



# IMMIGRATION POLICY 2014

SOUTH TUCSON POLICE DEPARTMENT

1601 South 6th Avenue  
South Tucson, AZ 85713

p. 520-917-1566  
f. 520-917-2901

Chief William Lackey  
[www.southtucson.org](http://www.southtucson.org)

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# GENERAL OPERATIONS

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## **Purpose**

The purpose of this policy is to provide guidelines for the management of law enforcement issues related to immigration.

## **Policy of Diversity**

South Tucson Police Department (STPD) recognizes and values the diversity of the community it serves. Therefore this agency shall conduct all immigration enforcement activities in a manner consistent with federal and state laws regulating immigration and protecting civil rights, privileges, and immunities of all persons. This policy will not limit or expand the enforcement of federal immigration laws outside of the bounds permitted by federal law.

## **Partnership**

STPD is committed to partnering with agencies to the extent allowable under federal, state, and local laws to address criminal activity within our community. This practice is consistent with our duty to ensure the safety and well-being of all persons, regardless of their immigration status.

## **Oversight**

STPD officers should be aware that the enforcement of state and federal laws related to immigration is a complex effort requiring the consideration of a multitude of facts and circumstances. Officers are required to contact supervisors when practicable regarding immigration-related inquiries or contacting federal immigration officials. All circumstances giving rise to such actions shall be documented as provided in the Immigration Supplement. Immediately following the completion of the Immigration Supplement, each officer must advise his/her supervisor regarding the contact.

## **Definitions**

287(g) officer- state or local officer trained, certified and authorized by the federal government to enforce all aspects of federal immigration law.

ICE/CBP/287(g)- Immigration and Customs Enforcement, Customs and Border Protection or a 287(g) certified officer.

## Application of Law

1. STPD officers must have, at a minimum, reasonable suspicion that a person is engaged in, has committed, or is about to commit a crime before initiating an investigatory seizure.
2. STPD officers must have probable cause to believe that a person is engaged in, has committed, or is about to commit, a crime before initiating an arrest.
3. Suspicion or actual knowledge of unlawful presence is not a sufficient basis for initiating an investigatory seizure or arrest.
4. A.R.S. § 13-2412 requires any individual lawfully detained based on reasonable suspicion that the person has committed, is committing or is about to commit a crime to state his/her own true full name, but provides that person shall not be compelled to answer any other inquiry of an officer. STPD officers shall not detain or arrest any individual for failure to provide his/her name, absent reasonable suspicion or probable cause that the person is committing, has committed, or is about to commit a crime.
5. STPD officers shall not, under A.R.S. § 13-2412, detain or arrest a person for failing to provide written identification.
6. Under A.R.S. § 13-2412, an individual's failure to produce any specific form of written identification does not create a presumption that the individual has not stated his or her "true name."
7. Under A.R.S. § 13-2412, a person who is known or suspected to be present without authorization is not presumed to have failed to provide his or her "true name."
8. A.R.S. § 13-2412 does not permit an officer to detain or arrest a person who is known or suspected to be present without authorization.
9. In cite and release situations, individuals shall not be booked for failure to prove identity absent an active warrant or exigent circumstances.

## POLICY STATEMENT

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STPD recognizes and values the diverse population of the community it serves. The City and all of its agents, employees, and officers acknowledges that unauthorized presence in the United States is not a crime. Enforcement of civil violations of unlawful presence is reserved for ICE/CBP/287(g). Officers shall not stop or detain an individual based on the knowledge or suspicion that the person is in the United States without authorization.

### Immigration-related Policies

1. STPD is committed to partnering with agencies to the extent allowable under federal, state, and local laws to address criminal activity within our community. This practice

is consistent with our duty to ensure the safety and well-being of all persons, regardless of their immigration status. Knowledge or suspicion that a person is in the United States without authorization cannot be a part of the information considered in concluding there is reasonable suspicion or probable cause to believe that a person is involved in criminal activity.

