

# UW Whitewater Police



## Immigration Enforcement and Foreign Nationals

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Special Instructions:

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### I. Purpose

The purpose of this General Order is to establish specifications, guidelines and procedures for dealing with immigration enforcement.

### II. Policy

UW-Whitewater Police Department (UWWPD) shall conduct all immigration enforcement activities in a manner consistent with federal and state laws regulating immigration and protecting the civil rights, privileges and immunities of all persons. This general order will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

UWWPD expressly acknowledges that mere unauthorized presence in the United States is not a criminal offense, and enforcement of such civil violations is reserved for federal authorities.

The need for community trust and cooperation is an essential component of effective policing and public safety. In furtherance of this principle, victims and witnesses of crime should not be the focus of immigration inquiries.

### III. Procedure

A. UWWPD officers will not make immigration status inquiries during consensual contact with members of the public.

1. There is generally no obligation on the part of victims and witnesses to cooperate with law enforcement or assist in an investigation, so these encounters should be treated as consensual encounters. Accordingly, officers of UWWPD will not make such inquiries of victims or witnesses, since discouraging cooperation will likely hinder or obstruct investigations and can negatively impact overall community trust and confidence.

2. Immigration status inquiries will only be made with supervisory permission.

B. UWWPD officers shall not stop or detain a person without reasonable suspicion that the person is, has been, or is about to be engaged in criminal activity.

1. Suspicion of unlawful presence in the United States is not a legal basis for a stop or detention.

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2. A vehicle may not be stopped to determine the immigration status of the driver or occupants.
- C. When reasonable suspicion exists to believe a detainee is unlawfully present in the U.S. but there are no state or local criminal violations, or any other lawful basis to continue the detention (i.e. completion of a traffic stop), the officer shall release the detainee without delay.
- D. If reasonable suspicion exists to believe an arrestee is an unlawfully present person during an interpersonal violence incident, such as domestic violence, battery etc., where the charge would be a misdemeanor or lesser offense, the officer will obtain supervisory permission before attempting to contact ICE. If no information concerning the subject is obtained from ICE by the time that the basis for the detention is concluded, the detainee shall be released without delay.
- E. If reasonable suspicion exists to believe an arrestee is an unlawfully present person during a felony level arrest, the officer will contact ICE and take any legal action required.
- F. The United States is obligated under international treaties to notify foreign Consular Officials when foreign nationals of their country are arrested or otherwise detained for an extended period in the United States. These obligations include:
  1. Immediately informing the foreign national of the right to have their government notified concerning the arrest/detention.
  2. Informing the appropriate Consulate without delay if the foreign national asks that such notification be made.
  3. In the case of certain countries, making such notification without delay, regardless of whether the arrestee/detainee wishes to have the notification made.
  4. Once notification of the appropriate Consulate or Embassy has been made it is not necessary to wait for a reply before continuing with the investigation. If the Consulate does contact the officer and asks to talk with the suspect, the Consulate is entitled to reasonable, private access. That access does not take priority over the investigation. The Consulate may not act as an attorney and may not invoke any of the suspect's rights on the suspect's behalf.
  5. Reference should be made to the "International Students Information" binder located in the squad room when notifying a Consulate, as this process may change.