

Immigration Enforcement Addendum

IACP Policy Fact Sheet

Guidance for State and Local Law Enforcement on Addressing Immigration Administrative Warrants in the NCIC Database

According to reports, the federal government has recently added more than 500,000 immigration-related warrants to the National Crime Information Center (NCIC) Immigration Violator File (IVF). The inclusion of immigration offenses in NCIC presents new challenges for state and local law enforcement agencies.

This document provides an overview of the issue and offers guidance to assist police leaders in navigating these challenges while ensuring legal compliance and maintaining community trust.

Understanding ICE Administrative Warrants

Immigration and Customs Enforcement (ICE) administrative warrants are a critical aspect of immigration enforcement that state and local officers must understand. These warrants differ significantly from criminal warrants and come with specific limitations and legal considerations.

Nature of Warrants: ICE administrative warrants, such as Form I-200 (Warrant for Arrest of Alien) and Form I-205 (Warrant of Removal/Deportation), are civil in nature and do not meet the Fourth Amendment's probable cause requirements. These warrants are not reviewed by a judge and do not authorize entry into private spaces or the arrest of individuals by state or local officers. *(Note: If a state or local agency is part of the 287(g) program or has another agreement in place with the federal government, they may have the authority arrest individuals in response to an administrative warrant.)*

Legal Considerations

Navigating the legal landscape of immigration enforcement requires a clear understanding of the distinctions between civil and criminal violations, as well as the implications of acting on ICE administrative warrants.

- **Civil vs. Criminal Violations:** State and local officers typically do not have the authority to detain individuals solely for civil immigration violations. However, they can detain individuals for criminal violations.
- **Judicial Oversight:** The lack of judicial oversight in ICE administrative warrants means officers must be cautious to avoid unlawful detention or arrest, which could lead to legal repercussions.

Operational Guidelines

To ensure that officers act within legal boundaries and protect their agencies and themselves from potential liability, officers should consider the following guidance when encountering ICE administrative warrants.

- **Verification:** Officers should verify the nature of the warrant and the individual's identity. This may involve direct communication with federal immigration authorities.
- **Non-Detention:** Officers should refrain from detaining or arresting individuals based solely on ICE administrative warrants. Instead, they should inform ICE of the individual's location and status.
- **Documentation:** Thorough documentation of interactions, including the presence of the warrant and communication with ICE, is essential to protect officers and their agencies from legal challenges.

Immigration Enforcement Addendum

IACP Policy Fact Sheet

Coordination with Federal Authorities

Effective coordination with federal authorities is crucial for managing situations involving immigration violations. This section outlines the steps officers should take to ensure proper communication and involvement of federal agencies.

- **Notification:** Promptly notify ICE or other relevant federal agencies to manage situations involving immigration violations.
- **Federal Jurisdiction:** Federal authorities have the jurisdiction to enforce immigration laws, and their involvement is necessary for handling civil immigration violations.

Adherence to Local Policies

State and local police chiefs should also ensure that their departments adhere to any specific policies or agreements in place regarding cooperation with federal immigration enforcement. For example, some states or localities have one of the following:

- **Sanctuary Policies:** Some jurisdictions have policies limiting cooperation with federal immigration authorities.
- **Memoranda of Understanding (MOUs):** Agreements between local law enforcement and federal agencies outline the extent and manner of cooperation.
- **State Laws:** Certain states have enacted laws that either mandate or restrict cooperation with federal immigration enforcement.

Arrest Authority (Non-Immigration Charges)

It is important to note that state and local officers still maintain the authority to arrest individuals with their own criminal charges, even if an ICE administrative warrant is present. This section clarifies the procedures to follow in such cases.

- **Criminal Charges:** Officers can arrest individuals who have committed criminal offenses under state or local laws, regardless of the presence of an ICE administrative warrant.
- **Processing:** Once arrested, the individual should be transported and processed like any other individual charged with a criminal offense. This includes booking, fingerprinting, and other standard procedures.
- **Notification to ICE:** While processing the individual, officers should notify ICE to ensure proper coordination and compliance with federal immigration enforcement protocols. This should include providing relevant details about the individual's criminal charges and status.
- **Documentation:** Officers should maintain thorough documentation of the notification to ICE and any subsequent communication or actions taken.

Training and Resources

If possible, agencies should provide regular training for officers on the legal and procedural aspects of handling immigration violations. This includes understanding the complexity of immigration law, the limitations of their authority, and the importance of respecting civil rights.

Conclusion

The inclusion of immigration offenses in the NCIC database presents new challenges for state and local law enforcement. By understanding the nature of ICE administrative warrants, adhering to legal and operational guidelines, and coordinating effectively with federal authorities, police chiefs can navigate these challenges while maintaining community trust.