2. An STPD officer may not initiate a vehicle stop in order to determine whether the driver or passengers are present without authorization.
3. STPD Officers shall not rely on the following factors in forming reasonable suspicion of unlawful presence to justify an inquiry into a person's immigration status:
  - a) Race or ethnicity; b) Lack of English fluency; c) Speaking with an accent; d) Possession of foreign documentation; e) Lack of identification; f) Refusal or inability to provide residential address; g) Dress; or h) The fact that an individual has exercised his/her right to remain silent.
4. STPD officers shall not question persons who are victims of or witnesses to possible criminal acts, or persons complaining about or reporting police abuse, regarding their immigration status.
5. Because some current or former victims, witnesses or affected family members of criminal activity may have temporary or no legal status in the United States, they may fear that assisting law enforcement could lead to their deportation, STPD recognizes, supports, and encourages the U-Visa made available through the United States Citizen and Immigration Service. The U-Visa provides an opportunity for applicants to legalize their status, thereby encouraging individuals to report crimes and cooperate in the prosecution process of the criminal offender. A copy of the U-Visa Nonimmigrant Status Certification Form I-918 Supplement B is contained in the Appendix to this Policy.
6. STPD officers shall not question juveniles regarding their immigration status outside the presence of an attorney representing the interests of the juvenile.
7. STPD officers including School Resource Officers shall not question students through the high school level regarding their immigration status.
8. STPD officers shall not transport individuals to a federal immigration facility or to the custody of federal immigration officials in order to identify the individual, to investigate immigration status in order to identify the individual, to investigate immigration status, or based on the person's suspected or known immigration status. STPD officers are further prohibited from taking an individual into custody or prolonging an individual's detention for the purpose of determining whether that individual is present without authorization.

9. Once STPD officers have addressed the original justification for a stop, the individual must be released unless there is additional reasonable suspicion of a *crime* that would justify further detention. Thus, STPD officers shall not extend the duration of any stop, detention or arrest for the purpose of investigating the immigration status of any person detained, even if the inquiry as to immigration status is still pending.
10. Unless an STPD officer has reasonable suspicion that a detained or arrested person is in the country without authorization, and probable cause to believe the individual has committed or is committing a crime, the officer shall not (a) question the individual as to his/her alienage or immigration status; (b) investigate the individual's identity or search the individual in order to develop evidence of unauthorized presence; or (c) detain the individual while contacting ICE with an inquiry about immigration status or while awaiting a response from ICE. When an officer has knowledge or reasonable suspicion that a detained or arrested person is in the country without authorization, and probable cause to believe the individual has committed or is committing a crime, the officer may only inquire as to the immigration status of the person suspected of committing a crime and not to other individuals who may be present but are not suspected of any criminal activity. For example, vehicle passengers who are not suspected of any criminal violation may not be questioned regarding their immigration status. The officer must not extend the duration of any stop or detention longer than the time that is necessary to address the original purpose for the stop.
11. Absent exigent circumstances, when attempting to verify the immigration status of an individual, STPD officers shall contact ICE for immigration verification instead of Border Patrol.
12. Absent exigent circumstances, STPD officers who have stopped or detained an individual shall not contact federal immigration authorities in relation to that individual for purposes unrelated to verifying that individual's immigration status, such as providing translation assistance.
13. If officers contact ICE during the course of an investigation, and ICE advises the officer there are federal criminal charges against the detainee, then the officer shall determine whether ICE will respond to take the person into custody. STPD shall not detain a person solely on the basis of an ICE detainer that is not supported by probable cause or that is facially invalid. The fact that a person was born in a country not the United States does not, alone, constitute probable cause.
14. STPD shall promptly provide notice to all persons being detained pursuant to an ICE detainer that an ICE detainer has been issued against the person, and provide the person a meaningful opportunity to contest the basis of the detainer.

# PERMISSIBLE CONTACTS

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## Reasonable Suspicion/Probable Cause

In enforcing the laws, officers may legally stop, detain or arrest anyone when reasonable suspicion or probable cause exists that a crime has occurred. In no event shall the enumerated factors in South Tucson's Immigration-related policy paragraph three above, play any role in an officer's decision whether reasonable suspicion or probable cause exists to justify a stop.

