

	GENERAL ORDER Effective: 10-01-2021	# 06-03
	Section: Specialized Functions	Replaces or Modifies: N/A
	Title: Enforcement of Immigration Laws Issued by: Chief Deputy Mattie Provost	

Purpose:

To establish guidelines to ensure that the Fort Bend County Sheriff’s Office (FBCSO) is in compliance with Texas Government Code (GC) Chapter 752 Subchapter C (Enforcement of State and Federal Immigration Laws by Local Entities....) and related laws.

Implementation Dates:

GC Chapter 753 Subchapter C is a new section added by SB 4 passed by the Texas Legislature in its 85th regular session and signed into law by the Governor. Its effective date is 09-01-17. Many of the provisions in the new legislation are not new practice to the FBCSO and actions that were taken prior to enactment are to continue and are given written direction in this General Order. Therefore, provisions of SB 4 as passed are to be followed with the effective date as indicated on this General Order, exceptions to effective date are found in the body of the General Order and any listed exception governs.

Policy:

All employees of the FBCSO shall follow the provisions found in this General Order concerning enforcement of immigration laws and there shall be no policy that is counter to said provisions. It has been the policy of the FBCSO to assist United States Immigration officials in the mission of keeping the citizens of Fort Bend County safe, especially as it concerns criminal aliens and it shall continue to be a priority to enforce all state laws and in cases where criminal aliens are found to be involved the FBCSO will be proactive in assisting Immigration officials in their duty to remove criminal aliens.

Definitions:

Immigration Laws – The laws of the State of Texas or federal law relating to aliens, immigrants, or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.)

Criminal Alien – A person in the United States in violation of federal immigration laws who has also committed criminal acts in violation of other laws of the United States or the State of Texas, especially acts that are felonies and/or contain elements of violence.

Lawful Detention – The detention of an individual for the investigation of a criminal offense. This term does not include detention if the sole reason for the detention is that the individual is a victim of or witness to a criminal offense or is reporting a criminal offense.

Policy – For purposes of this General Order includes a formal, written rule, order, ordinance, or policy and an informal, unwritten policy. This includes but is not limited to all policy as defined in General Order 01-01

Immigration Detainer Request – A request to detain an individual issued by the United Stated Immigration and Customs Enforcement (ICE).

Procedure:

I. Enforcement Authorization

- A. This section applies to each peace officer appointed by the FBCSO, each correction officer appointed by the FBCSO, and any civilian personnel performing the function of booking clerk.
- B. Has authority to inquire into the immigration status of a person under lawful detention or arrest.
- C. Has the authority to use information gathered in immigration status inquiry (including but not limited to a person's place of birth) in the following ways:
 - 1. Sending the information to or requesting or receiving the information from United States Citizenship and Immigration Services, ICE, or other relevant federal agency
 - 2. Maintaining the information in FBCSO systems
 - 3. Exchanging the information with another local entity or campus police department or a federal or state governmental entity
- D. Has authority to assist or cooperate with a federal immigration officer as reasonable or necessary, including providing enforcement assistance.
 - 1. Reasonable and necessary shall be determined in a similar manner to how the FBCSO determines response priorities to calls for service. Supervisors shall manage assist requests in an appropriate manner insuring that resources are available to assist in emergency calls for service.
 - 2. Requests for field assistance that are not emergency in nature should be routed to the Division Commanders so that appropriate personnel may be assigned as applicable.
- E. Except with the specific authorization of the Chief Deputy on a case by case basis, no FBCSO employee is authorized to assist or cooperate with a federal immigration officer if the assistance or cooperation occurs at a place of worship.
- F. It shall be the general practice of the FBCSO that a person who has a valid Texas Driver's License or ID will be considered to be in compliance with immigration laws and employees have no duty to proceed with further investigation unless there is articulable reason to suspect that the license/identification is invalid or there is separate probable cause to believe a violation of immigration law exists.
- G. Victims and Witnesses (this subsection is effective 09-01-17)
 - 1. Legal reference for this section is Texas Code of Criminal Procedure (CCP) Article 2.13 (d)(e)
 - 2. FBCSO appointed peace officers investigating an alleged criminal offense may inquire as to the nationality or immigration status of a victim of or witness to the offense only if the peace officer determines that the inquiry is necessary to investigate the offense or provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.
 - 3. This section does not prevent a peace officer from conducting a separate investigation of any other alleged criminal offense or inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the peace officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense.
 - 4. Reasons for actions pursuant to this section shall be thoroughly documented in the written report(s).

