



Approved:
Chief Marcia Harnden

Subject:

555. Immigration Violations

Effective:
November 13, 2017

Revised:
July 28, 2021

CALEA Standards:

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555.1: PURPOSE and SCOPE

The purpose of this policy is to provide guidelines to members of the Albany Police Department for investigating and enforcing immigration laws.

555.2: POLICY

It is the policy of the Albany Police Department to provide equal enforcement of the law and equal service to all persons within the parameters of state and federal law. Public confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status.

555.3: IDENTIFICATION

- a. While it may be necessary to obtain documents to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, color, national origin, or immigration status in any way that would violate the United States or Oregon Constitutions.
- b. Except as required by state or federal law, members shall not inquire about or request information concerning a person's citizenship or immigration status. ([Oregon HB 3265](#)).

555.4: ENFORCEMENT

- a. The United States Department of Homeland Security and United States Immigration and Customs Enforcement (ICE) have primary jurisdiction over immigration violations ([Title 8 of the United States Code](#)).
- b. This department does not participate in immigration investigation and enforcement activities. However, an officer may arrest any person who is the subject of an arrest warrant issued by a federal judge (not an ICE agency or ICE supervisor) for a criminal violation of federal immigration laws ([Oregon HB 3265](#) and [ORS 181A.820](#)).

- c. No individual should be held based solely on a federal immigration detainer under [8 CFR 287.7](#) unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the person's release.
- d. Officers may not inquire into or collect information about an individual's immigration or citizenship status or country of birth unless:
 - 1) The information is required to advance an investigation into a violation of state or local criminal law;
 - 2) The information is submitted to a court of this state, whether orally or in writing, in connection with a proceeding in that court; or
 - 3) As necessary to determine the individual's eligibility for a benefit that the individual is seeking.
- e. [Oregon HB 3265](#) authorizes any person to bring a civil action against a law enforcement agency or public body that violates provision of this bill.

555.5: INFORMATION SHARING

- a. Except as required by state or federal law, or pursuant to a valid court order or warrant, no member of this department shall disclose, for the purpose of enforcement of federal immigration laws, the following information concerning any person, whether current or otherwise (Oregon HB 3265):
 - 1) The person's address;
 - 2) The person's workplace or hours of work;
 - 3) The person's school or school hours;
 - 4) The person's contact information, including telephone number, e-mail address or social media account information;
 - 5) The identity of known associations or relatives of the person;
 - 6) The date, time, or location of the person's hearings, proceedings, or appointments that are not a matter of public record;
 - 7) Any of the above information with regard to the person's known relatives or associates.
 - 8) Information about whether a person is a citizen of the United States or has lawful authority to be present in the United States, either through a visa, green card, or other official documentation.
- b. Notification to ICE of a person's arrest falls under the purview and policies of the appropriate receiving jail and shall not be made by members of this department.
- c. No individual who is otherwise ready to be released should be detained solely for the purpose of ICE notification.

555.6: REQUESTS FOR ASSISTANCE

If a member receives a communication or request from a federal agency that relates to immigration enforcement, other than a judicial subpoena, the member shall decline the request and document the communication or request. The documentation must be provided to the Records and Systems Supervisor.

The Records and Systems Supervisor shall submit the information documented to the Oregon Criminal Justice Commission pursuant to procedures established by the commission.

Members of this department, for the purpose of investigating, detecting, apprehending, arresting, detaining, or holding individuals for immigration enforcement, may not:

- a. Grant a federal immigration agency access to an area of the Albany Police Department building that is not normally open to the public.
- b. Support or assist a federal agency in immigration enforcement, including but not limited to any of the following:
 - 1) Provide information, including but not limited to an individual's contact information, county of birth, custody status, release date, parole, probation or post-prison supervision appointment dates or times, or home or work address;
 - 2) Investigate or interrogate individuals for immigration enforcement; or
 - 3) Establish traffic perimeters for the purpose of supporting or facilitating immigration enforcement.

555.7: U-VISA and T-VISA NON-IMMIGRANT STATUS

- a. Under certain circumstances, federal law allows temporary immigration benefits, known as a U-Visa, to victims and witnesses of certain qualifying crimes ([8 CFR § 214.14](#)). A law enforcement certification for a U-Visa may be completed by an officer in order for a U-Visa to be issued. Qualifying crimes include one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, or attempt, conspiracy or solicitation to commit any of the above mentioned crimes.
- b. Similar immigration protection, known as a T -Visa, is available for certain qualifying victims of human trafficking ([8 USC § 1101\(a\)\(15\)\(T\)](#)). A law enforcement declaration for a T-Visa may be completed by an officer in order for a T-Visa to be issued.
- c. Any request for assistance in applying for U-Visa or T-Visa status should be forwarded in a timely manner to the Records and Systems Supervisor assigned as the certifying official to oversee the handling of any related case. The Records and Systems Supervisor should:

- 1) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted;
 - 2) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted;
 - 3) Address the request and complete the certification or declaration, if appropriate, in a timely manner;
 - A. The instructions for completing certification and declaration forms can be found on the [U.S. Department of Homeland Security \(DHS\) website](#) and/or [U Visa Law Enforcement Resource Guide](#).
 - 4) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
- d. Upon receiving a U-Visa request, the **Records and Systems Supervisor** shall perform the following:
- 1) Affirm that the victim has been helpful if:
 - A. The victim is a victim of a qualifying criminal activity; and
 - B. The victim has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of the qualifying criminal activity.
 - 2) Grant or deny a request for certification within:
 - A. 90 days of the date of the certification request, or
 - B. 14 days of the date of the certification request if the victim is in removal proceedings.
 - 3) If denying certification, in writing notify the petitioner of the reason for the denial. Reason for denial must be one of the following:
 - A. Lack of qualifying criminal activity;
 - B. Lack of helpfulness;
 - C. Lack of jurisdiction over certification request; or
 - D. Other lawful circumstance.