

MEMORANDUM OF LAW

DATE: March 30, 1993

TO: Mayor Susan Golding

FROM: City Attorney

SUBJECT: Legality of San Diego Police Department Policy in
Regard to Detaining Undocumented Aliens

You have asked whether the policy of the San Diego Police Department ("SDPD") in regard to detaining undocumented aliens is lawful, in light of a recent Attorney General's opinion. (See attached.) As discussed below, this office believes that the Department's policy is lawful.

The Attorney General addressed a broad municipal ordinance prohibiting City officers and employees from cooperating with Immigration and Naturalization Service ("INS") investigation, detention, and arrest procedures regarding the immigration status of persons within the City. The SDPD's policy does not prohibit or discourage cooperating with INS. The policy simply prohibits police officers from arresting or detaining suspected undocumented aliens for that reason only. Apprehending undocumented aliens as such is the responsibility of federal officers, not the SDPD. The Department will continue, of course, to cooperate appropriately with INS, as with all law enforcement agencies.

Additionally, the Department will continue to apprehend individuals, documented or undocumented, who are suspected of criminal activity under the laws of the State of California and the City of San Diego.

JOHN W. WITT, City Attorney

By

John Vanderslice

Deputy City Attorney

JV:jrp:520.1(x043.2)

Attachment

ML-93-43

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