## Racial Profiling Prohibited

1. Racial profiling is the reliance on race or ethnicity **to any degree** in making law enforcement decisions, except in connection with a reliable and specific suspect description that includes race or ethnicity.
2. STPD officers shall not use the factor of a person's race or ethnicity in making any law enforcement decisions, absent a specific suspect description. These decisions include the enforcement of traffic laws and the selection of which vehicles to stop and which persons to question or investigate. The existence of suspicion or cause to stop a vehicle for a traffic or equipment problem does not demonstrate that the stop was made without reliance on the race or ethnicity of the driver and/or passenger(s).
3. STPD officers shall not select particular communities, locations or geographic areas for targeted vehicle or criminal enforcement based to any degree on the racial or ethnic composition of the community.
4. STPD officers shall not selectively enforce or refuse to enforce any law based on race or ethnicity.

## Officer Oversight and Training

1. At the beginning of each vehicle stop and before making contact with the vehicle, STPD officers shall contact dispatch and state the reason for the stop, unless exigent circumstances make it unsafe or impracticable for the officer to contact dispatch.
2. With regard to initiating immigration questioning or any contact with federal immigration officials, STPD officers shall, where practicable, check with a supervisor to ensure that the circumstances justify such an action and proceed with immigration-related inquiries only if they receive supervisor approval. Where it is not practicable to contact a supervisor, officers shall subsequently document on the Immigration Supplement the circumstances the reason such contact was impracticable.
3. STPD Officers and/or supervisors shall document in an Immigration Supplement (See copy in Appendix), in every such case of initiating an immigration-related inquiry of an

individual and/or contacting federal immigration officials, (a) the time of the initial stop, (b) the reason(s) for making the initial stop, (c) the reason(s) for making the immigration-status inquiry or contacting immigration officials, (d) the time supervisor approval to make the immigration-status inquiry was received, (e) the time immigration officials were contacted, if applicable, (f) how long it took to receive a response from the agency, if applicable, (g) the time the stop was concluded, either by citation, release, or arrest, (h) whether the individual was transferred to federal custody, and (i) the names of the STPD officer(s) and supervisor(s) and federal officials involved. All attempts to contact a supervisor shall be documented on the Immigration Supplement.

4. All STPD officers shall have at least 15 hours of training on bias-free policing and the limits of officers' immigration enforcement authority, and at least 8 hours of continuing training each year. STPD leadership and supervisors must unequivocally and consistently reinforce to subordinates that discriminatory policing is unacceptable and clearly define, using examples, what this means and the situations covered.
5. Officers shall have their badges and numbers visible throughout an interaction with a civilian, and provide written information in English and Spanish to anyone inquiring as to how to file a complaint.
6. STPD officers shall document stop data for all pedestrian and vehicle stops that result in a citation or arrest, including the name(s) of those involved including the officers and civilians, the perceived race of individuals stopped, the location, duration, and basis for the stop, the results of any search, the presence of any contraband or evidence of criminal activity, and the outcome of the stop; the data may be entered during or shortly after the stop. If the stop involves any inquiry into immigration status and/or referral to immigration officials, officers and/or supervisors must record additional information, in the Immigration Supplement as enumerated in this Policy.
7. STPD supervisors shall regularly review all relevant data and records, and observations by STPD supervisors and/or commanders, to identify any warning signs or indicia of possible racial profiling or other improper conduct.
8. STPD supervisors shall aggregate monthly the stop data referenced in #6 *supra* for review by the Police Chief and city attorney or an appointee, and when requested by way of the Freedom of Information Act (FOIA) request form make these reports publicly available with personal identifying information of members of the public redacted.

