members of the Livonia Police Department, do not have the 287(g) power and authority to investigate, interrogate any alien or person believed to be an alien as to their right to be or remain in the United States. See INA§ 287(a)(1) and 8 C.F.R. § 287.5(a)(1).

The authority to enforce federal civil immigration laws is within the purview of federal law enforcement officers employed by U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP). The authority is granted to ICE and CBP. This is the case unless the local Michigan officer’s governmental entity has entered into a 287(g) Memorandum of Agreement (MOA) or other similar agreement granting authority. See 8 U.S.C. § 1357 and INA§ 287(a)(4) and 8 C.F.R. § 287.5(c)(2).

The enforcement of both civil and criminal immigration violations is generally the responsibility of federal immigration authorities, such as U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP). Local law enforcement officers, including members of the Livonia

Police Department, do not have inherent authority to enforce civil immigration law unless specifically authorized under federal law such as pursuant a 287(g) or other formalized and written agreement.

To clarify, 287(g) agreements are rare. The State of Michigan has about 575 local law enforcement agencies of which 6 agencies or about 1% have 287(g) agreements. Nationally, out of approximately 18,000 law enforcement agencies, about 1,426 or about 8% have 287(g) agreements. See MCOLES 2024 Annual Report and United States Immigration and Customs Enforcement Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act.

- **Guidance and Expectations:** Members of the Livonia Police Department are not 287(g) officers and shall act within their authority as an MCOLES law enforcement officer employed by the City of Livonia.

Federal Criminal Immigration Investigations Authority

Federal agencies, such as HSI, ICE and CBP investigate criminal violations of federal immigration law and are part of the overall United States law enforcement system. Also, federal law enforcement agencies are authorized by the CFR to investigate criminal activity within their investigatory focus. Members of the Livonia Police Department shall work with and assist these agencies in their criminal investigative duties. This shall be done in the same manner in which we assist other federal criminal law enforcement agencies such as the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA) and the Internal Revenue Service (IRS) when requested for a local law enforcement uniformed presence, crowd control and other public safety services.

- **Guidance and Expectations:** Members of the Livonia Police Department shall act within their authority as an MCOLES law enforcement officer employed by the City of Livonia. Members shall assist federal criminal law enforcement agencies in their criminal investigatory function by providing a uniformed presence, crowd control and other public safety services.

Detention – Arrest and Traffic Stops

Officers shall act in accordance with the department’s written directives and criminal investigatory procedure when identifying any person detained, arrested, or who comes into contact or custody of the Livonia Police department. All contacts, detentions and arrests shall be Constitutional.

- **Guidance and Expectations:** The City of Livonia and the Livonia Police Department do not have a 287(g) agreement with the Department of Homeland Security authorizing Livonia officers to serve as immigration officers and to conduct immigration functions.
- **Guidance and Expectations:** If during a Michigan law based criminal investigation, traffic stop or other contact, the driver or arrested subject is unable to provide satisfactory evidence of identification, the officer shall handle the matter consistent with law enforcement best practices, usual and customary police procedure and Michigan law.

During the course of a traffic stop, if the driver is unable to provide a valid driver’s license and/or otherwise unable to provide satisfactory evidence of identification, and a LEIN check is negative in confirming the identification of the driver, that driver may be arrested, taken into custody, fingerprinted and lodged. MCL 257.301 and MCL 28.243.

Also, if during the course of a Michigan law based criminal investigation resulting in a misdemeanor warrantless arrest and the subject is unable to provide satisfactory evidence of identification, that person may be arrested, taken into custody, fingerprinted and lodged. MCL 764.9c(5)(b) and MCL 28.243.

In that situation, the issuance of an appearance ticket to a subject unable to provide satisfactory evidence of identification is improper because the requirement of verified identity to issue the appearance ticket. MCL 764.9f. An arrested person who is taken into custody as outlined above, instead of being issued an appearance ticket must be charged by the appropriate prosecuting authority or released from custody not later than 3 p.m. the immediately following day during which arraignments may be performed. MCL 764.9c(7).

Also, once lodged, if in the opinion of the arresting officer or department, the arrested person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, is wanted by police authorities to answer to another charge, is unable to establish or demonstrate his or her identity, or it is otherwise unsafe to release him or her, the arrested person shall be held until he or she is in a proper condition to be released, or until the next session of court. MCL 780.581.