II. County Jail

- A. Federal immigration officers shall be allowed to enter and conduct enforcement activities concerning the enforcement of federal immigration laws in the Fort Bend County Jail (or at any facility of a similar nature under control of the FBCSO).
- B. Federal immigration officers will be expected to abide by all security and safety rules of the FBCSO and any deviation shall be reported to the Chief Deputy for immediate resolution.
- C. The Detention Bureau Commander will ensure that a booking report is sent to ICE once a day so that a check on immigration status may be conducted by ICE. In the event the FBCSO implements a delegation of immigration authority agreement with ICE known as section 287g then the daily report may be discontinued.
- D. Completion of Sentence in Federal Custody (this subsection is effective 09-01-17)
 - 1. This section applies only to a criminal case in which the judgment requires the defendant to be confined in a secure correctional facility and the defendant is subject to an immigration detainer request
 - 2. The Detention Bureau Division Commander shall take reasonable steps necessary to implement an order issued pursuant to CCP Article 42.039 (b). Further, if exigent circumstances exist the Commander may perform the transfer in accordance with the CCP without an order of the Court. All transfers done without order of court will be approved by the Chief Deputy.

III. Immigration Detainer Request

- A. If the FBCSO has custody of a person subject to an immigration detainer request employees shall
 - 1. Comply with, honor, and fulfill any request made in the detainer request, and
 - 2. Inform the person that he/she is being held pursuant to an immigration detainer request issued by ICE.
- B. In a situation where the FBCSO has been provided proof that a person in a detainer request is a citizen of the United States or has lawful immigration status in the United States (such as a Texas Driver's License or similar government issued identification) then employees are not bound to comply with the detainer request. Employees shall keep ICE informed on such situations
- C. Most detainer requests will be handled by the Detention Bureau, as such the Division Commander of the Detention Bureau shall institute SOPs to handle detainer requests and holds and associated forms/documentation.

IV. Discrimination Prohibited

- A. All employees are prohibited from considering race, color, religion, and national origin while assisting in the enforcement of immigration laws except to the extent that these considerations are permitted by the United States and Texas Constitutions.
- B. The FBCSO will take into consideration the following factors when reviewing an allegation of discrimination
 - 1. Any patterns seen in the enforcement/investigatory actions taken by the particular employee that might indicate discriminatory actions
 - 2. Actions by the employee that are outside of normal enforcement

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priorities as they relate to general enforcement of state laws that might show directed enforcement of minor violations towards the categories mentioned in this section

3. Particular actions of an employee during an encounter that support a finding that the actions taken are in violation of this section.

C. Supervisors shall be aware of employee actions and take appropriate corrective action in accord with the disciplinary policies of the FBCSO if they find employee violations of this section even if an outside allegation is not made.

D. Any allegation of violation of this section shall be reported to the Chief Deputy via the chain of command prior to any disciplinary action.

V. Reporting of Violations

A. As with all violations of General Orders, employees are to report same to supervisory personnel for resolution.

B. This subsection is effective 09-01-17

1. In cases where an employee has reason to believe that there is a violation of GC 752.053 (prohibition of certain policies materially limiting enforcement of immigration laws), the employee is to immediately report same in writing to the Chief Deputy.

2. In cases where a citizen makes complaint concerning the topic in this subsection, the complaint will be referred to the Chief Deputy.

VI. Only the Sheriff or Chief Deputy may authorize exceptions to this General Order.