# Appendix

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## Immigration Supplement I-918 Supplement B

# IMMIGRATION CONTACT

Officer:	Date:	Case/Event #:
Reason for Stop:		Time of Immigration Check:
Reason for Immigration Check:		Contacted: ICE <input type="checkbox"/> CBP <input type="checkbox"/>
Results of Status Check: Federal Civil Charges <input type="checkbox"/> No Record Found <input type="checkbox"/>		Time:
Federal Criminal Charges <input type="checkbox"/>		Reason ICE Not Contacted:
Time Stop Concluded:		Federal Agency Arrival Time:
Citation: <input type="checkbox"/>	Release: <input type="checkbox"/>	Arrest: <input type="checkbox"/>
Subject Released to Federal Custody: Yes <input type="checkbox"/> No <input type="checkbox"/>		If Yes. Time:
South Tucson Police Officer(s) Involved: (Name & Badge #)		
Federal Officers Involved: (Name & badge #)		
Subject Name: Last:	First:	Middle:
Comments:		
Officers Signature:		
Supervisor Contacted: Yes <input type="checkbox"/> No <input type="checkbox"/>		

MANDATORY TIME STAMP

form # STPD-14-1001

Form I-918 Supplement B,

U Nonimmigrant Status Certification

Department of Homeland Security
U.S. Citizenship and Immigration Services

START HERE - Please type or print in black ink.

Part 1. Victim Information

Family Name Given Name Middle Name
[ ] [ ] [ ]

Other Names Used (Include maiden name/nickname)
[ ]

Date of Birth (mm/dd/yyyy) Gender
[ ] [ ] Male [ ] Female

Part 2. Agency Information

Name of Certifying Agency
[ ]

Name of Certifying Official Title and Division/Office of Certifying Official
[ ] [ ]

Name of Head of Certifying Agency
[ ]

Agency Address - Street Number and Name Suite No.
[ ] [ ]

City State/Province Zip/Postal Code
[ ] [ ] [ ]

Daytime Phone No. (with area code and/or extension) Fax No. (with area code)
[ ] [ ]

Agency Type
[ ] Federal [ ] State [ ] Local

Case Status
[ ] On-going [ ] Completed [ ] Other: [ ]

Certifying Agency Category
[ ] Judge [ ] Law Enforcement [ ] Prosecutor [ ] Other: [ ]

Case Number FBI No. or SID No. (if applicable)
[ ] [ ]

Part 3. Criminal Acts

- 1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. (Check all that apply.)
[ ] Abduction [ ] Female Genital Mutilation [ ] Obstruction of Justice [ ] Slave Trade
[ ] Abusive Sexual Contact [ ] Hostage [ ] Peonage [ ] Torture
[ ] Blackmail [ ] Incest [ ] Perjury [ ] Trafficking
[ ] Domestic Violence [ ] Involuntary Servitude [ ] Prostitution [ ] Unlawful Criminal Restraint
[ ] Extortion [ ] Kidnapping [ ] Rape [ ] Witness Tampering
[ ] False Imprisonment [ ] Manslaughter [ ] Sexual Assault [ ] Related Crime(s)
[ ] Felonious Assault [ ] Murder [ ] Sexual Exploitation [ ] Other: (If more space needed, attach separate sheet of paper.)
[ ] Attempt to commit any of the named crimes [ ] Conspiracy to commit any of the named crimes [ ] Solicitation to commit any of the named crimes

For USCIS Use Only

Table with columns: Returned, Receipt, Resubmitted, Reloc Sent, Reloc Rec'd. Rows include Date for each category.

Remarks
[ ]

**Part 3. Criminal Acts (continued)**

2. Provide the date(s) on which the criminal activity occurred.

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States?  Yes  No

a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?  Yes  No

b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

c. Where did the criminal activity occur?

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in Part 1. Attach copies of all relevant reports and findings.

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

**Part 4. Helpfulness of the Victim**

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses information concerning the criminal activity listed in **Part 3**.  Yes  No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. (Attach an explanation briefly detailing the assistance the victim has provided.)  Yes  No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. (Example: prosecution is barred by the statute of limitation.) (Attach an explanation.)  Yes  No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. (Attach an explanation.)  Yes  No

**Part 4. Helpfulness of the Victim (continued)**

5. Other, please specify.

**Part 5. Family Members Implicated in Criminal Activity**

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim?  Yes  No

2. If "Yes," list relative(s) and criminal involvement. *(Attach extra reports or extra sheet(s) of paper if necessary.)*

Full Name	Relationship	Involvement

**Part 6. Certification**

I am the head of the agency listed in **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2.

Date (mm/dd/yyyy)