- **Guidance and Expectations:** An individual shall not be stopped or detained, or a traffic stop prolonged, solely for the purpose of establishing an individual's citizenship status. See *Arizona v. United States*, 567 U.S. 387 (2012), *Rodriguez v. United States*, 575 U.S. 348 (2015), *United States v. Stepp*, 680 F.3d 651 (6th Cir. 2012) and MCL 37.2101.
- **Guidance and Expectations:** Officers may not intentionally stop a vehicle for the sole purpose of identifying the driver and/or passengers immigration status. See *Terry v Ohio*, 392 US 1 (1968) and *U.S. v. Smith*, 594 F.3d 530 (6th Cir. 2010) and *Whren v United States*, 517 US 806 (1996) and MCL 37.2101.
- **Guidance and Expectations:** Members of the Livonia Police Department shall act within their authority as an MCOLES law enforcement officer employed by the City of Livonia when issuing traffic citations, appearance tickets or making arrests and shall not inquire as to an individual's citizenship status, unless such information is necessary as part of a criminal investigation. See ICE MOA, 287g Task Force Model Agreement, and 8 U.S.C.§ 1357, MCL 28.602 and Public Act 203 of 1965, MCL 764.15 and City of Livonia Charter.
- **Guidance and Expectations:** Members of the Livonia Police Department shall not stop and question, arrest, or detain anyone suspected of violating federal civil immigration law solely on the grounds of their immigration status, alienage, or individual personal characteristics that lead the member to question immigration status or alienage. See ICE MOA, 287g Task Force Model Agreement and 8 U.S.C.§ 1357, MCL 28.602 and Public Act 203 of 1965, MCL 764.15 and City of Livonia Charter.

- **Guidance and Expectations:** During the course of a routine traffic stop, members of the Livonia Police Department shall not require proof of immigration status, citizenship, or place of birth, or otherwise inquire about a person's immigration status, unless such information is necessary as part of a criminal investigation. See ICE MOA, 287g Task Force Model Agreement and 8 U.S.C.§ 1357, MCL 28.602 and Public Act 203 of 1965, MCL 764.15 and City of Livonia Charter.
- **Guidance and Expectations:** Members of the Livonia Police Department shall not stop, interrogate, search, arrest or detain any individual based solely on an immigration administrative warrant or civil immigration detainer (including forms I- 200, I-205, I-274A, or I- 203). See ICE MOA, 287g Task Force Model Agreement and 8 U.S.C.§ 1357, MCL 28.602 and Public Act 203 of 1965, MCL 764.15 and City of Livonia Charter.

414.6 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in investigating criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/ or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Michigan Constitutions. See also MCL 37.2101 and the Elliot Larsen Civil Rights Act. This policy affirms that the Livonia Police Department has an intent to protect all people 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. See MCL 780.751 and Act 87 of 1985, The William Van Regenmorter Crime Victim's Rights Act.

414.7 ARREST NOTIFICATION

An officer should not notify federal immigration officials when booking arrestees unless a LEIN notification or other official written communication confirms the existence of an outstanding criminal warrant signed by a federal Judge or Magistrate Judge. The Live Scan fingerprinting process will provide information as to active warrants, (whether federal, state or local) and will also notify federal immigration officials that the arrestee is in custody on Michigan criminal charges.

414.8 SUPERVISOR RESPONSIBILITIES

Clear Violations of Federal Criminal Immigration Law

If an officer has arrested a subject for a Michigan law or Livonia ordinance violation, and there is information obtained during the investigation, arrest or booking process that indicates a clear violation of federal criminal immigration law, the supervisor shall immediately contact the nearest office of U.S. Customs and Border Protection (CBP) or Immigration and Customs Enforcement (ICE) office. During non-business hours, supervisors should contact either the CBP Detroit Sector Headquarters Command Station at (1-900-537-3220) or the Law Enforcement Support Center (LESC) administered by ICE at (1-802-872-6020) and properly documented in a police report.

Immigration Detainers

When the department receives an immigration detainer, DHS Form I-247A, the patrol supervisor shall:

1. Identify whether the detainer is civil based or criminal based.

2. If the detainer is civil based, the supervisor shall contact the federal agency and advise that the Livonia Police Department does not employ any 287(g) officers and due to Constitutional and civil liability concerns the subject will not be held beyond the time they would ordinarily be released as requested in the detainer. No individual should be held based solely on a federal civil immigration detainer or for any period beyond the time they would ordinarily be released.
3. If the detainer is criminal based, the supervisor shall contact the federal agency and advise that the Livonia Police Department does not employ any 287(g) officers and due to Constitutional and civil liability concerns the subject will not be held beyond the time they would ordinarily be released as requested in the detainer unless a judicial warrant is provided prior to the release or the federal agency indicates, through appropriate administrative communication channels, that the subject poses a public safety or national security threat. In that event, the department will coordinate the subjects release to federal officials within Constitutional parameters and no later than the time they would ordinarily be released.

414.9 TEMPORARY IMMIGRATION BENEFITS - U VISA AND T VISA AWARENESS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U Visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)). Similar immigration protection, known as a T Visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U Visa or T Visa status should be forwarded in a timely manner to the Detective Bureau supervisor assigned to oversee the handling of any related case. The Detective Bureau supervisor should:

1. Consult the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
2. Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
3. Address the request and complete the certification or declaration, if appropriate, in a timely manner. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
4. Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.